



Staff Report

Public Hearing: **April 29, 2014**

Petition: **Rezone 10672
CUP 2270**

Zoning Amendment:
**A-1EX Exclusive Agriculture
District to A-2(8) Agriculture
District**

Town/sect:
**Rutland
Section 34**

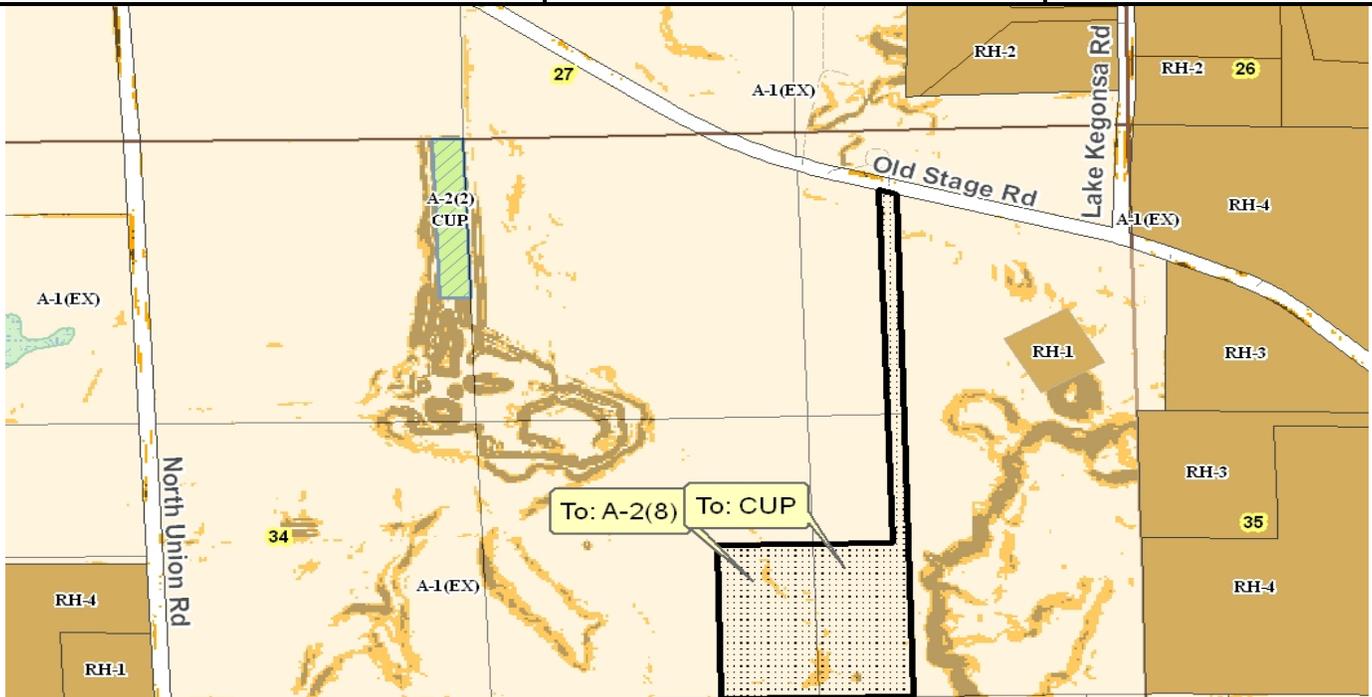
Acres: 15
Survey Req. Yes

Applicant
Stoughton Farms Inc

Reason:
**Creating a parcel in order to
construct a FM radio tower
Description: FM radio tower**

Location:
3768 Old Stage Road

Zoning and Land Regulation Committee



DESCRIPTION: The applicant is requesting rezoning approval for a new 15 acre A-2(8) (Agriculture) zoned parcel and also a conditional use permit to allow the erection of a new 486-foot tall FM broadcast radio tower. Magnum Communications is requesting the rezoning and conditional use permit approvals to allow the relocation of existing station WBKY FM (95.9, "Bucky Country"), currently located in Portage, WI. Magnum Communications has obtained the required FCC licenses for the proposed relocation.

OBSERVATIONS: The site of the proposed FM broadcast tower is located approximately 2,000 feet off Old Stage Road. The property is adjacent to a significant woodland area to the southeast, farmlands to the west, and numerous rural residential properties to the east and north. The proposed access drive is located along the owner's eastern property line between two agricultural fields. 85% of the proposed parcel consists of Class I and II soils.

TOWN PLAN: The property is located in the town's agricultural preservation area. Town plan policies generally seek to preserve agricultural land by limiting nonfarm development. Please see attached town plan excerpts.

Dane County Land and Water Resource: Due to the long driveway, a storm water management permit will most likely be required (>20,000 sq.ft. of impervious surface). The area constraints of the flag lot configuration would make it very difficult to locate storm water management practices to collect and treat the driveway runoff.

RESOURCE PROTECTION: There are no areas of resource protection corridor located on the proposed new parcel.

STAFF UPDATE: As noted below, the town of Rutland has denied the proposed rezoning to A-2(8). Please see the attached opinion from county corporation counsel regarding the impact of the town's denial on the ZLR committee's options for action on the rezoning petition, and also addressing issues pertaining to applicable state statutes. Regarding the proposed conditional use permit application for a radio tower, please refer to the County's Radio Frequency Engineering consultant's report (attached).

TOWN: Denied. (see below)

ZLR: 4/29 Meeting: The zoning petition and the CUP was postponed due to no town action and public opposition.

The Town of Rutland denied the zoning petition due to the request failing to meet the first two standards of Wis. Stats. 91.48.

Wisconsin Statutes

91.48 Rezoning of land out of a farmland preservation zoning district.

(1) A political subdivision with a certified farmland preservation zoning ordinance may rezone land out of a farmland preservation zoning district without having the rezoning certified under s. [91.36](#), if the political subdivision finds all of the following, after public hearing:

(a) The land is better suited for a use not allowed in the farmland preservation zoning district.

(b) The rezoning is consistent with any applicable comprehensive plan.

(c) The rezoning is substantially consistent with the county certified farmland preservation plan.

(d) The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

(2) A political subdivision shall by March 1 of each year provide to the department a report of the number of acres that the political subdivision has rezoned out of a farmland preservation zoning district under sub. [\(1\)](#) during the previous year and a map that clearly shows the location of those acres.

(3) A political subdivision that is not a county shall by March 1 of each year submit a copy of the information that it reports to the department under sub. [\(2\)](#) to the county in which the political subdivision is located.

(4) If a political subdivision fails to comply with sub. [\(2\)](#), the department may withdraw the certification granted under s. [91.06](#), 2007 stats., or under s. [91.36](#) for the political subdivision's farmland preservation zoning ordinance.