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November 3, 2014

BY HAND DELIVERY

Dane County Planning and Development Office  
Dane County Zoning and Land Regulation Committee

Re: Application for Approval of Certified Survey Maps  
Jim and Susan Fiore, Tom and Bonnie Wise

Dear Members of the Zoning and Land Regulation Committee, and staff of the Planning and Development Office:

I am helping Jim and Susan Fiore and Tom and Bonnie Wise (the "Owners") donate part of their lands to the Ice Age Trail Alliance ("Ice Age"). The Owners have applied to Dane County, and to the Town of Middleton, for approval of two Certified Survey Maps (CSMs), which are intended to create the parcels to be donated. The purpose of this letter is to provide information and address technical and legal issues relating to the Certified Survey Maps. I have enclosed the following documents:

1. Land Division Application and Variance Application - Wise Property.
2. Land Division Application and Variance Application - Fiore Property.
3. Statement of Purpose.
4. Resolution approved by Dane County Board of Supervisors regarding the Donation of the lands.
4. Certified Survey Maps.
5. Proposed Joint Driveway Easement and Agreement.
6. Aerial maps showing the Property and the adjacent Ice Age Trail property.
7. Draft covenants and restrictions.
8. October 29, 2014 letter from Rod Zubella.

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#### BACKGROUND INFORMATION

I have enclosed maps that provide an aerial view of the Fiore and Wise lands, and the adjacent lands owned by the Ice Age Trail Alliance. The enclosed "Statement of Purpose" describes the owners' plan to donate about 30 acres of their land to the Ice Age Trail Alliance.

The donation process is somewhat complex, and will require the transfer of the property first to Dane County, and then to Ice Age. The Owners, Ice Age and Dane County are working toward an agreement that will accomplish both the donation, and the preservation of the donated lands in an undeveloped, healthy condition. The Dane County Board has approved the County's participation in facilitating the donation in 2014 RES-312. I have enclosed a copy of that resolution. The donated lands will be subject to covenants and restrictions consistent with the enclosed draft Declaration of Restrictive Covenants.

The Owners need and are requesting approval of CSMs, to divide the lands to be donated from the homesteads they will retain.

#### ISSUES

There are a number of issues that need to be addressed in connection with the CSMs. The issues fall into 2 categories. *First*, there are a number of technical changes that Town Engineer Rod Zubella asked to be made to the CSMs. The Owners will direct their surveyor to make the changes that Mr. Zubella requires. *Second*, the owners are asking the County to grant a variance from the 66' frontage requirement, for Lot 1 of the Fiore CSM, and for Lot 2 of the Wise CSM.

These issues are discussed below.

#### 1. *Technical Changes to CSMs.*

The Owners have been working with Town of Middleton Engineer Rod Zubella to address technical issues. The Owners have asked their surveyor to make most of the technical adjustments to the CSMs requested by Mr. Zubella. We are still working with

Mr. Zubella regarding vision clearance issues. We are also asking the Town to grant exceptions from two requirements. One of those items would require the location of all canopy trees larger than 8" in diameter to be shown on the CSMs. The other item would require soils information. The Owners do not believe the tree and soil items are necessary for these CSMs, and are asking the Town to waive these items. The area is heavily wooded, and will be donated, preserved, and restricted from development. One of the Owners' goals is to prevent a large-scale harvesting of the trees, which will be required under current forest management requirements applicable to the property. By making the donation, the forest can be removed from the forest management program, and the trees can be saved. Showing all of the trees on the CSMs would be extremely expensive. Finally, with respect to showing soils information, Mr. Zubella notes that no physical changes are proposed in the use of the land, the two homes on the lands are already served by sanitary systems, and these are existing CSM lots. There appears to be no need to incur the expense of showing soils information on the CSMs.

## 2. *Requested Exceptions.*

The Owners request the following exceptions from the County's Land Division Code:

- A. Lot 1 of the Fiore property will have no frontage on Timber Lane, and will be served by the existing joint driveway.
- B. Lot 2 of the Wise CSM will have no frontage on Timber Lane, but will become part of the Ice Age Trail lands that will have frontage on Timber Lane.

We ask the County to recognize that Lot 2 and Lot 3 of the Wise property will be donated to Dane County, which will then convey the lots to the Ice Age Trail Alliance. These lots will become part of the existing 80 acre Valley View Preserve owned and managed by the Ice Age Trail Alliance. The entire property will then have access from Timber Lane.

Lot 1 of the Fiore Property is served by the existing, joint driveway that serves the existing Wise and Fiore homesteads. The homestead lots would continue to be served by that joint driveway, pursuant to a joint driveway easement agreement, after the CSMs are approved and the lands are donated.

The Owners have configured the Fiore lot without street frontage for several reasons. First, the Fiore home will be served by the existing joint driveway, so the additional land needed for street frontage is not needed for a driveway. Even if they wanted to build another driveway, the topography would make doing so very costly and difficult.

Second, if additional land is included in the Fiore lot for street frontage, that land cannot be removed from the forest management program through the donation to Ice Age. Instead, the Fiore would be subject to additional financial penalties associated with the forest management program. Note that the Fiore already have to pay a penalty relating to the 2.5 acre lot. Adding a 66-foot wide area from the home to Timber Lane would increase that penalty.

Third, Dane County's land division ordinance allows the County to approve the creation of lots with access provided by a shared driveway easement, in lieu of fee title frontage onto a public right-of-way, provided certain conditions are met. Under the County ordinance, one lot can have no frontage, if the other lot has 66 feet of frontage. We have enclosed a draft Joint Driveway Easement and Agreement that meets the standards in Section 75.19(8) of the Dane County Code of Ordinances.

Approving these CSMs, including the frontage exception, meets the standards in the County ordinance. This is a highly unique and exceptional circumstance. The lots being created for the home sites are already developed with existing homes, served by an existing driveway. The donated lands will be preserved and remain undeveloped. Nothing will change. Under these circumstances, there will be no detrimental impacts to the public or to the neighborhood. Furthermore, the request is driven by the unique circumstances presented by making the intended donation work with existing homes and driveway, and preserving the forest land.

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CONCLUSION

The Owners respectfully ask the Dane County Planning and Development Office and the Zoning and Land Regulation Committee to approve the CSMs needed to facilitate their donations. We will attend any meetings required on this matter, and would be happy to answer any questions.

Very truly yours,



Matthew P. Dregne

MPD:ms/nmg  
Enclosures

cc: James and Susan Fiore (with enclosures)  
Tom and Bonnie Wise (with enclosures)  
Laura Guyer (with enclosures)  
Kevin Thusius (with enclosures)  
Kevin Lord (without enclosures)