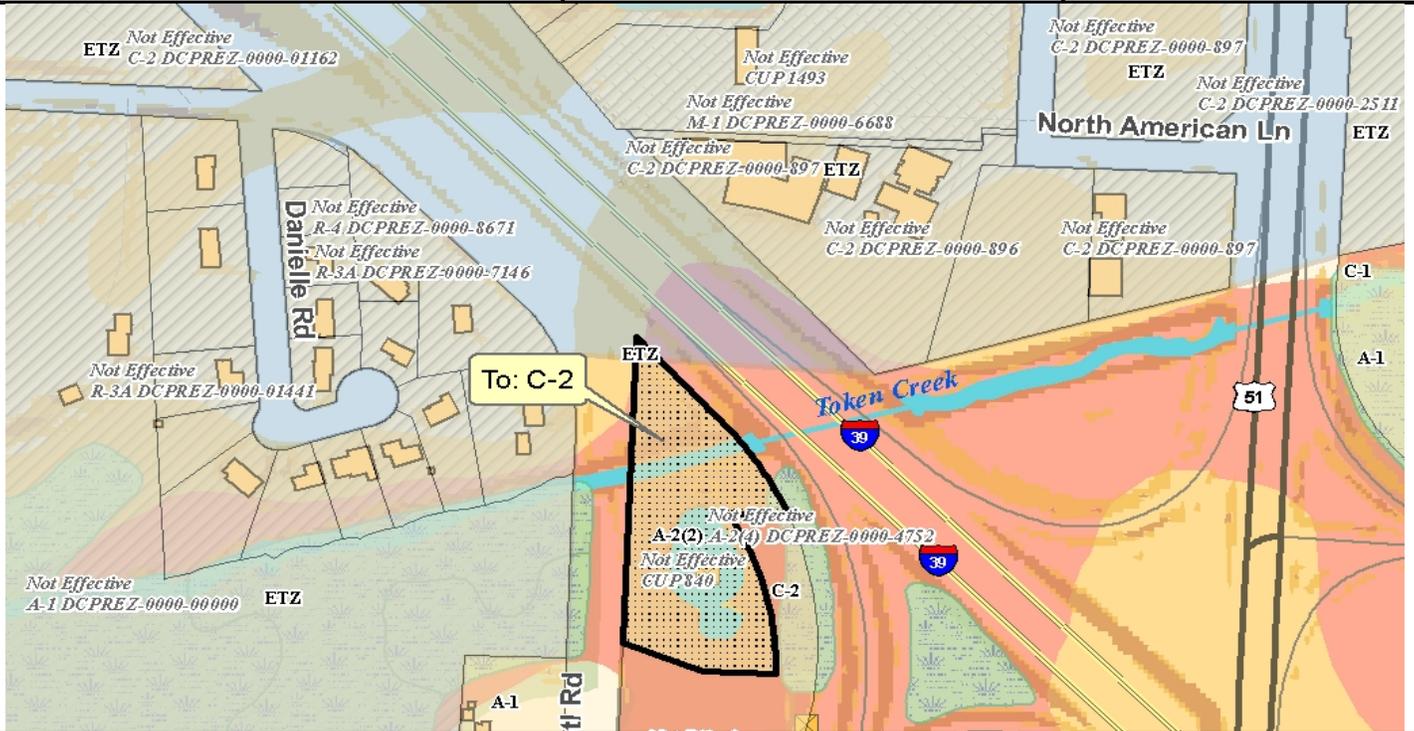




# Staff Report

<i>Public Hearing:</i> <b>December 13, 2016</b>	<i>Petition:</i> <b>Rezone 11071</b>
<i>Zoning Amendment:</i> <b>A-2(2) Agriculture District to C-2 Commercial District</b>	<i>Town/sect:</i> <b>Burke Section 5</b>
<i>Acres:</i> 3.33 <i>Survey Req. No</i>	<i>Applicant</i> <b>Vetesnik Enterprises LLC</b>
<i>Reason:</i> <b>Zoning compliance for outdoor sales display</b>	<i>Location:</i> <b>4246 Daentl Road</b>

## Zoning and Land Regulation Committee



**DESCRIPTION:** Applicant George Vetesnik, owner of Mad City Powersports, requests a rezoning of a 3.33 acre parcel to C-2 Commercial to allow the outdoor storage and display of motorized and non-motorized vehicles, portable sheds, and similar items for sale on a 1/4 acre area of the parcel lying north of Token Creek. A notice of zoning violation was issued in September 2015 following a complaint that storage sheds for sale were being displayed on the property. A subsequent inspection in April of 2016 discovered that the storage and display of sheds was still being conducted on the property (see attached notice of violation). The A-2(2) property is currently deed restricted to prohibit the construction or placement of any structures.

**OBSERVATIONS:** Token Creek bisects the northerly 1/3 of the property, and the majority of the property is located within the 100 year floodplain. The 1/4-acre area lying north of Token Creek is located outside of the floodplain, however, the placement of structures on the property will be subject to the 75-foot setback buffer requirement. This may impact the proposed display area. There is a pond located on the southerly portion of the parcel which makes the southern end undevelopable.

When this area was approved for the Mad City Powersports facility (south of lot), the City of Madison placed a deed restriction prohibiting development of display of materials on the A-2(2) lot. The current zoning prohibits it as well.

**TOWN PLAN:** The property is designated in the town plan as commercial retail / services (northerly portion of the parcel) and natural area (southerly portion of the parcel). The property is also subject to the town of Burke / City of Madison cooperative plan (property will eventually be attached to city of Madison). As per the cooperative plan, all proposals require city of Madison review and approval.

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**STAFF:** As indicated above, the proposal is subject to city of Madison review and approval under the terms of the cooperative plan with the town of Burke. The property is also subject to two deed restrictions: one enforceable by Dane County and the town of Burke that prohibits the construction of any structures, and a second enforceable by the City of Madison that prohibits temporary or permanent buildings to be located on the property.

The proposed zoning change would negate the existing county deed restriction. However, the city deed restriction can only be lifted upon approval by the City of Madison Common Council. It is staff's understanding that the applicant has not yet submitted an application to the City of Madison requesting the removal of the deed restriction.

Staff recommends that action on the petition be postponed until the applicant has submitted an application with the city and obtained approval for the removal of the deed restriction.

Upon approval by the City of Madison, staff would recommend deed restrictions limiting uses exclusively to outdoor display of items for sale, prohibiting the construction of any structures, and also prohibiting the installation of any billboard signage.

**TOWN:** Approved conditioned upon a deed restriction being placed on the property to limit the land uses to the display of accessory buildings offered for sale. The buildings would be display on the gravel surface. The approval is contingent upon approval from the City of Madison's approval for the removal of the deed restriction.

**STAFF UPDATE:** The proposal went through the City of Madison approval process and was approved by the Plan Commission (see attached). As part of the approval process with City staff, the current deed restriction enforceable by the City has been revised and will become a new covenant. It has not yet been recorded, but the intent is to do so in conjunction with the County-enforced deed restriction, which has similarly been revised to clarify the situation and address County and Town comments on allowable uses.

The applicant is taking the proposal back to the Town of Burke at a May 17<sup>th</sup> meeting to expand the list of allowable uses beyond those the Town approved at a previous meeting. For this reason, the applicant wishes to have petition 11071 back on the May 23<sup>rd</sup> ZLR meeting agenda.

**5/9/17 ZLR:** Petition was postponed to allow time for the Town of Burke to review the revised deed restrictions. Matano stated that areas should be limited to a maximum number of objects to avoid overcrowding.

**STAFF UPDATE:** The northerly display area has been approved by the Town of Burke and the City of Madison with limitations. Landscaping will be installed along Token Creek for screening. The display area will be 75 feet away from Token Creek. The northerly display area will be limited to 15 objects and the southerly area (C-2 arm) be limited to 20 objects. Billboard signs are prohibited. The deed restriction has been revised to reflect limitations.