



# DANE COUNTY PLANNING & DEVELOPMENT

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October 18, 2022

TO: ZLR Committee  
FROM: Majid Allan, Senior Planner  
RE: Comprehensive Plan Review  
Wolf 1-Lot Certified Survey Map, section 30 Town of Rutland  
CC: Town of Rutland

*Planning*  
(608)266-4251, Rm. 116

*Records & Support*  
(608)266-4251, Rm. 116

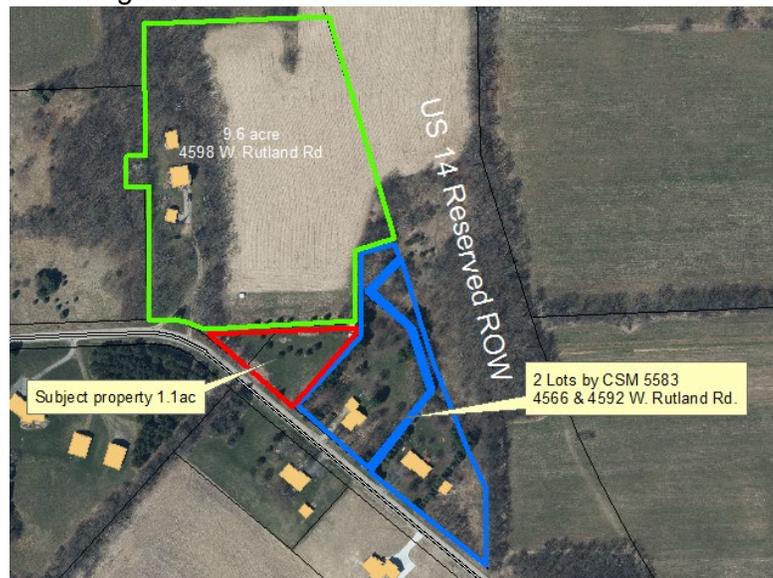
*Zoning*  
(608)266-4266, Rm. 116

**REQUEST:** Property owner Todd Wolf proposes a 1 lot Certified Survey Map (CSM) to bring an existing, vacant property into compliance with the subdivision code. The property totals approximately 1.1 acres and was left as a remnant following prior land divisions from a larger parent parcel. Because the proposal presents issues for compliance with town/county density standards, the CSM is being presented to the ZLR Committee for action in accordance with the committee's [rules and procedures](#). The staff recommendation on page 2 has been discussed with the applicant and the town and would ensure compliance with both the land division regulations and town/county planning policies.

**BACKGROUND:** A [parcel status determination](#) was completed on the property at the request of Mr. Wolf in 2002. As referenced in the determination, the parcel was created illegally. Note that Mr. Wolf was not responsible for the illegal land division. After conducting additional title research, staff [confirmed the findings](#) of the 2002 determination.

The property underwent a foreclosure action in the early 1980s and was subsequently subdivided in 1988 resulting in the current parcel configuration shown in the map below. It is apparent that the subject 1.1 acre property was created as a remnant following the 1988 land division.

- Two ~2 acre lots created by Certified Survey Map 5583 in 1988 (Broadhead and Vanderwegen residences at 4592 and 4566 W. Rutland Rd., respectively)
- One ~9.6 acre lot with the original house (Groeneweg residence at 4598 W. Rutland Rd.)
- One ~1.1 acre property (Wolf / subject property)



**TOWN PLAN:** The property is located in the town's agricultural preservation planning area where development is limited based on land ownership / acreage as of June 7, 1978. The property is not eligible to be used as a building site as the allowable land divisions have been exhausted. Several other applicable plan policies include the [following](#):

- *Prevent creation of extra residential sites on remnant parcels. Note: Periodically, there are situations in which there are remnant parcels (less than 35 net acres) left after an authorized division. The A-1 Agriculture (Exclusive) zoning district has a minimum parcel size of 35 acres; therefore, these parcels need to be rezoned to another district. Further the Town will use conditional zoning and deed restrictions as appropriate.*
- *When the allowable number of splits has been reached, the Town will require that a deed restriction be placed on the remaining A1EX zoned land from the original June 7, 1978 farm unit to prohibit further divisions or splits for residential development. The intent of this policy is to alert property owners and public officials that further land divisions are not allowed unless the plan and the deed restriction or conditional rezoning are amended.*
- *Parcels which are sold after June 7, 1978 without clear documentation showing the presence of split rights shall be reviewed on a case-by-case basis to determine the use of split rights.*
- *Illegally-created parcels may not be further subdivided or built upon.*

The applicant approached the town in 2007 regarding the possibility of rezoning the property to allow construction of an agricultural shed. However, no zoning change or CSM was pursued at the time. Town meeting minutes show that the applicant was informed as follows:

*“Wolf was advised that the rezoning change will also require a deed restriction on the land prohibiting any residential development as there are no homesites available for this remnant of land that was part of land owned by King and Snyder in 1978 and the splits and homesites allowed have been exhausted.”*

In 2019, the property was assigned the RR-1 (Rural Residential) zoning classification as part of a blanket rezoning to effectuate the 2018-19 zoning code update in the town of Rutland. Based on the aforementioned parcel determination as well as the applicable town comprehensive plan policies and historic records, it is apparent that the RR-1 zoning was assigned in error.

As noted above, the proposed CSM would address the illegal parcel status and bring the property into compliance with the subdivision regulations. However, approving the CSM without condition or a change in zoning would be inconsistent with, and result in a violation of, applicable town plan policies.

**STAFF RECOMMENDATION:** In order to maintain compliance with town comprehensive plan policies, while also allowing the applicant to bring the property into compliance with land division regulations, staff recommends the committee take the following action:

Approve the applicant’s Certified Survey Map with the following condition:

- Owner shall record a deed restriction with the register of deeds prohibiting residential development on the property until such time as a development right is transferred to the property in accordance with town of Rutland plan policies. The restriction shall list the town of Rutland and Dane County as parties with enforcement rights.

Staff have discussed this recommendation with the applicant and the town of Rutland and the parties agree that the above action will result in a satisfactory outcome.

Please contact me with any questions (608-720-0167 / [allan@countyofdane.com](mailto:allan@countyofdane.com)).