



Department of Planning & Community & Economic Development

Planning Division

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Date: January 17, 2019

To: Supervisor Mary Kolar, Chair, Dane County Zoning and Land Regulation Committee (via email)

From: Heather Stouder, AICP, Director, City of Madison Planning Division

Subject: Petition 11380, Rezoning of 3973 Vilas Hope Road

Dear Chair Kolar:

The City of Madison has reviewed the proposed application to rezone property located at 3973 Vilas Hope Road (portions of parcels 071118395000 and 071118390005) from A-1EX to A-3 and would like to emphasize several concerns to the Zoning and Land Regulation Committee in advance of the Committee's review on January 22, 2019:

1. The City of Madison and the Town of Cottage Grove are currently undertaking negotiations to create an intergovernmental agreement addressing future municipal boundaries in the area. The proposed rezoning would allow for isolated, low-density residential development within an area that would become part of the future City under the draft intergovernmental agreement boundary and the City's Comprehensive Plan. A major reason the City wishes to pursue an intergovernmental agreement is to preserve land for higher intensity and higher value development that is undertaken in a logical progression and can be provided with services in a cost-effective manner. Development made possible by the proposed rezoning would meet none of those criteria for an area that both the Town and the City are currently considering may become part of Madison in the future.
2. While the Town recently amended its Comprehensive Plan future land use map to facilitate rezoning the property in question, the proposed rezoning is inconsistent with many other portions of the Town's Comprehensive Plan. Chapter six of the Vision and Directions Volume covers Intergovernmental Cooperation, and calls for the Town to:
 - a. *"Use intergovernmental discussions to promote logical municipal boundaries, desirable land use patterns, and workable transportation solutions near community edges."* While proceeding with intergovernmental agreement negotiations, the Town is simultaneously moving forward with a rezoning request that creates an undesirable land use pattern adjoining the City boundary for an area that, should negotiations be successful, would become part of the City in the future.
 - b. *"Work with surrounding communities on an orderly, efficient land use pattern that preserves farming and natural resources and minimizes conflicts between urban and rural uses."* The proposed rezoning would allow for an inefficient land use pattern that fragments a large area of existing farmland and could potentially lead to conflicts

between future residential development and the farmland that completely surrounds the area in question.

- c. *“In the event of disagreements between the plans, policies, programs, ordinances, or interpretation of intergovernmental agreements between the Town and adjacent and overlapping units of government, pursue dispute resolution approaches that rely on open, direct communications between Town officials and the officials of other affected governments.”* Though there are disagreements between plans, no such dispute resolution approach has been undertaken – instead, the Town has proceeded with a Comprehensive Plan amendment and rezoning approval that is at odds with ongoing negotiations pursuing an intergovernmental agreement.

Additionally, Chapter Three of the Vision and Directions Volume calls for the Town to:

- d. *“Direct new development around areas of existing development and highways.”* The proposed rezoning accomplishes neither of those objectives.
 - e. *“Emphasize quality and environmental sustainability in new development projects.”* The isolated, large-lot residential development made easier by the proposed rezoning fragments a large contiguous tract of farmland and is not environmentally sustainable.
3. The Town has a Transfer of Development Rights (TDR) program that is also outlined in the Town’s Comprehensive Plan. As described in the Plan, the TDR program’s purpose, among other things, is to *“Preserve large viable areas of farmland with a minimum of non-farm divisions”* and to *“transfer [Residential Density Units] towards areas of existing development and services.”* The proposed rezoning is contrary to both of those purposes. As shown in the Dane County Notice of Public Hearing for the proposed rezoning, more than half of the area to be rezoned is within a TDR sending area. This is a strong indication that the area is to be preserved as an agricultural use. Section 10.158 of Dane County ordinances, which concerns TDR Sending Areas, states that the purposes of TDR-S areas include reducing spot development of rural land and encouraging efficient transportation planning by reducing scattered development.
 4. The land in question is currently zoned A-1 Exclusive Agriculture District. Section 10.123(12) of Dane County ordinances states that *“no land in the Exclusive Agriculture District shall be rezoned except in accordance with s. 91.48 Wis. Stats.”* That section of Wis. Stats. states that:
 - (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.*

The City believes that the above criteria cannot be met. Specifically:

- The land is, at this time, **not** better suited for a use not allowed in the farmland preservation zoning district;

- The rezoning is not consistent with many parts of the Town’s Comprehensive Plan, the County’s Comprehensive Plan, or the City’s Comprehensive Plan, which is applicable because it addresses future land development in this area (see #7 below). Other than the recent future land use map amendment, most of the existing language in the Town’s Comprehensive Plan that is relevant to the question at hand suggests the rezoning should not be approved.
 - The rezoning will substantially impair and limit current and future agricultural use of surrounding parcels of land that are zoned for agricultural use. It is well established that fragmentation of large tracts of contiguous agricultural land is detrimental to ongoing farming operations – see, for example, the Dane County Farmland Preservation Plan’s discussion of land use conflicts on page 13. Further, a series of small farms interrupted by rural development – a foreseeable future if similar rezonings are approved under the same precedent – can result in remaining tracts of land not being financially viable for much more than hobby farms, market gardens, or rural estates.
5. The proposed rezoning is largely not consistent with the County’s Comprehensive Plan or the Farmland Preservation Plan, which is incorporated into the Comprehensive Plan by reference. Among other things, the County Plan’s Agricultural, Natural and Cultural Resources chapter states that the County should “*minimize the amount of land converted from agricultural use to accommodate permitted non-farm development,*” “*maintain Dane County’s status as one of the nation’s most productive and economically viable agricultural areas,*” and “*maintain Dane County’s rural character and preserve the distinct character and physical separation of Dane County communities.*” One of the most effective ways to achieve these goals and objectives is to not rezone property that is part of a large, contiguous agricultural area to a district that makes it easier to pursue future isolated residential development. More farmland can be maintained if population growth is accommodated by development in denser cities and villages as part of planned growth provided with urban services.
 6. Both the City’s 2006 Comprehensive Plan and recently adopted 2018 Comprehensive Plan specify the area in question as a “Group 1 Peripheral Planning Area” (PPA) for the City. Group 1 PPAs are “*general locations recommended for City of Madison expansion and development, but for which detailed neighborhood development plans (NDP) have not yet been prepared and adopted . . . such development should only proceed after a detailed NDP is adopted for the area.*” Additionally, the City’s Comprehensive Plan states that new development should occur in locations that can be efficiently served to minimize costs on the community as a whole (see Strategy 5 on page 107). Development of the area in question does not result in the efficient provision of services.
 7. While no subdivision has yet been proposed for the area, it is unlikely that a subdivision proposal for the area would meet the criteria for an extraterritorial subdivision in MGO Section 16.23(3)(c), which states that subdivisions shall maintain the pattern of the area in question and not adversely affect the City’s ability to provide public services, install public improvements, or accomplish future annexations.

Section 10.255(1)(d) of County ordinances states that “*the zoning committee shall use plans and maps developed by individual towns and approved by the county board as criteria for zoning recommendations to the county board, and shall review rezone and conditional use permit applications for consistency with town and county comprehensive plans.*” Looking beyond the

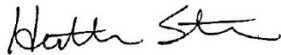
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recently amended future land use map for the Town, most of the goals, objectives, and policies of both the Town's and County's Comprehensive Plans suggest that the proposed rezoning should not be approved. For all the above reasons, including inconsistencies with Comprehensive Plans, the City of Madison requests that the Committee deny the rezoning application for property at 3973 Vilas Hope Road.

Please do not hesitate to contact me at 266-4635 or hstouder@cityofmadison.com if you have any questions regarding our concerns.

Sincerely,



Heather Stouder, AICP
Director, City of Madison Planning Division

CC (via email): Pamela Andros, AICP, Senior Planner, Dane County
Majid Allen, Senior Planner, Dane County
Roger Lane, Zoning Administrator, Dane County
Kim Banigan, Clerk, Town of Cottage Grove
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