

**SAUK COUNTY BOARD OF SUPERVISORS
MEETING NOTICE/AGENDA**

COMMITTEE: SAUK COUNTY BOARD OF SUPERVISORS – REGULAR MEETING
DATE: TUESDAY, DECEMBER 15, 2015
TIME: 6:00 PM
PLACE: ROOM 326, WEST SQUARE BUILDING, 505 BROADWAY, BARABOO, WI

5:40 PM – PROPERTY & INSURANCE COMMITTEE: in the Gallery of County Board Room, Room #326A to consider:

1. Call to Order and Certify Compliance with Open Meeting Law.
2. Adopt Agenda.
3. Consideration of Resolution 129-2015 Authorization To Contract With Necessary Contractors To Complete Emergency Repairs To The Courthouse Exterior.
4. Adjourn

5:50 PM – FINANCE COMMITTEE: in the Gallery of County Board Room, Room #326A to consider:

1. Call to Order and Certify Compliance with Open Meeting Law.
2. Adopt Agenda.
3. Consideration of petty cash accounts for the ADRC department.
4. Approval of County vouchers.
5. Adjourn.

REGULAR MEETING: SAUK COUNTY BOARD OF SUPERVISORS

- 1) Call to Order and Certify Compliance with Open Meeting Law.
- 2) Roll Call.
- 3) Invocation and Pledge of Allegiance.
- 4) Adopt Agenda.
- 5) Adopt Minutes of Previous Meeting.
- 6) Scheduled Appearances.
 - a. Senator Jon Erpenbach, 27th Senate District.
- 7) Public Comment – 3 minute limit: Registration form located on the table in gallery of County Board Room 326 – turn in to the County Board Chair.
- 8) Communications
 - a. 12/04/15 Letter: WI DOT Secretary Mark Gottlieb, P.E. (Page 5)
 - b. 12/09/15 E-Mail: Ed Moffett, Moffet and Associates. (Page 6)
- 9) Bills & Referrals.
- 10) Claims.
- 11) Appointments.
 - a. Veterans Service Commission:
James Hambrecht, Re-appointment,
3-year term – 01/01/2016 to 12/31/2018
 - b. Revolving Loan Fund Committee:
Atty. Myron LaRowe, Citizen member, Re-appointment
Thomas Fleming, Citizen member, Re-appointment
2- year term – 12/15/2015 to 12/19/2017
 - c. Land Information Council:
Tom Gavin, Citizen member, Re-appointment
2- year term – 12/15/2015 to 12/19/2017

- d. ContinuUs- Executive Committee:
Joan Fordham, Re-appointment
Term concurrent with Board of Supervisors, expiring 04/16/2016
- e. ContinuUs - Personnel Committee:
Joan Fordham, Re-appointment
Term concurrent with Board of Supervisors, expiring 04/16/2016
- d. ContinuUs – Audit Committee:
Joan Fordham, Re-appointment
Term concurrent with Board of Supervisors, expiring 04/16/2016
- f. ContinuUs – Care Compass Oversight Committee:
Joan Fordham, Re-appointment
Term concurrent with Board of Supervisors, expiring 04/16/2016
- g. Circus World- Executive Committee:
Joan Fordham, Re-appointment
Term concurrent with Board of Supervisors, expiring 04/16/2016
- h. Circus World – Finance Committee:
Joan Fordham, Re-appointment
Term concurrent with Board of Supervisors, expiring 04/16/2016
- i. UW-Baraboo/Sauk County Campus Commission Building Subcommittee:
Andrea Lombard, Re-appointment
Term concurrent with Board of Supervisors, expiring 04/16/2016
- j. Aging & Disability Resource Center Advisory Board:
Darcy Fry, Citizen member, New appointment (filling unexpired term of Walter Darling)
3- year term – 12/15/2015 to 04/17/2017
- k. Transportation Coordination Committee:
Darcy Fry, Citizen member, New appointment (filling unexpired term of Walter Darling)
3- year term – 12/15/2015 to 04/17/2017
- l. Comprehensive Community Services (CCS) Program Coordinating Committee:
Ryan Catterson, Citizen member, New appointment
2- year term – 12/15/2015 to 12/19/2017

12) Proclamations.

13) Unfinished Business.

14) Reports – informational, no action required.

- a. Rebecca C. Evert, Sauk County Clerk – Rezoning petitions filed with the office of the Sauk County Clerk as a requirement of Wisconsin State Statutes 59.69(5)(e):
- b. Supervisor Fordham, Vice Chair – Executive & Legislative Committee.

- c. Marty Krueger, County Board Chair
 - Admin. Coordinator recruitment;
 - Rules of the Board;
 - Great Sauk Trail;
 - 2019 & 2020 WCA Annual Conferences in Sauk County;
 - County Board Christmas Party, 12/19 @ Baraboo Country Club.
- d. Brentt P. Michalek, Interim, Administrative Coordinator.

15) Consent Agenda.

16) Resolutions & Ordinances:

CONSERVATION, PLANNING AND ZONING COMMITTEE:

Ordinance 15 -2015 Amending Chapter 7 Sauk County Zoning Ordinance. (Petition 19-2015) (Pages 7-9)

Resolution 121-2015 Approving The Purchase Of A Conservation Streambank Easement For The Robert Horkan Property Pursuant To The Implementation Agreement Between The Wisconsin Department Of Transportation And Sauk County. (Pages 10- 11)

Ordinance 16-2015 Approving An Amendment To The Sauk County Farmland Preservation Plan Map For The Town Of Franklin. (Pages 12-16)

Resolution 122-2015 Petition 26-2015. Disapproving The Rezoning Of Lands In The Town Of Troy From An Exclusive Agriculture To A Commercial Zoning District Filed Upon Philip & Mary Hasheider, Property Owners. (Pages 17-48)

EXECUTIVE & LEGISLATIVE COMMITTEE:

Resolution 123-2015.Denying The Claims Of Certain Individuals Named As Follows. (Pages 49-50)

FINANCE COMMITTEE:

Resolution 124-2015 Authorizing A Contractual Agreement With Point & Pay As A Vendor For Receiving Payment Via Credit & Debit Cards & E-Checks. (Page 51)

HIGHWAY AND PARKS COMMITTEE:

Resolution 125-2015 Adopting Fees and Charges For The Sauk County Parks Department. (Pages 52-54)

Resolution 126-2015 Request To Accept Proposal For Two (2) 60,000 GVW Tandem Trucks From Truck Country, DeForest, Wisconsin. (Page 55)

Resolution 127-2015 Authorizing Reimbursement For Attendance At The Wisconsin County Highway Association Winter Road School. (Page 56)

PROPERTY AND INSURANCE COMMITTEE:

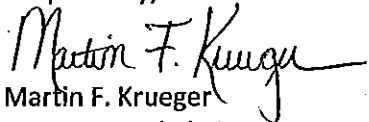
Resolution 128-2015 Accepting Bids On Tax-Delinquent Real Estate Acquired By Sauk County. (Pages 57-58)

Resolution 129-2015 Authorization To Contract With Necessary Contractors To Complete Emergency Repairs To The Courthouse Exterior. (Page 59)

Resolution 130-2015 Approving Agreement With Bug Tussel Wireless For The Exchange Of Certain Facilities. (Pages 60-65)

17) Adjournment to a date certain.

Respectfully,


Martin F. Krueger
County Board Chair

County Board Members, County staff & the public – Provide the County Clerk a copy of:

1. Informational handouts distributed to Board Members
2. Original letters and communications presented to the Board.

County Board Members:

Stop by the Office of the County Clerk prior to each Board Meeting to sign original resolutions and ordinances.

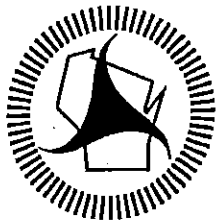
Any person who has a qualifying disability that requires the meeting or materials at the meetings to be in an accessible location or format should contact Sauk County at 608-355-3269, or TTY at 608-355-3490, between the hours of 8:00 AM and 4:30 PM, Monday through Friday, exclusive of legal holidays, at least 48 hours in advance of the meeting so that reasonable arrangements can be made to accommodate each request.

www.co.sauk.wi.us

Agenda mail date via United States Postal Service: December 10, 2015.

Agenda Preparation: Marty Krueger, County Board Chair, with the assistance of Brentt P. Michalek, Interim, Administrative Coordinator and Rebecca C. Evert, County Clerk

s:/admin/Co Bd Agendas/2015/ctybdagendaDECEMBER2015



Wisconsin Department of Transportation

www.dot.wisconsin.gov

Scott Walker
Governor

Mark Gottlieb, P.E.
Secretary

Office of the Secretary
4802 Sheboygan Avenue, Room 120B
P O Box 7910
Madison, WI 53707-7910

December 4, 2015

Marty Krueger, Chair
Great Sauk Trail Commission
505 Broadway
Baraboo, WI 53913

Telephone: 608-266-1113
FAX: 608-266-9912
E-mail: sec.exec@dot.wi.gov

Dear Mr. Krueger:

In an effort to provide ongoing rail service to Sauk County, the Wisconsin Department of Transportation (WisDOT) recently completed an analysis of various alternatives that affect both the Merrimac Bridge and the rail line that runs through Sauk City and Prairie du Sac. The outcome of the analysis is a WisDOT preferred option that restores and/or replaces major components of the Merrimac Bridge as part of a plan to provide long-term rail service to Reedsburg and Baraboo using the current active rail line which traverses the Merrimac Bridge.

To address remaining questions about the condition of the Merrimac Bridge and its capacity to carry railroad traffic, WisDOT contracted with the engineering consulting firm Ayres Associates in September 2015 to refresh structural analysis reports that were done in 2010 and 2014. The Ayres 2015 assessment identified a rehabilitation option that restores and/or replaces major components of the Merrimac Bridge. This option will provide the state with a 263 kip capacity bridge and an extended service life of 40 years. It was also determined that 286 kip capacity is not reasonably attainable with the existing bridge since the existing bridge was never designed to carry 286 kip loading.

WisDOT also performed an economic analysis of two alternative routes. Calculations showed that over a 40-year time horizon, the Merrimac Bridge route is substantially more cost effective than restoring rail service to the abandoned Sauk Line that runs through Sauk City, Prairie du Sac, and the now defunct Badger Army Ammunition Plant. Even when a 105-year analysis was performed, which included the cost of replacing the Merrimac Bridge in its entirety, the Merrimac Bridge route has the lowest life cycle cost.

In consideration of the Department's commitment to the Merrimac Bridge route and the resulting obsolescence of the Sauk rail corridor, WisDOT will proceed with a plan to rail-bank the Sauk rail line by removing the railroad track and entering into an interim rails-to-trails agreement with the Wisconsin Department of Natural Resources. The interim trail agreement will contain language that preserves the corridor as a federally rail-banked corridor until such time rail service is restored.

Thank you for your interest in this important rail corridor. If you have any questions, please contact Dave Simon, Chief of Railroads and Harbors, at (608) 267-9284 or david.simon@dot.wi.gov. Dave would be happy to provide further explanation of our plans moving forward.

Sincerely,

Mark Gottlieb, P.E.
Secretary



Administrative Coordinator Search Launch
Sauk County Executive Search - Moffett & Associates, LLC

to:
Marty Krueger - Sauk County Board Chair
12/09/2015 10:54 AM

Hide Details

From: "Sauk County Executive Search - Moffett & Associates, LLC" <executive-search@moffett-associates.com>

To: "Marty Krueger - Sauk County Board Chair" <mkrueger@co.sauk.wi.us>

Good Morning Marty,

I have been working with Michelle this morning and the Administrative Coordinator Search has launched and is up on the County's job website. Additionally, the search is up on my website at <http://www.moffett-associates.com/current-positions.html>

I have attached the Sauk County Executive Search Announcement. Would you like me to send the announcement to the rest of the Board of Supervisors or do you want to handle that as Board Chair?

Throughout the balance of today and tomorrow, I will be publishing the job posting on multiple county/city organization job posting websites, advertising venues and to adjacent states.

Once completed, I will send you an update regarding the specific search and recruitment resources we used.

Please let me know if you have any questions.

Thank you.

Ed

Moffett and Associates, LLC
Sauk County Search Consultant
Appleton, WI 54913
Phone: (608) 516-9102
Fax: 18665168480
executive-search@moffett-associates.com

ORDINANCE NO. 15-2015

AMENDING CHAPTER 7
SAUK COUNTY ZONING ORDINANCE
(Petition 19-2015)

WHEREAS, the County Board of Supervisors of the County of Sauk does ordain as follows:

WHEREAS, Wis. Stat. § 59.69 allows the Sauk County Board of Supervisors, by ordinance, to establish districts of such number, shape, and area, and adopt such regulations for each such district as the Sauk County Board of Supervisors considers best suited to carry out the purposes of this section, including the purposes of promoting the public health, safety, and general welfare; and,

WHEREAS, the ordinance now in effect was originally passed on February 18, 2014, however because of the scale and complexity of drafting a new zoning ordinance, certain omissions, oversights, and incorrect references have been discovered; and

WHEREAS, the proposed amendment has the effect of correcting certain omissions, oversights, and incorrect references by rezoning parcel 014-0144-00000 in the Town of Franklin from an Agriculture to an Exclusive Agriculture Zoning District; and

WHEREAS, your Committee has considered this amendment to Sauk Co. Code, Chapter 7 and believes that adoption of this amendments is in the best interest of the people of Sauk County.

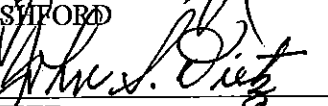
NOW, THEREFORE, BE IT ORDAINED, by the Sauk County Board of Supervisors met in regular session, that Sauk Co. Code, Chapter 7, is hereby amended, and shall be effective upon passage.

For consideration by the Sauk County Board of Supervisors on December 15, 2015.

Respectfully submitted,

CONSERVATION, PLANNING, AND ZONING COMMITTEE

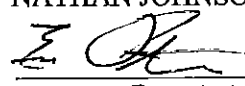

GERALD LEHMAN, CHAIR

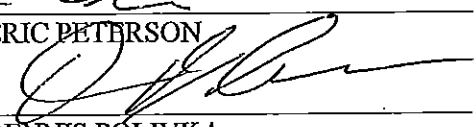

JUDY ASHFORD


JOHN DIETZ


JOSEPH FISH


NATHAN JOHNSON


ERIC PETERSON


DENNIS POLIVKA

Fiscal Note: No Impact
MIS Note: No Impact

FAB

OFFICE OF
SAUK COUNTY CONSERVATION, PLANNING AND ZONING
SAUK COUNTY WEST SQUARE BUILDING
505 BROADWAY
BARABOO, WI 53913
Telephone: (608) 355-3285

NOTICE

PLEASE TAKE NOTICE, that the Conservation, Planning, and Zoning Committee of the Sauk County Board of Supervisors will hold a public hearing on October 8, 2015, at 10:00 a.m. or as soon thereafter as the matter may be heard, in the County Board Room at the Sauk County West Square Building in the City of Baraboo to consider:

- I. A. Petition 19-2015 Zoning Text Change. A petition to amend Sauk County Chapter 7, Zoning Ordinance pertaining to home-based businesses, zoning map amendment, camping regulations, and other sundry amendments.
- B. Testimony of persons to appear at the public hearing; any person so desiring will be given a reasonable opportunity to express their opinions on the matter before the Committee.
- II. A. The purpose of the proposed zoning text change is to repeal and recreate regulations that pertain to the intensity of home-based businesses, add provisions for walls and fences, clarify camping regulations and rezone parcel 014-0144-00000 in the Town of Franklin, Sauk County, from an Agriculture to an Exclusive Agriculture zoning district following a recent repeal and recreation of said ordinance.
- B. Any person desiring more information may contact the Sauk County Conservation, Planning and Zoning Office, Brian Simmert, at the Sauk County West Square Building (Telephone 608/355-4834).

Date: September 15, 2015

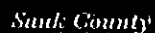
SAUK COUNTY CONSERVATION, PLANNING AND ZONING COMMITTEE

BY: BRIAN SIMMERT
Sauk County Department of Planning and Zoning
505 Broadway Street
Sauk County West Square Building
Baraboo, WI 53913

To be published September 24, 2015 and October 1, 2015

For office use only: Pet No. 19-2015

If you have a disability and need help, reasonable accommodations can be made for those so requesting provided that a 48 hour notice is given. Please call 608-355-3285 or TDD 608-355-3490.



RESOLUTION NO. 121 - 15

**APPROVING THE PURCHASE OF A CONSERVATION STREAMBANK EASEMENT
FOR THE ROBERT HORKAN PROPERTY PURSUANT TO THE
IMPLEMENTATION AGREEMENT BETWEEN THE WISCONSIN DEPARTMENT
OF TRANSPORTATION AND SAUK COUNTY**

WHEREAS, the State of Wisconsin Department of Transportation (WISDOT) and Sauk County are parties to the "Memorandum of Agreement Concerning U.S. Highway 12 Between Middleton and Lake Delton, Wisconsin" (MOA), fully executed by WISDOT, Sauk County, the Governor of Wisconsin, the Federal Highway Administration, the National Park Service (NPS), the U.S. Fish and Wildlife Service (USFWS), the U.S. Environmental Protection Agency (EPA) the Wisconsin Department of Natural Resources (WISDNR), Dane County and the Nature Conservancy (TNC); and,

WHEREAS, by Resolution #124-2011, the Honorable Sauk County Board of Supervisors approved the Memorandum of Agreement implementing the Sauk County Fund component of the Highway 12 Growth Management Plan that provides the State of Wisconsin allocate funds in the amount of \$250,000 to fund among other things the purchase of lands or scenic/conservation/agricultural easements from willing sellers in Sauk County outside of the Baraboo Range National Natural Landmark (BRNNL); and,

WHEREAS, one of the express and stated purposes of the Implementation Agreement between the State of Wisconsin Department of Transportation and Sauk County for the Sauk County Fund is to procure streambank easements and to protect and enhance these environmentally sensitive areas and mitigate the environmental impact caused by the expansion of US Highway 12.

WHEREAS, the Conservation, Planning and Zoning Committee believes this offer to purchase a streambank easement is in the best interest of Sauk County and implements the MOA executed between Sauk County and the State of Wisconsin Department of Transportation.

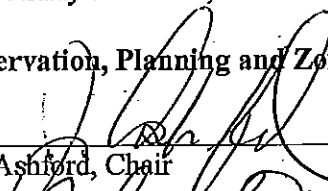
NOW, THEREFORE, BE IT RESOLVED, by the Sauk County Board of Supervisors, met in regular session, that said streambank easement is hereby Approved.

RESOLUTION NO. 121-15
Page 2

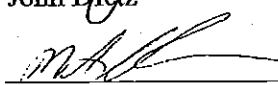
For consideration by the Sauk County Board of Supervisors on December 15, 2015.

Respectfully submitted,

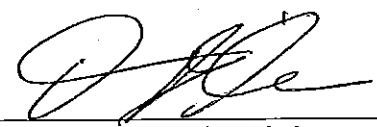
Conservation, Planning and Zoning Committee


Judy Ashford, Chair


John Dietz


Nathan Johnson


Eric Peterson


Dennis Polivka, Vice Chair


Joe Fish


Connie Lehman

Fiscal Note: The easement purchase price of \$13,000 plus related expenditures such as title search and appraisal are funded 55.6% by the state and 44.4% by existing appropriated funds.

MIS Note: No Impact.

KPB

ORDINANCE NO. 16-2015

APPROVING AN AMENDMENT TO THE SAUK COUNTY
FARMLAND PRESERVATION PLAN MAP FOR THE TOWN OF FRANKLIN.

THE COUNTY OF SAUK DOES ORDAIN AS FOLLOWS:

WHEREAS, The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is an agency responsible for administering Wisconsin's farmland preservation law pursuant to Wis. Stat. ch. 91; and,

WHEREAS, in order for a county and its residents to participate in the farmland preservation program, a county must have a state-certified farmland preservation plan pursuant to Wis. Stat. § 91.10 which clearly identifies farmland preservation goals, objectives and policies and areas that the county intends to preserve for agricultural use; and,

WHEREAS, the development of the *Sauk County Farmland Preservation Plan* has had considerable input from persons representing various aspects of the agriculture community; and,

WHEREAS, each town farmland preservation plan map represented in the plan has been formally approved by the respective town board as identifying areas the town wishes to preserve for agricultural uses and areas which may be considered for development within the next 15-years; and,

WHEREAS, the farmland preservation plan map for the Town of Franklin must be amended to identify certain lands adjacent to the Village of Plain for agriculture preservation, as requested by the Town of Franklin and the affected landowner, and to be consistent with a rezone of said lands under Petition 19-2015 from an Agriculture to an Exclusive Agriculture zoning district under the Sauk County Zoning Ordinance; and,

WHEREAS, the farmland preservation plan map amendment for the Town of Franklin been has been certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection pursuant to Wis. Stat. § 91.16, Wis. Stats. on October 28, 2015; and,

WHEREAS, pursuant to Wis. Stat. § 91.10(2) the *Sauk County Farmland Preservation Plan* must be included, and be made part of the *Sauk County Comprehensive Plan*, including amendments thereto; and,

WHEREAS, adoption of the amended farmland preservation plan map for the Town of Franklin and approval of the rezoning of said lands under Petition 19-2015 from an Agriculture to an Exclusive Agriculture zoning district will qualify the landowner of these lands to claim the farmland preservation tax credit; and,

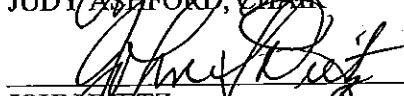
NOW, THEREFORE, BE IT ORDAINED, by the Sauk County Board of Supervisors met in regular session, that the *Sauk County Farmland Preservation Plan* map for the Town of Franklin, hereby attached as Appendix A, and made part of the *Sauk County Comprehensive Plan*, is hereby formally and officially adopted as required by Wis. Stat. §§ 91.10 and 66.1001.

Ordinance 16 - 15 Approving an amendment to the Sauk County Farmland Preservation Plan for the Town of Franklin Farmland Preservation Plan Map.
Page 2 of 2

For consideration by the Sauk County Board of Supervisors on December 15, 2015.

Respectfully submitted,
CONSERVATION, PLANNING, AND ZONING COMMITTEE


JUDY ASHFORD, CHAIR



JOHN DIETZ


JOSEPH FISH


NATHAN JOHNSON


CONNIE LEHMAN


ERIC PETERSON


DENNIS POLIVKA

OFFICE OF
SAUK COUNTY CONSERVATION, PLANNING AND ZONING
SAUK COUNTY WEST SQUARE BUILDING
505 BROADWAY
BARABOO, WI 53913
Telephone: (608) 355-3245

NOTICE

PLEASE TAKE NOTICE, that the Conservation, Planning and Zoning Committee of the Sauk County Board of Supervisors will hold a public hearing on November 24, 2015, at 10:00 a.m., or as soon thereafter as the matter may be heard, in the County Board Room at the Sauk County West Square Building in the City of Baraboo to consider:

- I. A. A petition to amend the Sauk County Farmland Preservation Plan map for the Town of Franklin.
- B. Testimony of persons to appear at the public hearing; any person so desiring will be given a reasonable opportunity to express their opinions on the matter before the Committee.
- II. A. A petition to amend the Sauk County Farmland Preservation Plan map for the Town of Franklin prepared in accordance with Wis. Stat. ch 91 Farmland Preservation. The purpose of the amendment is to change the designation of a parcel from a transition to a farmland preservation area.
- B. Any person desiring more information may contact the Sauk County Conservation, Planning, and Zoning Office, Brian Simmert, at the Sauk County West Square Building (Telephone 608/355-3245). Copies of the proposed Farmland Preservation Plan amendment (map for the Town of Franklin) may be obtained from the Sauk County Conservation, Planning, and Zoning Office.

Date: October 9, 2015

SAUK COUNTY CONSERVATION, PLANNING AND ZONING COMMITTEE

BY: BRIAN SIMMERT
 Sauk County Department of Conservation, Planning and Zoning
 Sauk County West Square Building
 505 Broadway Street
 Baraboo, WI 53913

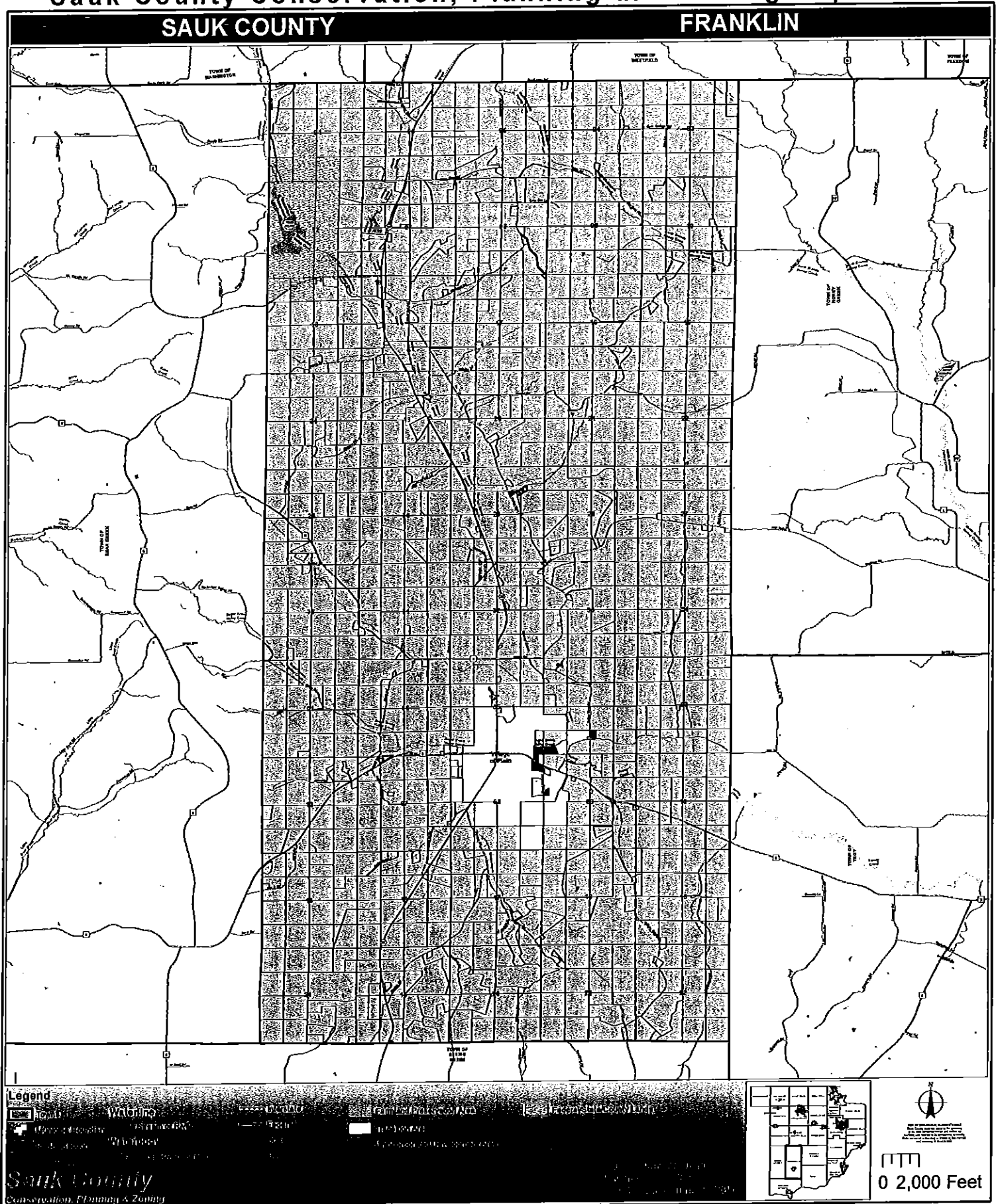
To be published October 22, 2015

For office use only: Pet. No. No number assigned (plan)

If you have a disability and need help, reasonable accommodations can be made for those so requesting provided that a 48 hour notice is given. Please call 608-355-3285 or TDD 608-355-3490.

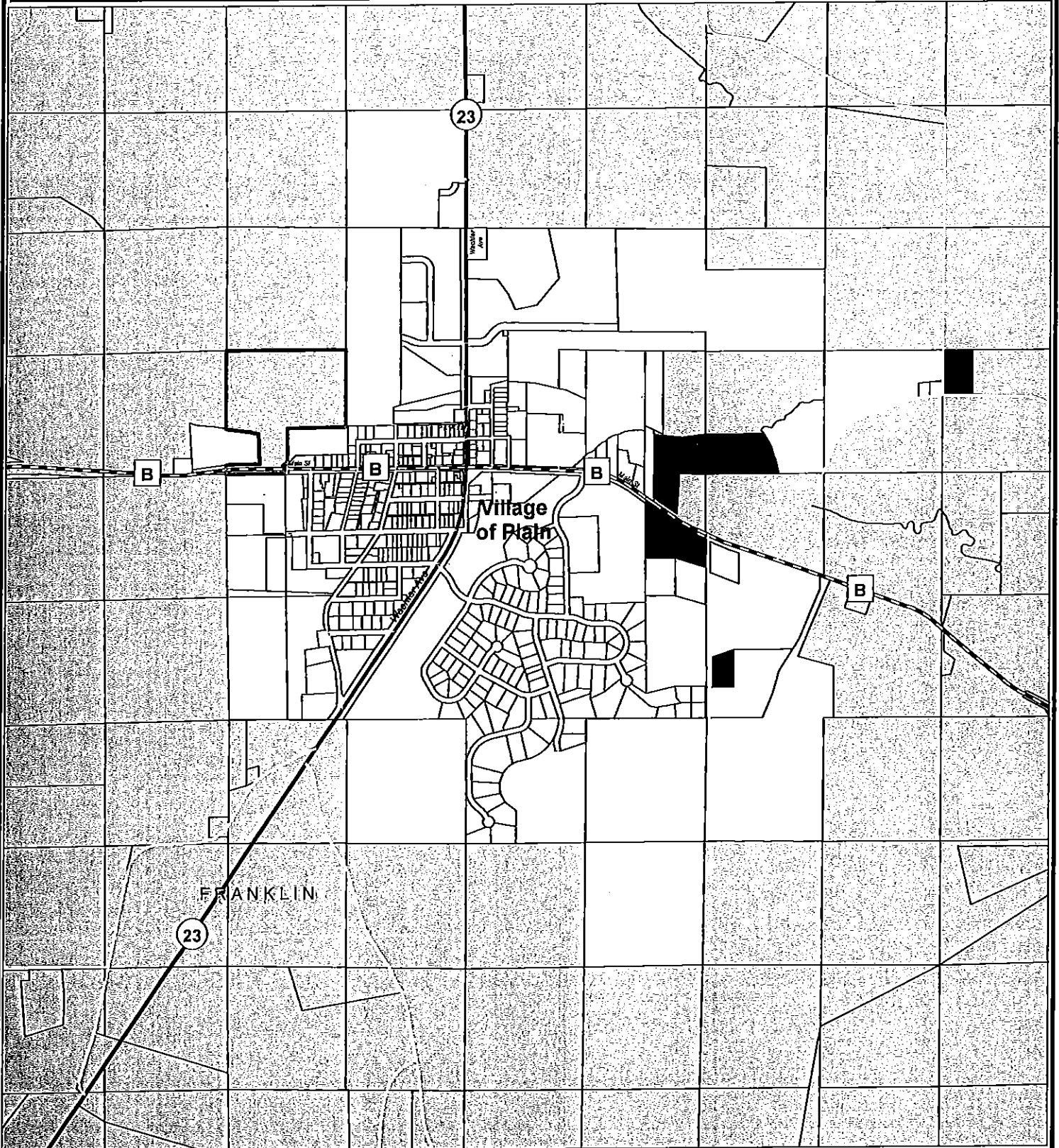
Sauk County Conservation, Planning and Zoning Department

Sauk County Conservation, Planning and Zoning Department



Sauk County Conservation, Planning and Zoning Department

Parcel 014-0144-00000; FPP Map Change: Transition to Preservation; November 24, 2015



Legend

Municipal Division	Line	Water
NRP	Unincorporated	Water
County	County	Water
State	State	Water
City	City	Water
Town	Town	Water
Village	Village	Water
Other	Other	Water

Farmland Preservation Area

Water Area

Unincorporated Area

County

State

City

Town

Village

Other

Sauk County

Wisconsin

RESOLUTION NO. 122-2015

PETITION 26-2015. DISAPPROVING THE REZONING OF LANDS IN THE TOWN OF TROY FROM AN EXCLUSIVE AGRICULTURE TO A COMMERCIAL ZONING DISTRICT FILED UPON PHILIP & MARY HASHEIDER, PROPERTY OWNERS.

WHEREAS, a public hearing was held by the Conservation, Planning, and Zoning Committee upon petition 26-2015 as filed by Philip & Mary Hasheider, property owners, for a change in the zoning of certain lands from an Exclusive Agriculture to a Commercial Zoning District; and

WHEREAS, the purpose of the request was to allow for a water extraction and removal facility pursuant to s.7.038, under the Sauk County Zoning Ordinance, Chapter 7 SCCO; and

WHEREAS, the Town of Troy Town Board has disapproved the rezone request; and

WHEREAS, the Conservation, Planning, and Zoning Committee reviewed and discussed the request as described in petition 26-2015; and

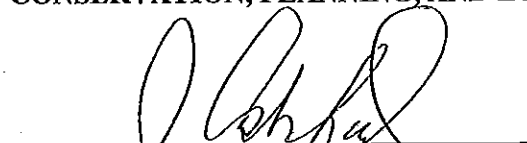
WHEREAS, your Committee, based upon the facts of the request and public testimony heard at the public hearing on October 27, 2015, recommended to the Sauk County Board of Supervisors that the petition be disapproved.

NOW, THEREFORE, BE IT RESOLVED, by the Sauk County Board of Supervisors met in regular session, that the rezoning of the aforementioned lands, more specifically described in petition 26-2015, as filed with the Sauk County Clerk, under the Sauk County Zoning Ordinance, Chapter 7 SCCO, be Disapproved.

For consideration by the Sauk County Board of Supervisors on December 15, 2015.

Respectfully submitted,

CONSERVATION, PLANNING, AND ZONING COMMITTEE


JUDY ASHFORD, CHAIR


JOHN DIETZ


JOSEPH FISH


NATHAN JOHNSON


CONNIE LEHMAN


ERIC PETERSON


DENNIS POLIVKA

Fiscal Note: No Impact
MIS Note: No Impact

KPB

STATE OF WISCONSIN AFFIDAVIT OF PUBLICATION

Sandi Garfoot

being duly sworn, doth depose and
say that she is an authorized
representative of the:

REEDSBURG INDEPENDENT
SAUK PRAIRIE STAR
SPRING GREEN HOME NEWS

a weekly newspaper published by News
Publishing Co. Inc. at

- ✓ Reedsburg in Sauk County, Wisconsin
- ✓ Sauk City in Sauk County, Wisconsin
- ✓ Spring Green in Sauk County, Wisconsin

and that an advertisement of which the annexed
is a true copy, taken from said paper, was
published therein on

(Reedsburg, Sauk City)	(Spring Green)
Oct 15	Oct 14
Oct 22	Oct 21

NOTICE

PLEASE TAKE NOTICE, that the Conservation, Planning, and Zoning Committee of the Sauk County Board of Supervisors will hold a public hearing on October 27, 2015, at 10:00 a.m. or as soon thereafter as the matter may be heard, in the County Board Room at the Sauk County West Square Building in the City of Baraboo to consider:

I. A. Petition 26-2015 Rezone and Conditional Use. A petition to rezone certain lands from an Exclusive Agriculture to a Commercial district pursuant to Chapter 7, Sauk County Zoning Ordinance. A petition to consider a conditional use permit pursuant to s.7.038(8) Water extraction and removal. Said rezone and conditional use is located in the Town of Troy, Sauk County, Wisconsin.

Lands to be affected by the proposed rezone are located in Section 5, T9N, R5E, Town of Troy, and further described in Petition 26-2015. Area to be rezoned is 0.91 acres.

Testimony of persons to appear at the public hearing; any person so desiring will be given a reasonable opportunity to express their opinions on the matter before the Committee.

II. A. The purpose of the proposed rezone is to establish a water extraction and removal facility.

B. Any person desiring more information may contact the Sauk County Conservation, Planning and Zoning Office, Brian Simmert at the Sauk County West Square Building (Telephone 608/355-4834).

Date: October 6, 2015

SAUK COUNTY CONSERVATION, PLANNING AND ZONING COMMITTEE

BY: **BRIAN SIMMERT**
Sauk County Department of Planning and Zoning
505 Broadway Street
Sauk County West Square Building
Baraboo, WI 53913

If you have a disability and need help, reasonable accommodations can be made for those so requesting provided that a 48 hour notice is given. Please call 608-355-3285 or TDD 608-355-3490.

Publish: Reedsburg Independent 10/15/15, 10/22/15
Sauk Prairie Star 10/15/15, 10/22/15
Home News 10/14/15, 10/21/15 WNAJLP

SIGNED Sandi Garfoot
10-20-15

Naomi Baumgartner
Notary Public, State of Wisconsin

Commission Expires 12/1/18
of Weeks Published 2

Printers Fee \$ 44.00
Proof of Publication \$ 1.00
Total \$ 45.00



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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mary Zins
Tand of Troy clark
E9699 Fuchs Rd
Sauk City, WI 53583



9590 9403 0155 5120 9902 44

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent ☐ Addressee
Mary Zins

B. Received by (Printed Name) Mary Zins

C. Date of Delivery 10/20/15

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

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OFFICE OF
SAUK COUNTY CONSERVATION, PLANNING AND ZONING
SAUK COUNTY WEST SQUARE BUILDING
505 BROADWAY
BARABOO, WI 53913
Telephone: (608) 355-3285

NOTICE

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Lands to be affected by the proposed rezone are located in Section 5, T9N, R5E, Town of Troy, and further described in Petition 26-2015. Area to be rezoned is 0.91 acres.

- B. Testimony of persons to appear at the public hearing; any person so desiring will be given a reasonable opportunity to express their opinions on the matter before the Committee.
- II. A. The purpose of the proposed rezone is to establish a water extraction and removal facility.
- B. Any person desiring more information may contact the Sauk County Conservation, Planning and Zoning Office, Brian Simmert at the Sauk County West Square Building (Telephone 608/355-4834).

Date: October 6, 2015

SAUK COUNTY CONSERVATION, PLANNING AND ZONING COMMITTEE

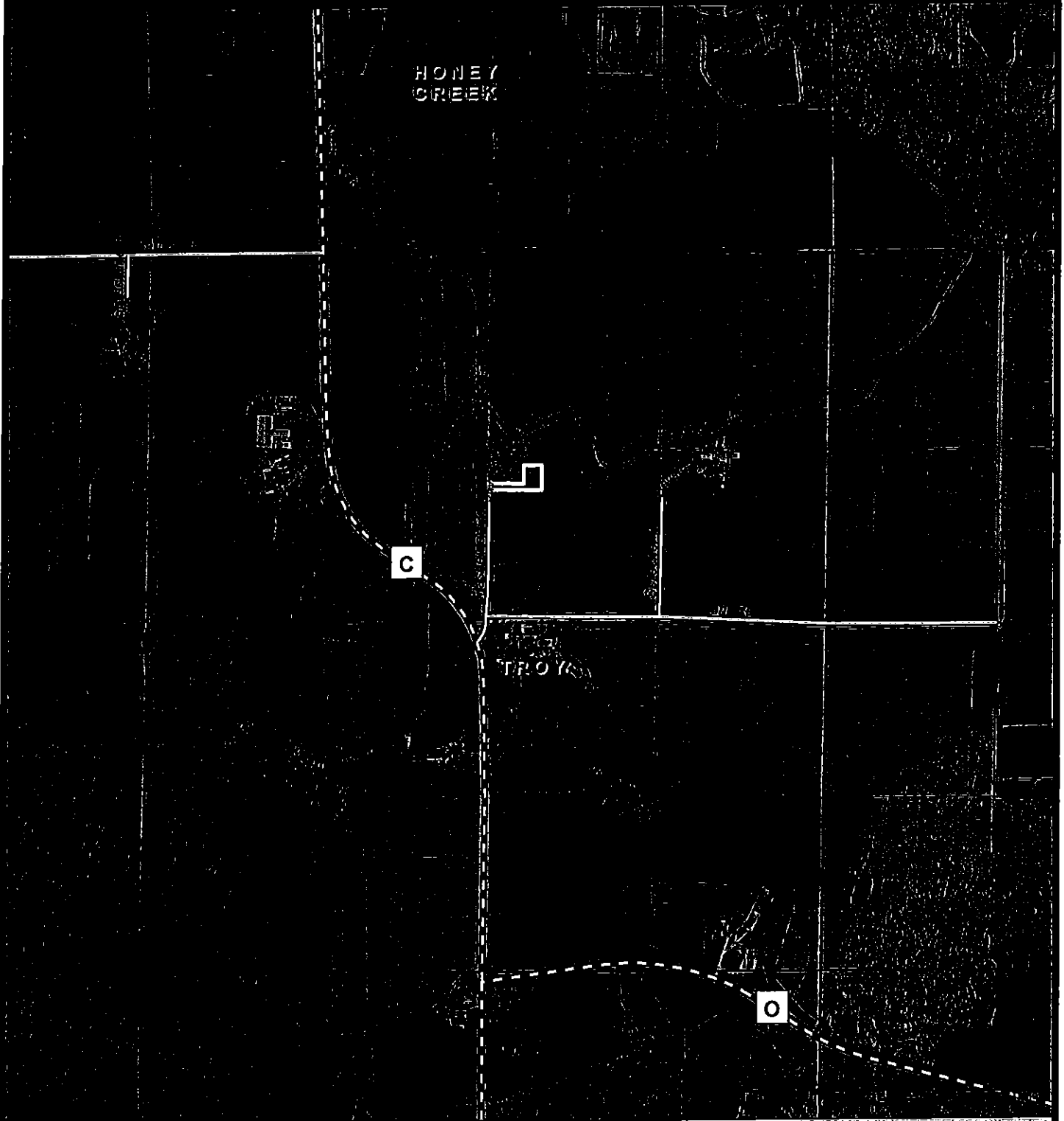
BY: BRIAN SIMMERT
Sauk County Department of Planning and Zoning
505 Broadway Street
Sauk County West Square Building
Baraboo, WI 53913

To be published October 15, 2015 and October 22, 2015

For office use only: Pet. No. 26-2015

If you have a disability and need help, reasonable accommodations can be made for those so requesting provided that a 48 hour notice is given. Please call 608-355-3285 or TDD 608-355-3490.

Ordinance Amendment Petition 26-2015



Legend

Right-of-Way	State-County	Zoning	Other
<ul style="list-style-type: none"> County State 	<ul style="list-style-type: none"> County State 	<ul style="list-style-type: none"> AG CP FR GC HC LD MD NC ND OE OR OS OW RE RM RS RT SC SR TR UR US UT VA VB VC VD VE VF VG VH VI VJ VK VL VM VN VO VP VQ VR VS VT VU VV VW VX VY VZ 	<ul style="list-style-type: none"> Water Wetland Forest Other

Sauk County



Staff Report
Conservation, Planning, and Zoning Committee
Philip & Mary Hasheider, applicant/property owner
Rezone Petition 26-2015

Hearing Date: October 27, 2015

Applicant:

Philip and Mary Hasheider

Staff:

Brian Simmert, CPZ

355-4834

bsimmert@co.sauk.wi.us

Current Zone:

Exclusive Agriculture

Proposed Zone:

Commercial

Relevant Plans:

Town of Troy Comprehensive

Area to be Rezoned:

.91 acres

Applicable Zoning Regulations:

7.038(8) Water extraction and removal

Notification:

(by U.S. mail, except newspaper)

October 6, 2015: Newspaper

October 6, 2015: CPZ Committee

October 6, 2015: Town Clerk

October 6, 2015: Adjacent

Landowners

Town Board Recommendation:

September 8, 2015: Disapproval of
Rezone prior to county application

Exhibits:

- A. Map of area to be rezoned (cover)
- B. Background information provided by applicants
- C. Town of Troy Land Use Map
- D. Sauk County FPP Plan Map
- E. Sauk County Corporation Counsel memo

Request

Philip and Mary Hasheider, hereafter referred to as 'applicants,' are requesting a rezone from an Exclusive Agriculture to a Commercial zoning district. The purpose of the rezone request is to establish a water extraction and removal facility. According to the applicants, a 450 sq. ft. building will be constructed to house a low-capacity well. Potential truck traffic may include 8-10 semi-milk-tanker trucks per day with scheduled hours of operation between 8:00 a.m. to 8:00 p.m., Monday through Friday. Access to the site will be provided by Hasheider Road, a town road and County Road C. Approval of a rezone to Commercial will assist the applicants to qualify for a conditional use permit under s.7.038(8) of the Sauk County Zoning Ordinance for a water extraction and removal facility.

Legal Description of Area

A parcel located in the SW ¼, NE ¼ Section 5, T9N, R5E, Town of Troy, Sauk County, Wisconsin, containing .91 acres.

Background

Philip and Mary Hasheider are requesting a rezone to the commercial zoning district to establish a water extraction and removal facility.

If the rezone is approved, the applicant will be able to seek a conditional use permit for the following uses pursuant to the Sauk County Zoning Ordinance section:

7.038 (8) Water extraction and removal

If the rezone and conditional use permit are approved, the applicant will be required to apply for a land use permit for the proposed building and use pursuant to the Sauk County Zoning Ordinance section:

7.153 Land use permit: review procedure and standards.

Pending the approval of the rezone and conditional use and all permits being issued, the applicant may begin operation of the water extraction and removal facility.

Additional background information submitted by the applicants can be found under Exhibit B.

Town of Troy Recommendation and Comprehensive Plan

The Town of Troy recommended disapproval of the rezone and conditional use at their September 8, 2015 meeting.

Based on discussion, the Town Board felt that the proposed rezone was not consistent with the Town of Troy's Comprehensive Plan. Accordingly, the proposed rezone to commercial appears to be inconsistent with the Town of Troy Comprehensive Plan, '*Future Land Uses Map*,' which recognizes this parcel for agricultural land uses under Exclusive Agricultural zoning or uses consistent with agricultural-related uses. See Exhibit C. However, the uses on this map are not meant to necessarily correlate to what the property may be zoned. According to the applicants, the proposed use will allow for the, "diversification of our farm operation" and that, "according to the FDA water produced for human consumption is classified as a food product."

Sauk County Farmland Preservation Plan. The rezone does not appear to be consistent with the Sauk County Farmland Preservation Plan and specifically, the *Town of Troy Farmland Preservation Plan Map* located within this document. See Exhibit D. The *Town of Troy Farmland Preservation Plan Map* identifies this property as an Agricultural Preservation Area. If this property is zoned to commercial, Sauk County will commence a process to amend this map to be consistent with Wis. Stat. ch 91.

Adjacent Zoning and Land Uses (also shown on the staff report cover)

Direction	Zoning	Land Use
Property	Exclusive Agriculture	Farm Buildings
North	Exclusive Agriculture	Farm Field
South	Exclusive Agriculture	Farm Field
East	Exclusive Agriculture	Farm Field
West	Exclusive Agriculture	Farm Field

Zoning Map Amendment Standards pursuant to 7.141(8)

In its review and action on the application, the agency (CPZ Committee) shall make findings with respect to the following criteria:

- (a) The proposed map amendment is consistent with the overall purpose and intent of this chapter (Sauk County Zoning Ordinance).

Staff comment: The rezone as proposed is consistent with the overall purpose and intent of the Sauk County Zoning Ordinance which is to protect public health, safety and welfare of Sauk County residents and the public, to plan for future development of communities, and to further the purposes contained in Wis. Stat. § 59.69(1).

- (b) The proposed map amendment is consistent with the Sauk County Comprehensive Plan and the Farmland Preservation Plan, if applicable.

Staff comment: Both the Sauk County Farmland Preservation Plan and Sauk County Comprehensive Plan do not provide direct guidance to decision makers regarding a rezoning out of Exclusive Agriculture zoning to accommodate water extraction and removal facilities. However, according to the applicants, the facility will add value to an agricultural business (farm) by allowing for business diversification (addition of water extraction and removal to a farming operation). Both the Sauk County Farmland Preservation Plan, and in particular, the Sauk County Comprehensive Plan support this type of rural economic development. Subjectively, it is unclear as to whether water extraction and removal can be considered an agriculture land use.

- (c) Factors have changed from the time of initial ordinance adoption that warrant the map change, or an error, inconsistency, or technical problem administering this chapter as currently depicted has been observed.

Staff comment: The county zoning ordinance was repealed, recreated, and adopted by the Sauk County Board of Supervisors in February 2014. The official zoning maps included as part of the new zoning ordinance are not meant to anticipate future land uses, thereby applying certain zoning on an assumption of future land uses. The zoning ordinance does, however, include a rezoning process to evaluate zoning changes on the current conditions and needs basis.

The following item (d) is pursuant to Wis. Stat. ch 91 and the Sauk County Zoning Ordinance.

- (d) In rezoning land out of any exclusive agriculture district, the agency shall find all of the following, after a public hearing:
1. The land is better suited for a use not allowed in the exclusive agriculture district.
 2. The rezoning is consistent with the Sauk County Comprehensive Plan.
 3. The rezoning is substantially consistent with the Sauk County Farmland Preservation Plan.
 4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels or lands that are zoned for or legally restricted to agricultural use.

Staff comment: Items (a) through (c) above largely address item (d) 1-3. To further address item (d) 4., the rezoning and proposed use will be confined to a small portion of the property and it is not anticipated that the use will have a negative impact on the surrounding parcels and agricultural uses, other than higher volumes of truck traffic to remove water from the facility. According to the applicants, truck vehicle types will be similar to a typical milk truck.

Spot Zoning

Amending a zoning ordinance to zone a relatively small area for uses significantly different than those allowed in the surrounding area is known as "spot zoning." This practice becomes controversial when uses are allowed that are incompatible with the physical limitations of a site or with uses of surrounding properties. A more in depth discussion on spot zoning can be found in a memo from Todd J. Liebman, Sauk County Corporation Counsel under Exhibit E.

The Town of Troy's decision to disapprove, in part, is based on their evaluation that the rezoning to commercial to accommodate a water extraction and removal facility is a spot zone.

Committee Action Options

Approve Petition 26-2015, based on the facts of the request presented at the public hearing, that the proposed rezone appears to be consistent with respective plans, and that the rezone meets the standards and findings for rezoning pursuant to 7.141(8).

Disapprove Petition 26-2015, based on the facts of the request presented at the public hearing, the Town of Troy recommend disapproval of the rezone, that the rezone is an inappropriate spot zoning, and that the rezone does not meet the standards and findings for rezoning pursuant to 7.141(8).

Modify and Approve Petition 26-2015. Not Recommended.

Postpone Petition 26-2015, at the request of the Town of Troy.

Staff Recommendation

Staff recommends that the CPZ Committee postpone action until the town clerk takes action on the petition.

Exhibit B

1. General description of the request.

In the State of Wisconsin, both milk and water are regulated and licensed by the Wisconsin Department of Agriculture and Consumer Protection (DATCP) to meet standards for human consumption. In addition, and similar to milk, the U. S. Food and Drug Administration (FDA) regulates water produced for human consumption and classifies it as a food product.

Our farm rezone request includes constructing an agriculture building and water extraction on our farm. We are requesting a rezone of a less than one acre site on our farm from Exclusive Ag to Commercial. Granting this rezoning will allow us to qualify for a conditional use permit under Commercial designation to develop a water extraction facility pursuant to the Sauk County Ordinance: 7.038(8) Water Extraction and Removal Facility. We propose to limit the use of the one-acre parcel to one commercial use, the water extraction use allowed by sec. 7.038 (8). No other commercial uses, whether permitted or conditional, would be allowed.

Our farm rezone request below includes details of how we will approach diversifying our farm operation consistent with the Sauk County Zoning Ordinance: 7.0625 Water Extraction and Removal Facility: Secondary Standards, as well as details on how the farm addition will benefit our family, the Township of Troy, Sauk County and our surrounding communities.

2. Related background information on the project and site.

Our proposal includes:

1. Constructing a 450 square foot insulated building that will conform to our existing farm profile (farmstead styled barns and house), and be aesthetically pleasing to our surroundings, and is less than 23 feet tall.
2. Water will be extracted from a low-capacity well. The size of the well and gallons pumped per day could be restricted as a condition of the permit.
3. Any visitors entering or exiting the property will be scheduled between the hours of 8:00 a.m. to 8:00 p.m., Monday through Friday, consistent with a milking operation that distributes its milk from the farm, and consistent with the Sauk County Ordinance: 7.0625 Water Extraction and Removal Facility: Secondary Standards. Potential visitors to the farm will be eight to ten (8-10) semi-milk-tanker trucks per day.
4. A driveway connected to the current town road, Hasheider Road, will be used for access to the building. We agree to be responsible for reasonable maintenance or repair costs, if any, incurred by the Town as the result of use of Hasheider Road.

3. Justification, special reasons or basis for the request.

(I.) Consistent with the Town of Troy Comprehensive Plan -- Town of Troy resident activities that we wish to emphasize with our farm addition include the following:

- A. Our water extraction proposal meets the defined "6.10 Agriculture Goal Objectives and Policies of Town of Troy Comprehensive Plan". Our proposal aligns with the Town of Troy Comprehensive Plan and is consistent with the following highlights:
 1. ARO-1 to: "maintain, modernize, and enhance a strong agricultural infrastructure in the Town and surrounding region."
 2. ARO-4 to: "to encourage alternative economic opportunities that would enhance or supplement agriculture as an occupation/income."
 3. ARP-4 to: "promote agriculture that is locally owned and operated."
 4. ARP-5 to: "retain the agricultural character of Township ..."
- B. Seek alternative sources of income without having to leave the farm
- C. Create a direct, local-food marketing program to sell a food product from our farm
- D. Add to an existing family-farm business
- E. Provide opportunity for our son and daughter to return to a financially viable, family-owned farm business
- F. Preserve the character of our farm with a low-impact food product (that does not create potential environmental issues)

(II.) Consistent with the Sauk County Code of Ordinances -- Our proposal is consistent with the Sauk County Ordinance: 7.0625 Water Extraction and Removal Facility: Secondary Standards:

A. All Facilities shall meet the following standards:

1. The hours of trucking operations shall be limited to 8:00 a.m. to 8:00 p.m., Monday through Friday.
 - a. We will only operate during hours as specified as a condition of the Conditional Use Permit. Hours of trucking will be similar to that of a dairy operation shipping milk to distributors.
2. The establishment, maintenance, or operation of the conditional use shall not endanger the public health, safety, or general welfare, nor impair significant aesthetic, scientific, educational, or agricultural values.
 - a. We will not harm public health, safety, or general welfare at any point during our operation. We will continue to be respectful of the rural aesthetics of our family farm, ensure that we are consistent with scientific data that shows that our proposed water extraction facility poses no danger to the robust water resources of Sauk County or the Town of Troy. We will continue to practice the educational and agricultural values of our family farm.
3. The establishment, maintenance, or operation of the conditional use will not substantially affect the existing use of adjacent properties and will not have a substantial adverse effect on the most suitable long-term future use for the area.
 - a. Our proposed operation will not impact any other agricultural activity in our area or have any negative adverse effects on the long-term other future use for the area. We are a 5th generation family farm and wish to continue living here and farming in a sustainable manner.
4. That adequate utilities, access roads, drainage, traffic plans, and other site improvements are or will be provided.
 - a. The use (facility and driveway) is accessed via existing roads, Hasheider Road and County Road C. Our proposed commercial driveway will conform to the standard driveway requirements set by the Town of Troy.
5. All outdoor lighting shall utilize fully shielded lighting fixtures to minimize artificial sky glow and prevent light trespass or glare beyond the property line.
 - a. All outdoor lighting will be attached to the building and utilize energy efficient and luminance-shielding technologies.
6. The use shall conform to all government regulations and standards pertaining to the activity, including air and water quality standards and storm and wastewater permit discharge requirements.
 - a. We have relied on the guidance and expertise of local and state officials with experience in hydrogeology. The Wisconsin Department of Natural Resources (DNR) has evaluated our proposal. We will work in partnership with all applicable governing agencies.
7. Abandonment of the site must be done in accordance with local, state, and federal laws.
 - a. We understand and accept these guidelines and would work in accordance with local, state, and federal laws if we were to abandon the proposed site.

Continued Land and Conservation Stewardship -- The existing impact on the land from our small-scale farm is very low, which has been intentional. We have implemented environmentally conscious practices such as wetland restoration and stream bank buffers. All workable land is in the form of grass (used for pasture-grazing with our beef cattle and winter hay supply). We wish to continue that tradition when our son and daughter move back to the family farm. Given our farm size, this farm addition proposal will allow us to do this.

Furthermore, our proposal does not cause any harm to our land, our neighbors and community, and will not interfere with road traffic. As a way to diversify our farm offerings to the community, our water extraction facility will be another activity on our farm that creates family income, similar to selling cattle, raising crops, or developing or expanding a dairy operation.

Exhibit C






Town of Troy
Comprehensive Plan

Map
6-5









Future Land Uses

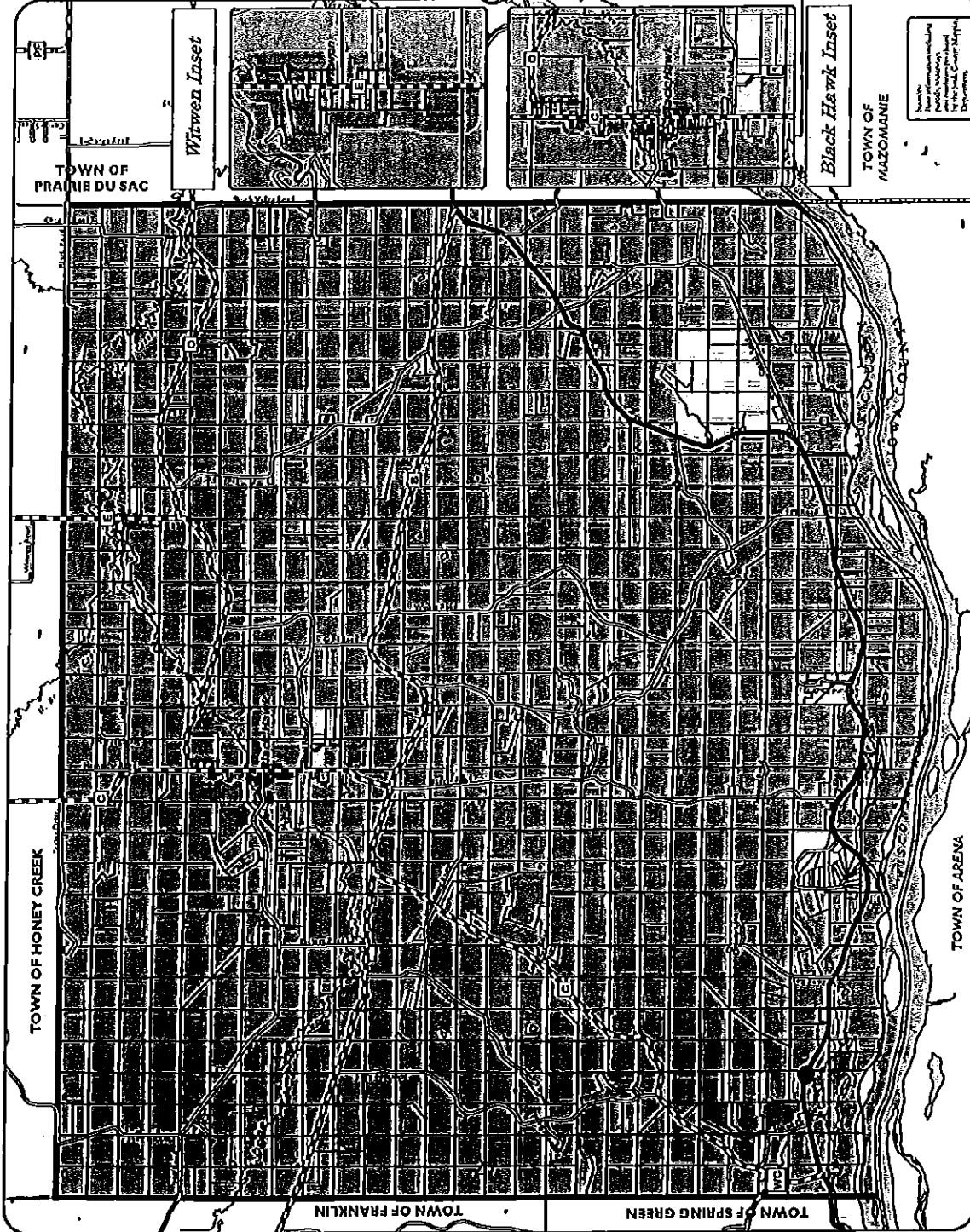
Legend

Future Land Uses

-  Agriculture Preservation
 - Clearing existing density policy
-  Transition Zone
 - Lots of higher density non-conforming lots
-  Mixed Use / Rural Community
 - Development potential existing clearing
 - Agriculture permitted
-  High Density Zone 2
 - Higher density development
 - Minimum 20 acre density
-  High Density Zone 1
 - Higher density development
 - Minimum 40 acre density

Boundaries

-  Town of Troy
-  Town Boundary
-  Parcel
-  County Boundary
-  Transportation
-  State Highway
-  County Highway
-  Town Roads



Black Hawk Inset
TOWN OF MAZOMANIE
This map is a reproduction of the original map and is not to be used for any other purpose.

TROY

TOWN OF HONEY CREEK



 Interstate County
 Federal Town
 State Municipal Boundary

Food & Wine Country Awards

Transition Area

United Nations Development Programme



Interpretation of Results

Results



OFFICE OF THE CORPORATION COUNSEL
SAUK COUNTY WEST SQUARE BUILDING
505 BROADWAY STREET
BARABOO, WISCONSIN 53913
TELEPHONE: (608) 355-3267
FAX: (608) 355-3469
E-MAIL: tliebman@co.sauk.wi.us

TODD J. LIEBMAN
CORPORATION COUNSEL

ASSISTANT CORPORATION COUNSEL
WENDY J.N. KLICKO
ALENE KLECZEK BOLIN
TORI A. VESELY
Child Support Enforcement Ext. 3238

MEMORANDUM

TO: Brian Simmert, Senior Planner

FROM: Todd J. Liebman, Corporation Counsel

DATE: 8 October 2015

RE: Hasheider Spot Rezoning

Exhibit E

You have requested my opinion regarding the proposed Hasheider rezoning and whether it is lawful. I opine that the proposed rezoning is an unlawful spot rezoning, violates Wis. Stat. ch. 91, and should be denied.

Several Wisconsin cases have stated that spot zoning is not "per se unlawful," but that commentary is misinterpreted and misapplied. A more useful description of spot zoning is that it is unlawful except under a very narrow set of conditions. The Wisconsin Supreme Court described those conditions in its holding in *Heaney v. City of Oshkosh*, 47 Wis.2d 303 (1970):

Spot zoning to be accomplished through rezoning should only be indulged in where it is in the public interest and not solely for the benefit of the property owner who requests rezoning, absent any showing that a refusal to rezone will in effect confiscate his property by depriving him of all beneficial use thereof.

Wisconsin cases that have upheld spot zoning, and where the unfortunate "not per se unlawful" language emanates from, demonstrate the extremely high bar a property owner must clear in order to demonstrate a lawful spot zone. In *Ballenger v. Door County*, 131 Wis. 2d 422 (Ct. App. 1986) the court considered the application of the public interest standard applied in spot zoning cases and stated as follows:

When considering whether a zoning ordinance is in the public interest, we must determine if it is consistent with long-range planning and is based upon considerations affecting the whole community. [citation omitted] The nature and character of the parcel, the use of the surrounding land, and the overall scheme or zoning plan are also relevant. In addition, we must consider the public's health, morals and welfare.

In the instant matter, the Hasheiders wish to engage in an extraction activity involving intensive traffic that is in addition to the other remunerative uses of their property. They are not being "denied all beneficial use" of their property nor is any property being "confiscated." They are simply being denied a desired activity that is inconsistent with both the town and county land use plans. Land use plans are expressions of the public interest regarding use of land. They are

Brian Simmert
8 October 2015
Hasheider Spot Rezoning
Page 2

developed with considerable input from the public, and individuals make considered decisions where to locate homes and businesses based upon those plans. It is impossible to find that the public interest is served by this spot rezoning.

This rezoning is inconsistent with Wis. Stat. § 91.48 which enumerates factors which permit land to be rezoned from Sauk County's Exclusive Agriculture Zoning District, Sauk County's certified farmland preservation district. A rezoning under that statute is only permissible if; one, the land is better suited to a use now allowed in the district; two, the rezoning is consistent with the comprehensive plan; three, the rezoning is substantially consistent with the farmland preservation plan; and, four, the rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land zoned for or restricted to agricultural use. This proposed spot zone does not meet any of these criteria. Rather, approval would legalize a panoply of inconsistent land uses in this spot zone that could have a detrimental impact on surrounding lands.

This rezoning is an unlawful spot rezoning, violates the Wis. Stat. § 91.48 standards, and should be denied.

TJL/

Town of Troy

Mary Zins, Clerk
E9699 Fuchs Road
Sauk City, WI 53583

Phone: 608-544-3549

November 11, 2015

Sauk County Conservation, Planning & Zoning Department
%Brian Simmert
West Square Building, Ste. 232
505 Broadway
Baraboo, WI 53913

Re: Phil & Mary Hasheider
Rezone & Conditional Use Petition

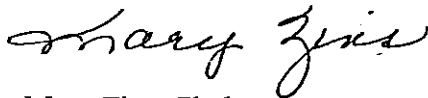
Dear Mr. Simmert:

At the regular board meeting held on Tuesday, November 10, 2015, the Town of Troy board passed Resolution 15-10, "Disapproving Petition by Philip and Mary Hasheider to Amend Zoning Ordinances."

Pursuant to s. 60.80, Wis. stats. the above resolution will be posted in three locations within the township of Troy and a certified copy filed with the Sauk County Clerk.

Enclosed is the Conservation, Planning & Zoning Department's certified copy of Resolution 15-10 and supporting documents for the town's denial.

Sincerely,
TOWN OF TROY



Mary Zins, Clerk

Enclosures

TOWN OF TROY, SAUK COUNTY, WISCONSIN
RESOLUTION 15- 10

**DISAPPROVING PETITION BY PHILIP AND MARY HASHEIDER
TO AMEND ZONING ORDINANCES**

After proper notice having been given, due consideration of the matter before it and for reasons including, but not limited to, those (1) discussed during the meeting, (2) set forth in the Town's Comprehensive Plan and (3) set forth in the opinion of the Sauk County Corporation Counsel finding the proposed rezoning illegal spot zoning, the Town Board of the Town of Troy, Sauk County, Wisconsin, by this Resolution, adopted by a majority of the Town Board on a roll call vote with a quorum present and voting, resolves and orders as follows:

The Petition by Philip and Mary Hasheider to amend the Sauk County zoning ordinances to rezone certain property in the Town from Exclusive Agriculture to a Commercial Zoning and for a conditional use permit as set forth in the attached Sauk County Staff Report, is timely disapproved. An extension for disapproving the proposed petition to amend has been filed by the Town Board with the County Clerk.

The Town Clerk shall file a certified copy of this Resolution with the Sauk County Zoning Agency and the County Clerk not later than 30 days after the public hearing held by the County in this matter.

The Town Clerk shall properly post or publish this Resolution as required under Section 60.80 of the Wisconsin Statutes.

Adopted this 10th day of November, 2015.

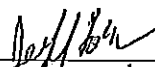
TOWN OF TROY:



Roger Mack, Chairman



Don Meise, 1st Supervisor

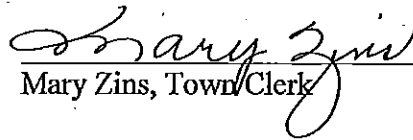


Jeff Lohr, 2nd Supervisor



Mary Zins, Town Clerk

I hereby certify that the foregoing Resolution was duly passed by the Town Board of the Town of Troy on the ____ day of November, 2015, and approved by Town Chairman on the date shown above.



Mary Zins, Town Clerk

Comprehensive Plan

Economic Development Goal:

The Town of Troy will encourage economic development that supports the retention of its current economic base and will support the creation of non-farm economic opportunities that do not conflict with the Town's rural character.

- *Spot zoning a one acre parcel to Commercial will conflict with the Town's rural character.*

Economic Development Objectives:

EDO-1 Promote business that is environmentally sensitive to the goal of preserving the Town's natural resources, cultural heritage and rural character.

EDO-2 Promote the retention of traditional farming and Ag related businesses.

- *Water extraction for sale and use offsite is not traditional farming nor is it a business that is related to traditional farming.*

(Page 73.)

Economic Development Policies:

EDP-9 Commercial development will be directed to areas within the Town that are served by State and County highways and are identified as Mixed Use/Rural Community areas on the *Future Land Uses Map 11-7*.

Legend

Future Land Uses

Agriculture Preservation

- Clustering utilizing density policy.

Transition Zone

- Mix of higher density non-conforming lots.

Mixed Use / Rural Community

- Development in business utilizing clustering.

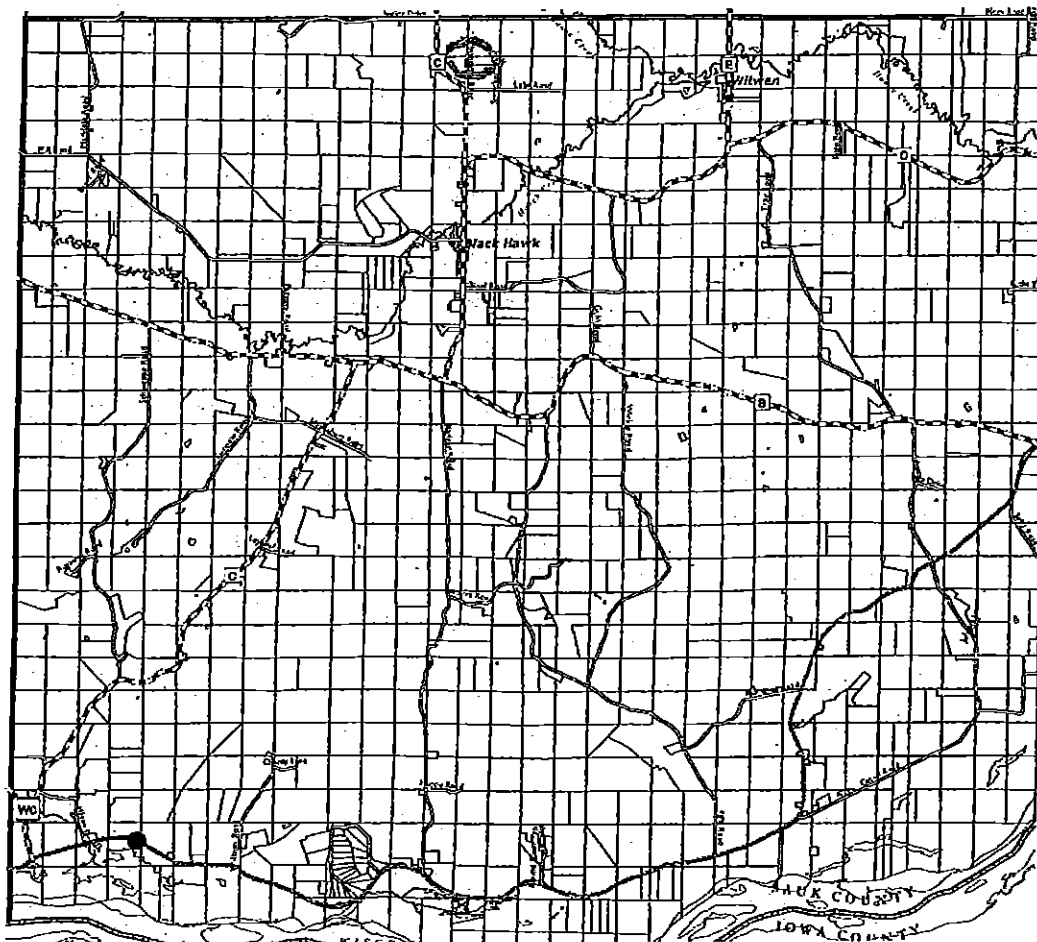
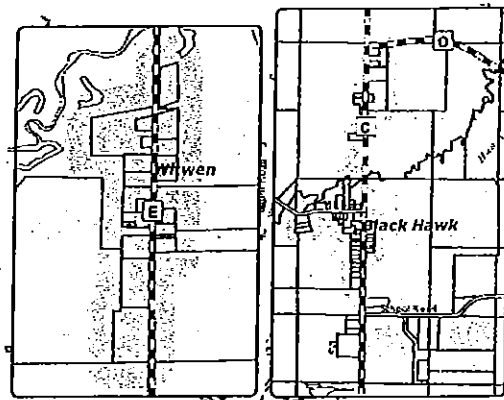
- Mixed uses permitted.

High Density Zone 2

- Higher density development permitted at 10 acre density.

High Density Zone 1

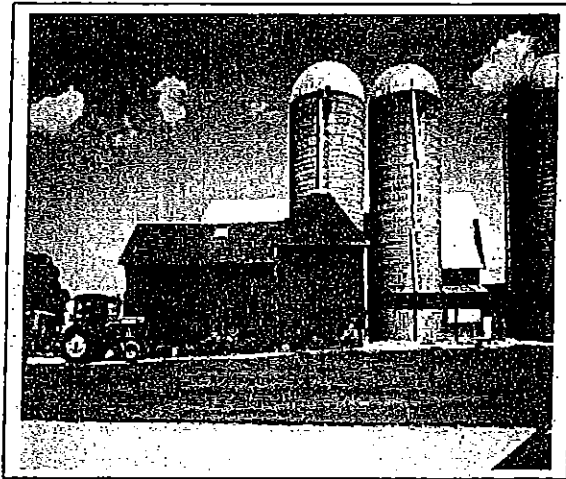
- Higher density development permitted at 2 acre density.



- Proposed Commercial use is not within area identified for such use.

6.4 Local Farm Numbers and Types

Farming and related agriculture activities are the primary economic activity in the Town. Farmers in the Town of Troy produce a variety of agriculture commodities including dairy, beef production, animal feed such as corn, alfalfa and soybeans as well as a number of cash crops. Troy currently has approximately 90 operating farms, with an estimated 27 (or 30%) reported as dairy operations.



6.5 Farmland Preservation Program






The Farmland Preservation Program was established by the State of Wisconsin and was designed to help local governments that wish to preserve farmland through local planning and zoning, by providing tax relief to farmers who participated. Exclusive Agriculture Zoning is a type of zoning linked to the Farmland Preservation. In the late 1970's, Sauk County produced a Farmland Preservation Plan as a requirement to enter into the program. In 1986, the Town of Troy adopted Exclusive Agriculture Zoning qualifying the Town's farmers to voluntarily take part in this program and receive tax credits as an incentive. As a result of this action, 82 landowners enrolled in the program and received the tax credits in 2004, averaging 220.89 acres each and representing 18,113.34 acres collectively. Since 1989 the amount of land enrolled in the Farmland Preservation Program has ranged between 16,342 and 19,504 acres. In 2004, the average tax credit received by each enrollee was about \$900. Since 2001, the amount of land enrolled in the program and receiving credits has remained around 18,000 acres. In comparison, there is approximately 34,800 acres of land within the Town of Troy.

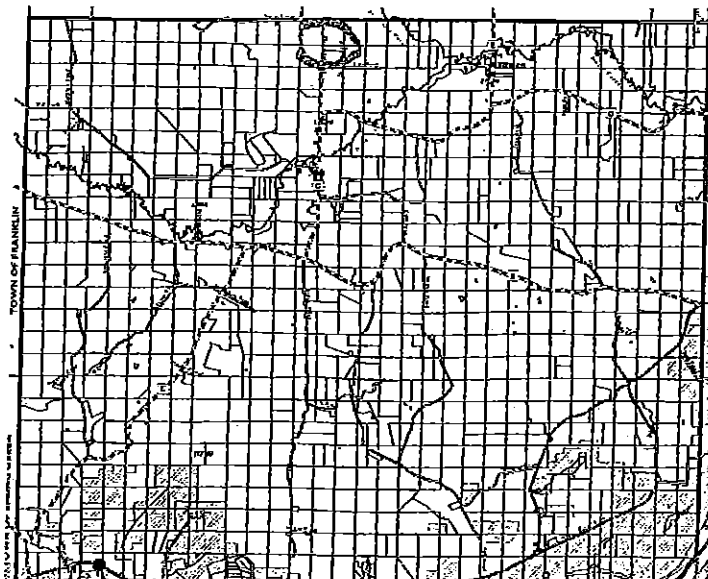
(Page 76.)

Zoning Districts

Legend

Zoning

-  Agriculture
-  Exclusive Agriculture
-  Multi-Family Residential
-  Single Family Residential
-  Lower Wisconsin Riverway



- *Water extraction does it meet the criteria for a rezoning out of Exclusive Agriculture*

6.9 Federal, State and Local Programs and Resources

Numerous programs and resources are available through federal, state and local agencies that can provide assistance to farmers to help ensure agricultural sustainability. These programs should not be looked at individually, as a possible solution to ensure the viability of agriculture, but rather as individual components of the collective system aimed at preserving all scales of farming operations.




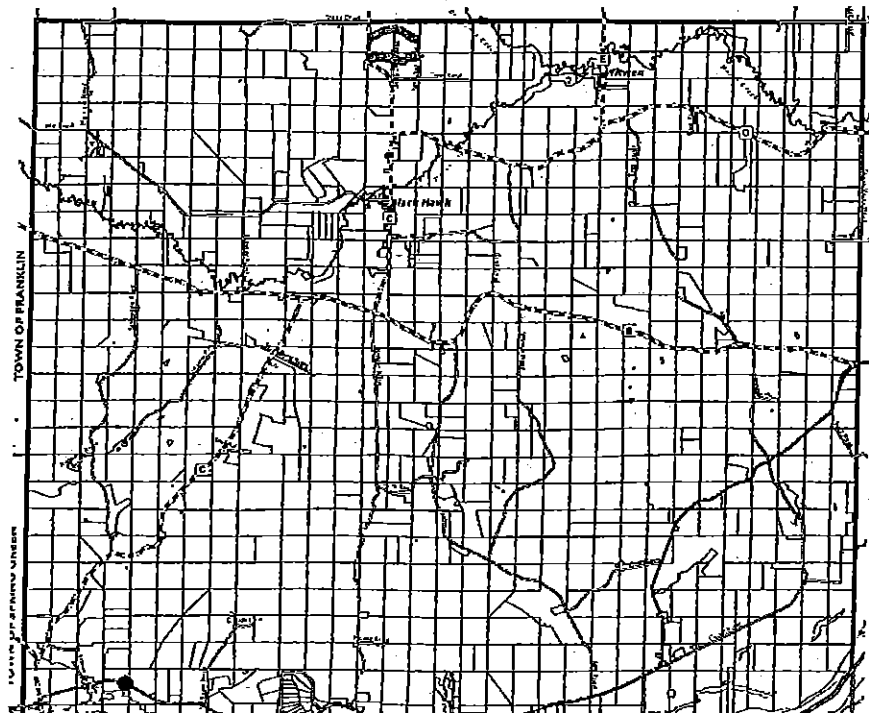
➤ Ag Preservation

Agriculture preservation is important to the Town of Troy both economically and culturally. Losing agriculture land to sporadic and unplanned development can represent significant costs to the town in terms of infrastructure and community services. In response to these issues, the Town of Troy decided to participate in Wisconsin's Farmland Preservation Program in 1986 by adopting a Town Development Plan with an Ag

Preservation Map as well as Exclusive Ag zoning. This tool is still being utilized today to help preserve farmland for continued production. **Map 2-3 Town of Troy Ag Preservation Map** is the official preservation plan map for the Town of Troy to be incorporated into Sauk County's Ag Preservation Plan as a result of this planning process. This map is used to specify areas for potential development as well as areas for preservation throughout the Town. In addition to this effort, several opportunities for the preservation of agriculture exist that could also allow for the town's continued growth.

Ag Preservation Plan

-  Development Area
- Transition Area
- Preservation Area



- Water extraction is proposed for an agricultural preservation area.

Agriculture Policies:

ARP-1 Promote continuation of Farmland Preservation, use-value assessment, right to farm laws and any other program that would keep the strong agricultural infrastructure of the Township intact.

(Page 85.)

Significant Truck Traffic – 10 semi tankers at 6,000 gallons each = 60,000 gallons

Equivalent truck traffic for a dairy with more than 8,500 producing cows (7 gallon average/60,000 gallons)

(Average US Cow produces approximately 7 gallons per day - Wisconsin Milk Marketing Board)

<http://www.wmmb.com/assets/images/pdf/WisconsinDairyData.pdf>

Rezoning to Commercial will allow a great number of uses that are not compatible with any of the above goals and uses of surrounding property, including industrial uses. It is spot zoning and should not be permitted as explained by Sauk County Corporation Counsel.



Staff Report
Conservation, Planning, and Zoning Committee
Philip & Mary Hasheider, applicant/property owner
Rezone Petition 26-2015

Hearing Date: October 27, 2015

Applicant:

Philip and Mary Hasheider

Staff:

Brian Simmert, CPZ

355-4834

bsimmert@co.sauk.wi.us

Current Zone:

Exclusive Agriculture

Proposed Zone:

Commercial

Relevant Plans:

Town of Troy Comprehensive

Area to be Rezoned:

.91 acres

Applicable Zoning Regulations:

7.038(8) Water extraction and removal

Notification:

(by U.S. mail, except newspaper)

October 6, 2015: Newspaper

October 6, 2015: CPZ Committee

October 6, 2015: Town Clerk

October 6, 2015: Adjacent

Landowners

Town Board Recommendation:

September 8, 2015: Disapproval of

Rezone prior to county application

Exhibits:

A. Map of area to be rezoned (cover)

B. Background information provided
by applicants

C. Town of Troy Land Use Map

D. Sauk County FPP Plan Map

E. Sauk County Corporation Counsel
memo

Request

Philip and Mary Hasheider, hereafter referred to as 'applicants,' are requesting a rezone from an Exclusive Agriculture to a Commercial zoning district. The purpose of the rezone request is to establish a water extraction and removal facility. According to the applicants, a 450 sq. ft. building will be constructed to house a low-capacity well. Potential truck traffic may include 8-10 semi-milk-tanker trucks per day with scheduled hours of operation between 8:00 a.m. to 8:00 p.m., Monday through Friday. Access to the site will be provided by Hasheider Road, a town road and County Road C. Approval of a rezone to Commercial will assist the applicants to qualify for a conditional use permit under s.7.038(8) of the Sauk County Zoning Ordinance for a water extraction and removal facility.

Legal Description of Area

A parcel located in the SW ¼, NE ¼ Section 5, T9N, R5E, Town of Troy, Sauk County, Wisconsin, containing .91 acres.

Background

Philip and Mary Hasheider are requesting a rezone to the commercial zoning district to establish a water extraction and removal facility.

If the rezone is approved, the applicant will be able to seek a conditional use permit for the following uses pursuant to the Sauk County Zoning Ordinance section:

7.038 (8) Water extraction and removal

If the rezone and conditional use permit are approved, the applicant will be required to apply for a land use permit for the proposed building and use pursuant to the Sauk County Zoning Ordinance section:

7.153 Land use permit: review procedure and standards.

Pending the approval of the rezone and conditional use and all permits being issued, the applicant may begin operation of the water extraction and removal facility.

Additional background information submitted by the applicants can be found under Exhibit B.

Town of Troy Recommendation and Comprehensive Plan

The Town of Troy recommended disapproval of the rezone and conditional use at their September 8, 2015 meeting.

Based on discussion, the Town Board felt that the proposed rezone was not consistent with the Town of Troy's Comprehensive Plan. Accordingly, the proposed rezone to commercial appears to be inconsistent with the Town of Troy Comprehensive Plan, *'Future Land Uses Map,'* which recognizes this parcel for agricultural land uses under Exclusive Agricultural zoning or uses consistent with agricultural-related uses. See Exhibit C. However, the uses on this map are not meant to necessarily correlate to what the property may be zoned. According to the applicants, the proposed use will allow for the, "diversification of our farm operation" and that, "according to the FDA water produced for human consumption is classified as a food product."

Sauk County Farmland Preservation Plan. The rezone does not appear to be consistent with the Sauk County Farmland Preservation Plan and specifically, the *Town of Troy Farmland Preservation Plan Map* located within this document. See Exhibit D. The *Town of Troy Farmland Preservation Plan Map* identifies this property as an Agricultural Preservation Area. If this property is zoned to commercial, Sauk County will commence a process to amend this map to be consistent with Wis. Stat. ch 91.

Adjacent Zoning and Land Uses (also shown on the staff report cover)

Direction	Zoning	Land Use
Property	Exclusive Agriculture	Farm Buildings
North	Exclusive Agriculture	Farm Field
South	Exclusive Agriculture	Farm Field
East	Exclusive Agriculture	Farm Field
West	Exclusive Agriculture	Farm Field

Zoning Map Amendment Standards pursuant to 7.141(8)

In its review and action on the application, the agency (CPZ Committee) shall make findings with respect to the following criteria:

- (a) The proposed map amendment is consistent with the overall purpose and intent of this chapter (Sauk County Zoning Ordinance).

Staff comment: The rezone as proposed is consistent with the overall purpose and intent of the Sauk County Zoning Ordinance which is to protect public health, safety and welfare of Sauk County residents and the public, to plan for future development of communities, and to further the purposes contained in Wis. Stat. § 59.69(1).

- (b) The proposed map amendment is consistent with the Sauk County Comprehensive Plan and the Farmland Preservation Plan, if applicable.

Staff comment: Both the Sauk County Farmland Preservation Plan and Sauk County Comprehensive Plan do not provide direct guidance to decision makers regarding a rezone out of Exclusive Agriculture zoning to accommodate water extraction and removal facilities. However, according to the applicants, the facility will add value to an agricultural business (farm) by allowing for business diversification (addition of water extraction and removal to a farming operation). Both the Sauk County Farmland Preservation Plan, and in particular, the Sauk County Comprehensive Plan support this type of rural economic development. Subjectively, it is unclear as to whether water extraction and removal can be considered an agriculture land use.

- (c) Factors have changed from the time of initial ordinance adoption that warrant the map change, or an error, inconsistency, or technical problem administering this chapter as currently depicted has been observed.

Staff comment: The county zoning ordinance was repealed, recreated, and adopted by the Sauk County Board of Supervisors in February 2014. The official zoning maps included as part of the new zoning ordinance are not meant to anticipate future land uses, thereby applying certain zoning on an assumption of future land uses. The zoning ordinance does, however, include a rezoning process to evaluate zoning changes on the current conditions and needs basis.

The following item (d) is pursuant to Wis. Stat. ch 91 and the Sauk County Zoning Ordinance.

- (d) In rezoning land out of any exclusive agriculture district, the agency shall find all of the following, after a public hearing:

1. The land is better suited for a use not allowed in the exclusive agriculture district.
2. The rezoning is consistent with the Sauk County Comprehensive Plan.
3. The rezoning is substantially consistent with the Sauk County Farmland Preservation Plan.
4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels or lands that are zoned for or legally restricted to agricultural use.

Staff comment: Items (a) through (c) above largely address item (d) 1-3. To further address item (d) 4., the rezone and proposed use will be confined to a small portion of the property and it is not anticipated that the use will have a negative impact on the surrounding parcels and agricultural uses, other than higher volumes of truck traffic to remove water from the facility. According to the applicants, truck vehicle types will be similar to a typical milk truck.

Spot Zoning

Amending a zoning ordinance to zone a relatively small area for uses significantly different than those allowed in the surrounding area is known as "spot zoning." This practice becomes controversial when uses are allowed that are incompatible with the physical limitations of a site or with uses of surrounding properties. A more in depth discussion on spot zoning can be found in a memo from Todd J. Liebman, Sauk County Corporation Counsel under Exhibit E.

The Town of Troy's decision to disapprove, in part, is based on their evaluation that the rezone to commercial to accommodate a water extraction and removal facility is a spot zone.

Committee Action Options

Approve Petition 26-2015, based on the facts of the request presented at the public hearing, that the proposed rezone appears to be consistent with respective plans, and that the rezone meets the standards and findings for rezoning pursuant to 7.141(8).

Disapprove Petition 26-2015, based on the facts of the request presented at the public hearing, the Town of Troy recommend disapproval of the rezone, that the rezone is an inappropriate spot zoning, and that the rezone does not meet the standards and findings for rezoning pursuant to 7.141(8).

Modify and Approve Petition 26-2015. Not Recommended.

Postpone Petition 26-2015, at the request of the Town of Troy.

Staff Recommendation

Staff recommends that the CPZ Committee postpone action until the town clerk takes action on the petition.

Exhibit B

1. General description of the request.

In the State of Wisconsin, both milk and water are regulated and licensed by the Wisconsin Department of Agriculture and Consumer Protection (DATCP) to meet standards for human consumption. In addition, and similar to milk, the U. S. Food and Drug Administration (FDA) regulates water produced for human consumption and classifies it as a food product.

Our farm rezone request includes constructing an agriculture building and water extraction on our farm. We are requesting a rezone of a less than one acre site on our farm from Exclusive Ag to Commercial. Granting this rezoning will allow us to qualify for a conditional use permit under Commercial designation to develop a water extraction facility pursuant to the Sauk County Ordinance: 7.038(8) Water Extraction and Removal Facility. We propose to limit the use of the one-acre parcel to one commercial use, the water extraction use allowed by sec. 7.038 (8). No other commercial uses, whether permitted or conditional, would be allowed.

Our farm rezone request below includes details of how we will approach diversifying our farm operation consistent with the Sauk County Zoning Ordinance: 7.0625 Water Extraction and Removal Facility: Secondary Standards, as well as details on how the farm addition will benefit our family, the Township of Troy, Sauk County and our surrounding communities.

2. Related background information on the project and site.

Our proposal includes:

1. Constructing a 450 square foot insulated building that will conform to our existing farm profile (farmstead styled barns and house), and be aesthetically pleasing to our surroundings, and is less than 23 feet tall.
2. Water will be extracted from a low-capacity well. The size of the well and gallons pumped per day could be restricted as a condition of the permit.
3. Any visitors entering or exiting the property will be scheduled between the hours of 8:00 a.m. to 8:00 p.m., Monday through Friday, consistent with a milking operation that distributes its milk from the farm, and consistent with the Sauk County Ordinance: 7.0625 Water Extraction and Removal Facility: Secondary Standards. Potential visitors to the farm will be eight to ten (8-10) semi-milk-tanker trucks per day.
4. A driveway connected to the current town road, Hasheider Road, will be used for access to the building. We agree to be responsible for reasonable maintenance or repair costs, if any, incurred by the Town as the result of use of Hasheider Road.

3. Justification, special reasons or basis for the request.

(I.) Consistent with the Town of Troy Comprehensive Plan -- Town of Troy resident activities that we wish to emphasize with our farm addition include the following:

- A. Our water extraction proposal meets the defined "6.10 Agriculture Goal Objectives and Policies of Town of Troy Comprehensive Plan". Our proposal aligns with the Town of Troy Comprehensive Plan and is consistent with the following highlights:
 1. ARO-1 to: "maintain, modernize, and enhance a strong agricultural infrastructure in the Town and surrounding region."
 2. ARO-4 to: "to encourage alternative economic opportunities that would enhance or supplement agriculture as an occupation/income."
 3. ARP-4 to: "promote agriculture that is locally owned and operated."
 4. ARP-5 to: "retain the agricultural character of Township ..."
- B. Seek alternative sources of income without having to leave the farm
- C. Create a direct, local-food marketing program to sell a food product from our farm
- D. Add to an existing family-farm business
- E. Provide opportunity for our son and daughter to return to a financially viable, family-owned farm business
- F. Preserve the character of our farm with a low-impact food product (that does not create potential environmental issues)

(II.) Consistent with the Sauk County Code of Ordinances – Our proposal is consistent with the Sauk County Ordinance: 7.0625 Water Extraction and Removal Facility: Secondary Standards:

A. All Facilities shall meet the following standards:

1. The hours of trucking operations shall be limited to 8:00 a.m. to 8:00 p.m., Monday through Friday.
 - a. We will only operate during hours as specified as a condition of the Conditional Use Permit. Hours of trucking will be similar to that of a dairy operation shipping milk to distributors.
2. The establishment, maintenance, or operation of the conditional use shall not endanger the public health, safety, or general welfare, nor impair significant aesthetic, scientific, educational, or agricultural values.
 - a. We will not harm public health, safety, or general welfare at any point during our operation. We will continue to be respectful of the rural aesthetics of our family farm, ensure that we are consistent with scientific data that shows that our proposed water extraction facility poses no danger to the robust water resources of Sauk County or the Town of Troy. We will continue to practice the educational and agricultural values of our family farm.
3. The establishment, maintenance, or operation of the conditional use will not substantially affect the existing use of adjacent properties and will not have a substantial adverse effect on the most suitable long-term future use for the area.
 - a. Our proposed operation will not impact any other agricultural activity in our area or have any negative adverse effects on the long-term other future use for the area. We are a 5th generation family farm and wish to continue living here and farming in a sustainable manner.
4. That adequate utilities, access roads, drainage, traffic plans, and other site improvements are or will be provided.
 - a. The use (facility and driveway) is accessed via existing roads, Hasheider Road and County Road C. Our proposed commercial driveway will conform to the standard driveway requirements set by the Town of Troy.
5. All outdoor lighting shall utilize fully shielded lighting fixtures to minimize artificial sky glow and prevent light trespass or glare beyond the property line.
 - a. All outdoor lighting will be attached to the building and utilize energy efficient and luminance-shielding technologies.
6. The use shall conform to all government regulations and standards pertaining to the activity, including air and water quality standards and storm and wastewater permit discharge requirements.
 - a. We have relied on the guidance and expertise of local and state officials with experience in hydrogeology. The Wisconsin Department of Natural Resources (DNR) has evaluated our proposal. We will work in partnership with all applicable governing agencies.
7. Abandonment of the site must be done in accordance with local, state, and federal laws.
 - a. We understand and accept these guidelines and would work in accordance with local, state, and federal laws if we were to abandon the proposed site.

Continued Land and Conservation Stewardship – The existing impact on the land from our small-scale farm is very low, which has been intentional. We have implemented environmentally conscious practices such as wetland restoration and stream bank buffers. All workable land is in the form of grass (used for pasture-grazing with our beef cattle and winter hay supply). We wish to continue that tradition when our son and daughter move back to the family farm. Given our farm size, this farm addition proposal will allow us to do this.

Furthermore, our proposal does not cause any harm to our land, our neighbors and community, and will not interfere with road traffic. As a way to diversify our farm offerings to the community, our water extraction facility will be another activity on our farm that creates family income, similar to selling cattle, raising crops, or developing or expanding a dairy operation.

Exhibit C

Town of Troy
Comprehensive Plan

Map
6-3

Future Land Uses

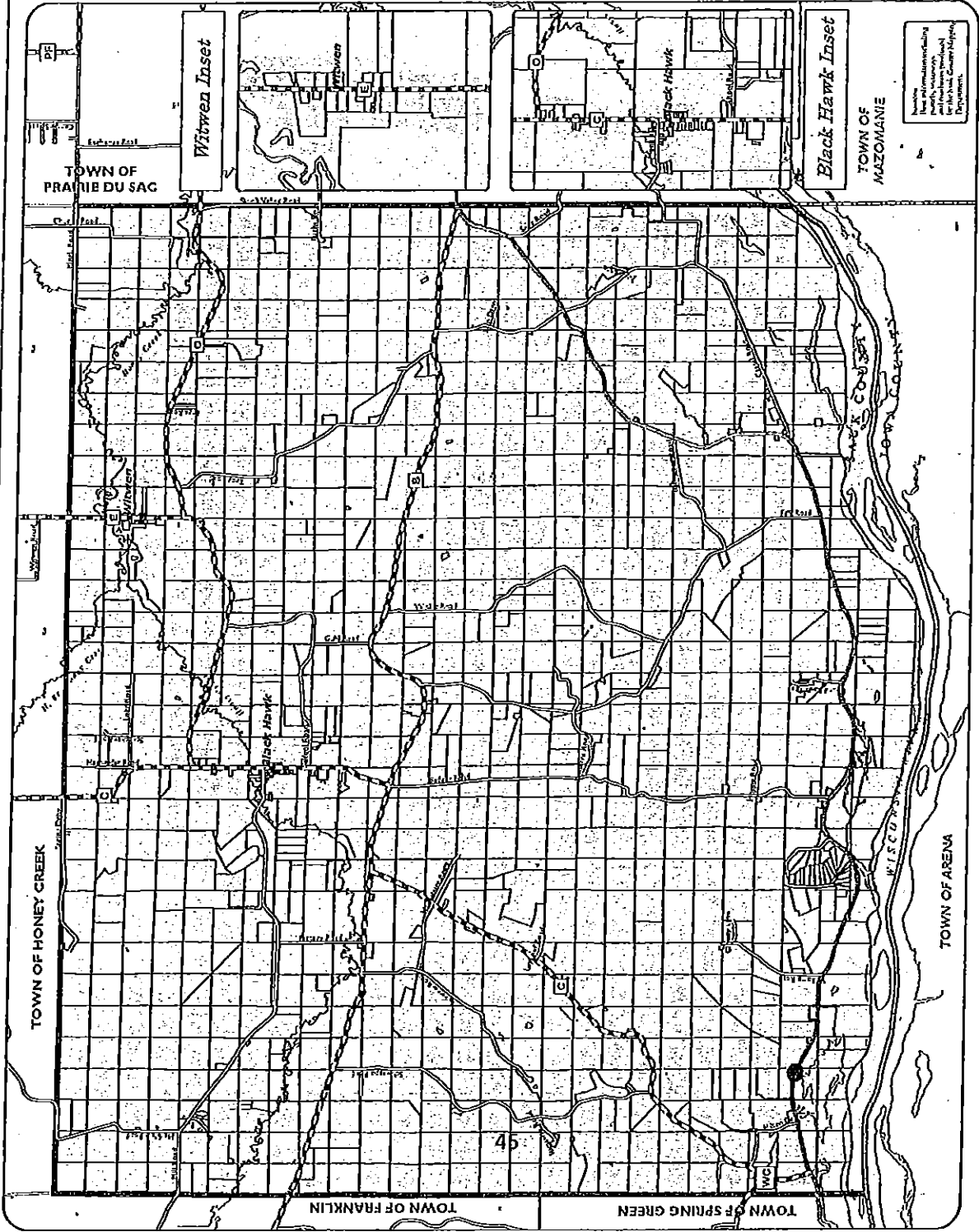
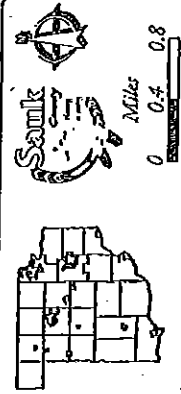
Legend

Future Land Uses

- Agriculture Preservation**
 - Clearing existing density policy.
- Transition Zone**
 - Will of higher density nonconforming lot.
- Mixed Use / Rural Community**
 - Development permitted including clearing.
 - Manufacture permitted.
- High Density Zone 2**
 - Higher density development permitted at 20 acre density.
- High Density Zone 1**
 - Higher density development permitted at 2 acre density.

Boundaries

- Town of Troy**
- Town Boundary**
- Parcel**
- County Boundary**
- Transportation**
 - State Highway**
 - County Highway**
 - Town Roads**



These preliminary maps are for informational purposes only and are not intended to be used for any legal or financial purposes.

FARMLAND PRESERVATION

TROY

Exhibit D

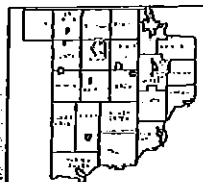
TOWN OF HONEY CREEK

TOWN OF TROY

DANE

Sauk County Farmland Preservation Plan

- | | | | |
|------------|--------------------|---------------------------------|----------------------------|
| Interstate | County | Sauk Parcels | Farmland Preservation Area |
| Federal | Town | Federal/State/County Lands | Transition Area |
| State | Municipal Boundary | Unincorporated Development Area | |



46

Sauk County
County of Wisconsin

Prepared 2013

0 0.75 1.5 Miles

FOR INFORMATION PURPOSES ONLY
This map is not intended to be used as a legal document.
It is the responsibility of the user to verify the accuracy of the information shown on this map.
The County of Wisconsin is not responsible for any errors or omissions on this map.



OFFICE OF THE CORPORATION COUNSEL

SAUK COUNTY WEST SQUARE BUILDING

505 BROADWAY STREET

BARABOO, WISCONSIN 53913

TELEPHONE: (608) 355-3267

FAX: (608) 355-3469

E-MAIL: tliebman@co.sauk.wi.us

TODD J. LIEBMAN

CORPORATION COUNSEL

ASSISTANT CORPORATION COUNSEL

WENDY J.N. KLICKO

ALENE KLECZEK BOLIN

TORI A. VESELY

Child Support Enforcement Ext. 3238

MEMORANDUM

TO: Brian Simmert, Senior Planner

FROM: Todd J. Liebman, Corporation Counsel

DATE: 8 October 2015

RE: Hasheider Spot Rezoning

Exhibit E

You have requested my opinion regarding the proposed Hasheider rezoning and whether it is lawful. I opine that the proposed rezoning is an unlawful spot rezoning, violates Wis. Stat. ch. 91, and should be denied.

Several Wisconsin cases have stated that spot zoning is not "per se unlawful," but that commentary is misinterpreted and misapplied. A more useful description of spot zoning is that it is unlawful except under a very narrow set of conditions. The Wisconsin Supreme Court described those conditions in its holding in *Heaney v. City of Oshkosh*, 47 Wis.2d 303 (1970):

Spot zoning to be accomplished through rezoning should only be indulged in where it is in the public interest and not solely for the benefit of the property owner who requests rezoning, absent any showing that a refusal to rezone will in effect confiscate his property by depriving him of all beneficial use thereof.

Wisconsin cases that have upheld spot zoning, and where the unfortunate "not per se unlawful" language emanates from, demonstrate the extremely high bar a property owner must clear in order to demonstrate a lawful spot zone. In *Ballenger v. Door County*, 131 Wis. 2d 422 (Ct. App. 1986) the court considered the application of the public interest standard applied in spot zoning cases and stated as follows:

When considering whether a zoning ordinance is in the public interest, we must determine if it is consistent with long-range planning and is based upon considerations affecting the whole community. [citation omitted] The nature and character of the parcel, the use of the surrounding land, and the overall scheme or zoning plan are also relevant. In addition, we must consider the public's health, morals and welfare.

In the instant matter, the Hasheiders wish to engage in an extraction activity involving intensive traffic that is in addition to the other remunerative uses of their property. They are not being "denied all beneficial use" of their property nor is any property being "confiscated." They are simply being denied a desired activity that is inconsistent with both the town and county land use plans. Land use plans are expressions of the public interest regarding use of land. They are

Brian Simmert
8 October 2015
Hasheider Spot Rezoning
Page 2

developed with considerable input from the public, and individuals make considered decisions where to locate homes and businesses based upon those plans. It is impossible to find that the public interest is served by this spot rezone.

This rezoning is inconsistent with Wis. Stat. § 91.48 which enumerates factors which permit land to be rezoned from Sauk County's Exclusive Agriculture Zoning District, Sauk County's certified farmland preservation district. A rezoning under that statute is only permissible if; one, the land is better suited to a use now allowed in the district; two, the rezoning is consistent with the comprehensive plan; three, the rezoning is substantially consistent with the farmland preservation plan; and, four, the rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land zoned for or restricted to agricultural use. This proposed spot zone does not meet any of these criteria. Rather, approval would legalize a panoply of inconsistent land uses in this spot zone that could have a detrimental impact on surrounding lands.

This rezoning is an unlawful spot rezoning, violates the Wis. Stat. § 91.48 standards, and should be denied.

TJL/

RESOLUTION NO. 123-15

DENYING THE CLAIMS OF CERTAIN INDIVIDUALS
NAMED AS FOLLOWS

ANDERSON, JOHN P & JULIE K
ARTL, GLORIA J
BARON, THEODORE F & MARY L
BECKER, RUSSELL E & LINDA M
BEETSTRA, RAYMOND & MARLEEN
BEIL, CRAIG A & JERELYN BENNET-BEIL
BENNETTS, WILLIAM F & PATRICIA R
BUTTERA, SUSAN C
CARD, STEPHEN L & BARBARA R
DEVRIES, JAMES L & RUTH D
ELLIS, TIMOTHY & DEBORAH TEIFKE-ELLIS
ENZENBACHER, GUSTAVE & KATHLEEN
ERNESTI, DONALD B
FARINA, THOMAS & JITKA
FELD, DON S & ALICE
FISHER, WILLIAM R & BEVERLY
FORST, FREDERICK W & DIANNE L
GRAU, DAVID M & NANCY T
HART, JO A
HOFFER-NOONAN, JUDYTH
HUTMACHER, TERRY L & PAMELA S
KAHN, CATHY A
KAPP, GREGORY J & CONSTANCE B
KRAMER, RICHARD E & MELLODY E A
MARG, JEANNE E
MIELKE, DEBORAH ANN
MOON, ADRIAN A
NEGRI, FRANCIS A & GAIL M
NEHMZOW, RAYMOND M & MARGUERITE P
OSTGAARD, ALLEN & ROSE
OSTGAARD, ROY & ELIZABETH
OTTUM, DAVID A
PIANTEK, RICHARD
QUINN, FRANK E & MAUREEN R
RADTKE, ROYAL & SANDRA
RASMUSSEN, RONALD J & ELIZABETH T
SCHAEFER, DARRIN J
SCHAEFER, JAMES F & JOAN M
SCHAEFER, JEROME & KATHLEEN
SCHWANKE, RICHARD & KELLY J

RESOLUTION NO. 123 15
DENYING THE CLAIMS OF CERTAIN INDIVIDUALS
NAMED AS FOLLOWS
Page Two

Claimants Continued:

SEIPPEL, JOHN T, IRENE L & LORI
SPRAGUE, STEVEN M
STEINMEIER, ARTHUR & BONNIE
TORKELSON, DUANE A & CHERYL L
WIPPERFURTH, RUSSELL C

WHEREAS, the above referenced claimants have filed Notices of Claim pursuant to Wis. Stats. § 893.80 dated October 26, 2015 and served upon Sauk County on October 28, 2015 against Sauk County seeking \$100,000 in damages per individual claim as well as equitable relief allegedly arising from certain actions of the Sauk County Board of Adjustment, other county employees, public officials and departments; and

WHEREAS, your Executive & Legislative Committee has had this claim under advisement and would recommend that it be denied.

NOW, THEREFORE, BE IT RESOLVED, by the Sauk County Board of Supervisors, met in regular session, that the above-described claim be and hereby is denied.

For consideration by the Sauk County Board of Supervisors on December 15, 2015.

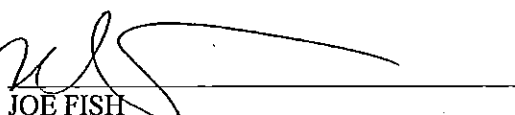
Respectfully submitted,

EXECUTIVE & LEGISLATIVE COMMITTEE


MARTY KRUEGER, Chairperson


JOAN FORDHAM


WALLY CZUPRYNSKI


JOE FISH


DENNIS B. POLIVKA

FISCAL NOTE:

Adoption of this resolution is anticipated to have no direct fiscal impact.

MIS NOTE:

No MIS impact.

s:\ccounsel\1861Resolution

KFB

RESOLUTION 124 - 2015

**AUTHORIZING A CONTRACTUAL AGREEMENT WITH POINT & PAY AS A
VENDOR FOR RECEIVING PAYMENT VIA CREDIT & DEBIT CARDS & E-
CHECKS**

WHEREAS, the present contract with Official Payments for the payment of real estate taxes via credit and debit cards and e-checks will expire on March 11, 2016; and,

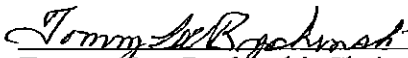
WHEREAS, Point & Pay was awarded the bid subsequent to a request for proposal from the Wisconsin County Treasurers Association as the preferred payment provider for Treasurers; they serve 50 of the 72 counties in Wisconsin; and the vendor's software will integrate with the Sauk County's Ascent Land Records System that is used for real estate tax receipting making it user friendly for the taxpayer.

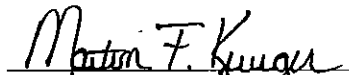
NOW, THEREFORE, BE IT RESOLVED, by the Sauk County Board of Supervisors, met in regular session, that the above-described contract with Point & Pay be and hereby is accepted by Sauk County and shall be effective for 3 years commencing on March 14, 2016 and then renewable on a yearly basis.


For consideration by the Sauk County Board of Supervisors on December 15, 2015.

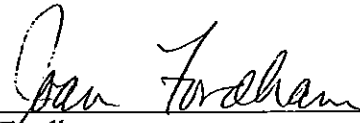
Respectfully submitted,

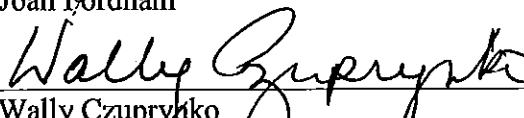
SAUK COUNTY FINANCE COMMITTEE


Tommy Lee Bychinski, Chairperson


Martin F. Krueger


Andrea Lombard


Joan Fordham


Wally Czuprynski

Fiscal Note: There will be \$1,000.00 maintenance fee included with our yearly Land Records System Annual Support payment through our tax management software vendor. Any other fees associated with using these services are paid by the cardholder. *KPB*

MIS Note: The Point & Pay product integrates fully into the existing property tax management system and should require no additional MIS resources.

RESOLUTION NO. 125-2015

ADOPTING FEES AND CHARGES FOR THE SAUK COUNTY PARKS
DEPARTMENT

WHEREAS, the Highway and Parks Committee has established reasonable fees and charges for the use of the Sauk County Parks; and,

WHEREAS, a listing of these fees and charges is included; and,

WHEREAS, the Highway and Parks Committee has proposed an increase to the entrance fee, and changes to the pavilion rental fee and elimination of the Group Camping fees to help offset increased operational expenses. These changes will simplify the fee structure.

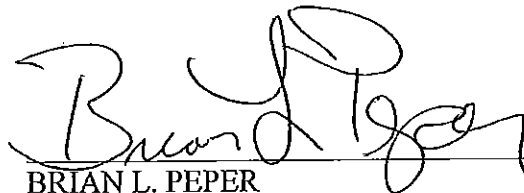
NOW, THEREFORE BE IT RESOLVED, by the Sauk County Board of Supervisors, met in regular session, that the fees and charges schedule for the Sauk County Parks Department be adopted, to be reviewed annually by the Highway and Parks Committee, until such time as the fees are in need of a change.

For consideration by the Sauk County Board of Supervisors on December 15, 2015.

Respectfully submitted,


HIGHWAY AND PARKS COMMITTEE


MARTIN (TIM) MEISTER


BRIAN L. PEPER


JOSEPH FISH


HENRY NETZINGER


JERRY KAST

FISCAL NOTE: It is estimated the new fee structure will increase revenues by approximately \$10,000.

MIS NOTE: No MIS impact.

**FEES AND CHARGES
SAUK COUNTY PARKS DEPARTMENT**

ENTRANCE FEE:	\$ 4.00 Daily \$ 20.00 Annual, Two for \$30.00 at time of initial purchase
ENTRANCE PERMIT VIOLATION:	\$ 10.00
ENTRANCE FEE FOR CAMPERS AND RESERVED SHELTER USERS:	\$ 1.00 Daily/Vehicle

ENTRANCE FEE WAIVED FOR:	
-School sponsored educational events	-Park Volunteer staff
-Nonprofit organizations (IRS 26 USC)	-Park Staff
-White Mound residents/guests	-Hired contractors
-Municipal licensed vehicles	-Service vehicles
-Events approved by Transportation/Parks Committee	

FAMILY CAMPING:	\$ 5.00/Night/Person, 16+ years
FAMILY CAMPING RESERVATION:	\$ 5.00/Reservation/Site
CAMPING ELECTRIC:	\$ 5.00/Night

GROUP CAMPING:	\$ 2.00/Night/Person (Sun.-Thurs.) \$ 2.50/Night/Person (Fri.- Sat.)
-----------------------	---

GROUP CAMPING RESERVATION:	
Number in Group: 1-20 \$10.00	61-80 \$40.00
21-40 \$20.00	81+ \$50.00
41-60 \$30.00	

FIREWOOD:	\$4.00/ Arm Load
SHOWERS:	Coin Operated
ICE:	\$ 2/Bag
SHELTER FEES:	
#1 Shelter (closer to office)	#2 Shelter (by first parking lot)
\$20.00 1/2 Shelter – ½ Day	\$30.00 Shelter – ½ Day
\$35.00 ½ Shelter – Day	\$50.00 Shelter – Day
\$40.00 Shelter – ½ Day	
\$ 60.00 Shelter – Day	

Times are 11:00a.m. - 4:00p.m. and 4:30p.m. - 9:00p.m.

KAYAK RENTAL:	
Single \$8.00/hour	\$36.00/ Six hours
Double \$12.00/hour	\$54.00/ Six hours

A valid driver's license and \$40.00 refundable deposit are required, only available for use at White Mound Park

Fees and Charges include applicable sales tax

Proposed Fee Increased for the Sauk County Parks Department

Daily entrance fee is now \$4, proposed amount is \$5.

Annual entrance fee was \$20/1 and \$30/2(at time of purchase), proposed amount is \$25/1 and \$40/2(at time of purchase).

Daily entrance fee for campers and shelter users was \$1. It is proposed to eliminate this so there is just one daily entrance fee throughout the park system, which is proposed to be \$5.

It is proposed to eliminate the group camping section of our fees.

Shelter (pavilion) reservation fees are now determined by how long the shelter is reserved and how much of the shelter is used. It is proposed to set the fees at a single rate of \$60/shelter 1/DAY and \$50/shelter 2/DAY. This rate would include daily entrance fees for up to 10 vehicles for each event.

Firewood, ice, showers and Kayak rental would be set by the Highway and Parks Committee as markets change.

Fees and charges include applicable sales tax.

RESOLUTION 124-15

**Request To Accept Proposal For Two (2) 60,000 GVW Tandem Trucks
From Truck Country, DeForest, Wisconsin**

WHEREAS, your Highway Department is in need of two (2) 60,000 GVW Tandem Trucks, and in a planned program of replacement, having set minimum specification for same, and

WHEREAS, your Committee has agreed to accept the following proposal which met our specifications subject to County Board approval:

From: Truck Country
DeForest, Wisconsin

Two (2) Freightliner 114 SD 60,000 GVW Tandem Trucks	\$ 211,464.00
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Less Trade In:

Sauk Co. Truck Unit #179	
Sauk Co. Truck Unit #182	(\$ 15,000.00)

Net Cost, F.O.B. Baraboo	\$ 196,464.00
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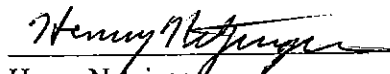
NOW, THEREFORE BE IT RESOLVED, that the above bid be approved, it further being understood that this expenditure will be paid from Highway Department funds.


For Consideration by the Sauk County Board of Supervisors on December 15, 2015.

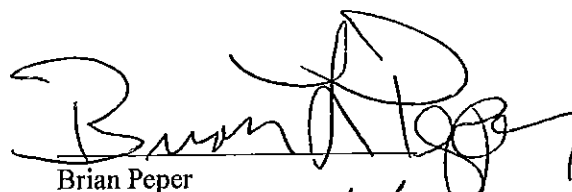
Respectfully submitted:

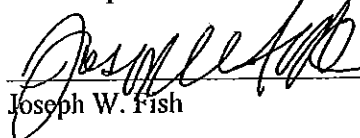
Sauk County Highway and Parks Committee


Martin (Tim) Meister, Chair


Henry Netzinger


Jerry G. Kast


Brian Peper


Joseph W. Fish

Fiscal Note: This Expenditure will be paid from Highway Equipment Fund Account.
MIS Note: No MIS Impact.

KFB

RESOLUTION 127 - 15

Authorizing Reimbursement For Attendance At The Wisconsin County Highway Association Winter Road School

WHEREAS, on January 18, 19, 20, 2016 the Wisconsin County Highway Association will be hosting a Winter Road School; and,

WHEREAS, this session will allow policy makers an opportunity to learn about a variety of issues that occur in field of study as well as the technological advances used in field of study today; and,

WHEREAS, the Rules of the Board stipulate that attendance of a school, institute or meeting which is not a part of regular committee meetings requires approval by the County Board of Supervisors (Rule V.A. of the Rules of the Sauk County Board of Supervisors).

NOW, THEREFORE, BE IT RESOLVED, by the Sauk County Board of Supervisors, met in regular session, hereby approves compensating and reimbursing expenses of four Sauk County Highway Committee members for attendance at the Wisconsin County Highway Association Winter Road School at the Chula Vista in Wisconsin Dells, WI on January 18, 19, 20, 2016.

For consideration by the Sauk County Board of Supervisors on December 15, 2015.

Respectfully submitted:

Sauk County Highway and Parks Committee

Martin (Tim) Meister, Chair

Brian Peper

Henry Netzing

Joseph W. Fish

Jerry G. Kast

Fiscal Note:

Estimated Costs	Cost per Person	Number of Persons	Total Estimated Cost
Registration	\$ 165.00	4	\$ 660.00
Meals and Expenses (i.e. hotel, parking, etc.)	\$ 0.00		\$ 0.00
Per Diem and Benefits	\$ 100.00	4	\$ 400.00
Mileage	\$ 50.00	4	\$ 200.00
Total Estimated Costs	\$315.00		\$ 1,260.00

MIS Note: No MIS Impact.

RESOLUTION NO. 128 - 2015

**ACCEPTING BIDS ON TAX-DELINQUENT REAL ESTATE
ACQUIRED BY SAUK COUNTY**

WHEREAS, your Property and Insurance Committee has appraised certain property, acquired by Sauk County as tax-delinquent real estate, pursuant to the Wisconsin Statutes; and,

WHEREAS, the Sauk County Treasurer has advertised the sale and appraised value of such real estate in a Class 3 Notice under Chapter 985 of the Wisconsin Statutes; and,

WHEREAS, at 8:00 a.m. on December 1st, 2015, the Sauk County Treasurer and the Sauk County Deputy Treasurer opened bids for said property, the successful bidder indicated, with all parcels not receiving sufficient bids being omitted; said properties receiving sufficient bids described below:

TOWN OF LA VALLE

024-1614-00000 LAKE REDSTONE EAGLE ADD LOT 57 W/1/19 INT IN OL A &
VPA BETW OL A & LOT 7

Appraised Value: \$1,540.00
Bid: \$2,014.00
Submitted by: David and Sandra Riley

TOWN OF LA VALLE

024-1615-00000 LAKE REDSTONE EAGLE ADD LOT 58 W/1/19 INT IN OL A &
VPA BETW OL A & LOT 7

Appraised Value: \$1,450.00
Bid: \$2,015.00
Submitted by: David and Sandra Riley

WHEREAS, Sauk County is now authorized by §75.69 of the Wisconsin Statutes to accept the bids meeting or exceeding the appraised value of said property deemed most advantageous to it.

NOW, THEREFORE, BE IT RESOLVED, by the Sauk County Board of Supervisors met in regular session, that the Sauk County Clerk is hereby instructed to issue a Quit Claim Deed for the above described real property to the above-named successful bidder upon receipt in full of the amount of said bid by the Sauk County Treasurer by December 11th, 2015.

AND BE IT FURTHER RESOLVED that the Sauk County Clerk is also authorized to accept the next successful bid exceeding the appraised value of any parcel if the successful bidder on said property does not comply with all requirements as outlined in the Notice of Sale.

Resolution No. 128 -2015, Accepting Bids on Tax-Delinquent Real Estate
Page 2 of 2

For consideration by the Sauk County Board of Supervisors on December 15th, 2015.

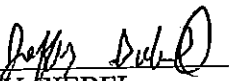
Respectfully Submitted,

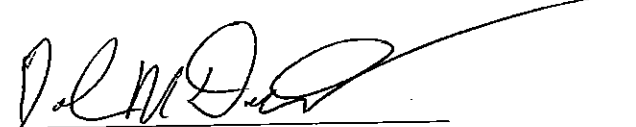
SAUK COUNTY PROPERTY AND INSURANCE COMMITTEE


SCOTT VON ASTEN, Chairperson


WILLIAM HAMBRECHT


NATHAN S. JOHNSON


JEFFREY GIEBEL


JOHN M. DEITRICH

FISCAL NOTE: Funds received provide sufficient revenue to reimburse Sauk County for its costs invested in the property.
MIS NOTE: No Impact.

KPB

RESOLUTION NO. 129-15

**AUTHORIZATION TO CONTRACT WITH NECESSARY CONTRACTORS TO
COMPLETE EMERGENCY REPAIRS TO THE COURTHOUSE EXTERIOR**

WHEREAS, Emergency Management, Buildings and Safety staff discovered issues with the exterior façade of the Historic Courthouse; and,

WHEREAS, Kraemer Brothers was hired to investigate the issues and have discovered that there is damage/deterioration that is ongoing due to water infiltration; and,

WHEREAS, the Emergency Management, Buildings and Safety Administrator and Facility Manager are presently working with Kraemer Brothers to fully identify the issues as well as develop a plan that will include any and all necessary repairs; and,

WHEREAS, staff and the Committee feel that repairs or reconstruction should not be delayed as the threatened damage thereto creates an emergency;

NOW, THEREFORE, BE IT RESOLVED, by the Sauk County Board of Supervisors met in regular session, that an emergency is declared to exist in that repairs to the courthouse cannot wait and a threat to the public health and welfare is hereby declared to exist pursuant to Wis. Stat. § 59.52(29)(b), and that the Property & Insurance Committee is hereby authorized to approve any necessary contracts including those that may be in excess of \$10,000 as long as such contracts do not exceed the Emergency Management, Buildings & Safety budget, with said emergency conditions expiring upon completion of these repairs; and,

BE IT FURTHER RESOLVED, that the Emergency Management Buildings and Safety Administrator and/or Facility Manager are hereby authorized to sign any committee approved contracts for all emergency repairs upon review of the Corporation Counsel.

For consideration by the Sauk County Board of Supervisors on December 15th, 2015.

Respectfully submitted,

SAUK COUNTY PROPERTY AND INSURANCE COMMITTEE

Scott Von Asten, Chair

William Hambrecht

Nathan Johnson

Jeffrey Giebel

John Deitrich

Fiscal Note: Funds for these repairs will be taken from the 2015 Building Services budget.

Information System Note: No Information system impact.

RESOLUTION NO. 130 - 15

**APPROVING AGREEMENT WITH BUG TUSSEL WIRELESS FOR THE EXCHANGE
OF CERTAIN FACILITIES**

WHEREAS, Bug Tussel Wireless is in the process of construction a number of tower sites in Sauk County; and,

WHEREAS, a number of these tower sites would be potential additional sites that Sauk County could utilize to enhance the capabilities of its Radio System infrastructure for all county emergency services; and,

WHEREAS, Sauk County has fiber optic cable that is near many of the Bug Tussel Tower sites; and,

WHEREAS, a joint agreement regarding the exchange of facilities is mutually beneficial to both Sauk County and Bug Tussel Wireless; and,

WHEREAS, the Communications Infrastructure Committee has reviewed this agreement and feels that it is in the best interest of the County;

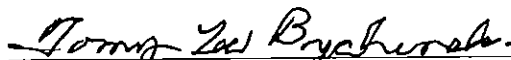
NOW, THEREFORE, BE IT RESOLVED, by the Sauk County Board of Supervisors, met in regular session that agreement attached hereto as an Appendix between Sauk County and Bug Tussel Wireless is hereby approved,

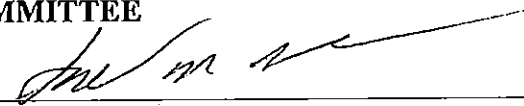
AND, BE IT FURTHER RESOLVED, that the Communications Infrastructure Committee is hereby authorized to make non-monetary amendments to this agreement during the term of this agreement provided such amendments do not extend the term of the lease except as provided in the lease agreement.


For consideration by the Sauk County Board of Supervisors on December 15th, 2015.

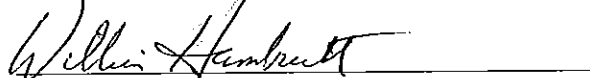
Respectfully submitted:

COMMUNICATIONS INFRASTRUCTURE COMMITTEE


Tommy Lee Bychinski, Chair


Scott Von Asten


Nathan Johnson


William Hambrecht

Michelle Dent

Fiscal Note: Approval of this agreement will reduce expenses for both parties by obviating the need to maintain duplicative infrastructures. Expenditures contemplated herein are part of the Building Services budget.

Information System Note: No information Systems impact.

KPB

EXCHANGE OF FACILITIES AGREEMENT

WHEREAS, Sauk County (hereinafter "*County*") is a political subdivision of the State of Wisconsin with its seat of government in Baraboo, Wisconsin existing pursuant to the Wisconsin Constitution and Wis. Stat. Ch. 59; and,

WHEREAS, Bug Tussel Wireless, LLC, a Wisconsin Limited Liability Company and Cloud 1, LLC, a Wisconsin Limited Liability Company ("*Lessee*" or "*Bug Tussel*") and who are both wholly owned affiliates of Hilbert Communications, LLC, a Wisconsin Limited Liability Company ("*Hilbert*") hereinafter Cloud 1/Bug Tussel); and,

WHEREAS, the parties hereto are both owners of communication sites, towers and/or dark fiber, and/or building space, and it is to the mutual benefit of the parties to provide communication facilities space, tower space and/or dark fiber to each other upon the following terms and conditions; and,

WHEREAS, in the interest of the mutual benefits accruing to the County, Cloud 1/Bug Tussel it is hereby agreed as follows:

Section 1: Parties:

The parties to this Agreement are Sauk County and Cloud 1/Bug Tussel, with the respective addresses indicated as follows:

County: Sauk County, 510 Broadway Street, Baraboo, Wisconsin 53913.

Cloud 1/Bug Tussel: Cloud 1/Bug Tussel, 130 East Walnut Street, 3rd Floor, Green Bay, Wisconsin 54301.

Section 2: Commencement Date and Basic Agreement:

This agreement shall commence on December 15th, 2015 and the parties hereby agree to exchange tower space and/or, dark fiber and/or building space.

Section 3: Obligations of the Parties and Description of Property to Be Exchanged:

3.1 Obligations of the County and Property:

- 3.1.1 Provide/allow for Cloud 1/Bug Tussel to splice into the County Fiber Loop on LEG G.
- 3.1.2 Provide dark fiber connectivity to the Hillpoint Tower Site.
- 3.1.3 Provide/allow for Cloud 1/Bug Tussel to splice into the County Fiber on the Loganville/Lime Ridge/Hillpoint EDA Spur Loop.
- 3.1.4 Provide dark fiber connectivity to the Hillpoint Tower site.
- 3.1.5 Provide all necessary splicing to complete items 3.1.1 & 3.1.2.
- 3.1.6 Provide all necessary engineering to complete items 3.1.1 & 3.1.2
- 3.1.7 Provide 12 count fiber cable for installation by Cloud 1/Bug Tussel to Cloud 1/Bug Tussel Plain and Lime Ridge Towers.
- 3.1.8 Provide necessary patching between termination panels as needed.

3.1.9 Provide locating service for fiber optic cable occupying County duct space.

3.1.10 Provide maintenance and restoration of County owned fiber optic cable.

3.1.11 Provide all necessary future engineering and splicing for any addition added sites.

3.2 Obligations of Cloud 1/Bug Tussel:

3.2.1 Provide tower space for up to 3 antennas at the Cloud 1 towers at Plain and Lime Ridge (except for the top forty (40) feet of the tower) to County for the County's radio system. Height and number of antennas to be determined at a later date.

3.2.2 Provide adequate ground space and utility access at the base of the Cloud 1 Lime Ridge Tower site for the placement of a shelter facility by the County to house the County's radio equipment needs.

3.2.3 Install 2 inch duct from the Plain tower site to the splice point (splice point to be determined by County) with existing county fiber. Installation to include vault on each end of the conduit.

3.2.4 Install 12 count fiber in duct as noted in 3.2.3.

3.2.5 Provide adequate ground space & utility access at the base of the Cloud 1 Plain Tower site for the placement of a shelter facility by the County to house the County's radio equipment needs.

3.2.6 Install 2 inch duct from the Lime Ridge tower site to the splice point (splice point to be determined by County) with existing county fiber. Installation to include vault on each end of the conduit.

3.2.7 Install 12 count fiber in duct as noted in 3.2.6.

3.2.8 Provide necessary tower engineering for co-location of county radio systems.

3.3 All parties shall provide each other reasonable access to the shared facilities for the purpose of effectuating this agreement. Both parties shall provide reasonable advance notice to the other, or make mutually agreeable arrangements for access to shared facilities, and such access shall not be unreasonably withheld.

3.4 Any facilities added or exchanged between the parties after the start of this agreement shall be addressed by an amendment of this agreement which shall be approved by the governing bodies of the County and the Utility. The parties agree to reserve capacity in their networks and facilities for the future use by each entity. The Sauk County Emergency Management, Buildings & Safety Administrator and the Manager of Cloud 1/Bug Tussel are authorized to allow for the use of their respective facilities prior to the commencement of an amended agreement for testing purposes.

3.5 Under the terms of this Agreement the Sauk County Emergency Management, Buildings & Safety Administrator may grant Cloud 1/Bug Tussel access to 2 strands of fiber (one pair) on the County's ring that Cloud 1/Bug Tussel is not currently occupying. Details, costs, and description of these connections are outlined in "Attachment A" under "Future Exchange Considerations".

Section 4: Appraisal of Property in Exchange:

Estimated facility values are denoted in "Attachment A, Exchange of Facilities Agreement, Summary of Appraisal". The monetary amounts noted in "Attachment A" of the items being exchanged are shown for the reason of value comparison only. The County and Cloud 1/Bug Tussel agree to waive all costs associated with the specific items listed in Attachment A.

Section 5: Maintenance:

The costs for any damage to joint facilities, or costs incurred because of circumstances that result in the relocation of joint facilities, shall be divided between the parties on the basis of the non-owning party's proportional use of the property. The method of determining the proportional use shall be based on the percentage of fiber used by the non-owning party. The percentage of cost related to maintenance shall be billed by the owning party to the non-owning party upon completion and acceptance of the relocation or repair by both parties. Any fiber damage that requires restoration shall be repaired in an expedient manner and with all due diligence that is commercially reasonable in view of the essential public services provided by this agreement. Responses to repairs shall not exceed four (4) hours. If duration of the repair is determined to be detrimental to the non-owning party, both parties shall work in good faith and with all due diligence as provided herein to seek temporary or permanent alternate routing of facilities.

Section 6. General Provisions:

6.1 Payment: The Parties agree that the cost for any facilities exchanged in the future shall be based on the rates set forth in "Attachment A". Payment for the exchange of any future facilities is to be made annually one year from the date of the agreement being signed, and every subsequent year thereafter on that date. Costs of all future items exchanged will be prorated monthly until the facility or service agreed to is put into or taken out of use. Monetary adjustments for the exchange of future facilities shall be made annually at the commencement date of the contract signing.

6.2 Insurance: Each Party shall maintain general liability, workers compensation and umbrella insurance coverage in amounts sufficient to protect both parties from any and all claims, demands, suits or other actions of a private or civil authority with regard to the actions of the other party. Both parties agree that it shall defend, indemnify and hold harmless the other party from the actions of its employees or agents that may give rise to any claim or cause of action that may result from the use of the other party's facilities as provided herein.

6.3 Diggers Hotline: The Parties shall have all buried plant registered with Digger's Hotline.

6.4 Assignment: Neither party shall be allowed to assign or transfer its rights under this agreement except to a public entity successor that assumes the public service responsibilities of the party. No transfer to a commercial private entity of any property hereunder shall be made without the express consent of the other party. Notwithstanding, nothing contained herein shall prevent one party from leasing or authorizing the use of its facilities, or incidental commercial use of the shared facilities, to a private commercial entity who enters into a contract with one of the parties.

6.5 Notices: All notices required or permitted under this agreement shall be in writing and shall be deemed delivered when delivered in person or deposited in the United States mail, postage prepaid, addressed to the parties at the address indicated in Section 1.

6.6 Entire Agreement: This Agreement in conjunction with Attachment A constitutes the entire Agreement between the County and Cloud 1/Bug Tussel. There are no other promises or conditions or any other agreements either oral or written. This Agreement supersedes all prior written or oral agreements between the County and Cloud 1/Bug Tussel.

6.7 Amendment: This Agreement may be modified or amended if the amendment is made in writing, approved by the respective governing bodies of the parties to this agreement and is signed Cloud 1/Bug Tussel and the County.

6.8 Severability: If any provision of this agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

6.9 Waiver of Contractual Right: The failure of either party to enforce any provision of this agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this agreement.

6.10 Applicable Law: This agreement shall be governed by the laws of the State of Wisconsin and the venue for any litigation between the parties and not involving a third party shall be the Sauk County Circuit Court. Notwithstanding, the parties agree that they shall whenever possible seek to resolve differences between them without recourse to litigation, and the parties may mutually agree to mediation, arbitration or alternative dispute resolution.

6.11 Term of Agreement: The term of this agreement shall commence with the commencement date contained herein and continue in effect for an initial term of five (5) years unless otherwise terminated as provided herein. The agreement shall renew for an additional five (5) year term unless either party shall provide notice to the other at least one hundred and twenty (120) days prior to the expiration date. Should either party withdraw from this agreement, it is understood and agreed that the parties shall work cooperatively to ensure that service is not disrupted, and that both parties are able to comply with their obligations to the public and any third party lessees without disruption in service.

FOR THE COUNTY:

FOR CLOUD 1/BUG TUSSEL:

Timothy R. Stieve, Administrator
Sauk County Emergency Management
Buildings & Safety

J. Michael Long
General Counsel & Assistant Secretary

This agreement approved by Sauk County Resolution No. _____ on 12-15-2015

ATTACHMENT A
EXCHANGE OF FACILITIES AGREEMENT
Summary of Property Appraisal

Appraisal of Property in Exchange (All fees listed will be used for any future amendments)

Cloud 1/Bug Tussel Facilities

Item One: Tower Space, estimated at 3 antennas per site. Estimated annual cost – TBD

Item Two: Fiber conduit and Fiber cable installation and material costs. Estimated one cost – \$24,327

Sauk County Facilities

Item One: Dark Fiber - 13.1 miles of dark fiber at \$20.19 per fiber/per mile/per month. Annual Cost \$6,338.28

(Lime Ridge Tower - Lease of .7 miles of dark fiber)

(Plain Tower - Lease of .125 miles of dark fiber)

(Lime Ridge Tower - Lease of 7.6 miles of dark fiber)

(Plain Tower - Lease of 4.71 miles of dark fiber)

Item Two: Splicing, Fiber Engineering, Field Work and materials. Estimated one time cost – \$8,000

FUTURE EXCHANGE CONSIDERATIONS

Future County Facilities:

Fiber

Future Cloud 1/Bug Tussel:

Tower Space