

# LAROWE GERLACH TAGGART LLP

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August 14, 2014

Board of Adjustment  
c/o Zoning Division  
345 West Washington Ave.  
3<sup>rd</sup> Floor  
Madison, WI 53703

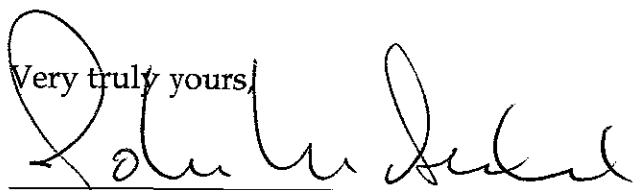
Hand Delivered.

*Re: Appeal of Determination that Dane County proposed shelter use at 1490 Martin Street, Town of Madison, WI is a permitted use in a C-1 Commercial Zoning District*

Dear Zoning Division:

Enclosed is the Appellants' Brief on appeal. It is being hand delivered today. While it is unclear the number of copies required, we believe we are providing enough copies to be dispensed by the zoning office to the appropriate Board members and administrators. Exhibits are attached to the brief, and Appellants reserve the right to provide additional evidence at the hearing.

Very truly yours,

  
John M. Gerlach

State Bar No. 1005634  
LaRowe Gerlach Taggart, LLP  
[JMGerlach@lgtlawfirm.com](mailto:JMGerlach@lgtlawfirm.com)

Richard K. Nordeng  
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222 W. Washington Avenue  
Madison, WI 53703  
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RECEIVED

AUG 14 2014

DANE COUNTY PLANNING & DEVELOPMENT

Cc: Board of Adjustment Board Members, c/o Zoning Division (hand delivered)  
Roger Lane, Zoning Administrator, c/o Zoning Division (hand delivered)  
Hans Hilbert, Assistant Zoning Administrator, c/o Zoning Division (hand delivered)  
David Gault, Assistant Corporation Counsel (hand delivered)  
Henry and Susan Bassett (via mail)  
William and Renee West (via mail)  
Town of Madison Town Board (hand delivered)

*Administrative Appeal by the Town of Madison and Henry & Susan Bassett and William & Renee West for an appeal of a Zoning Administrator decision regarding the permitted use of a day resource center in a C-1 Commercial Zoning District proposed at 1490 Martin Street being Lot 3, Fraust Plat, Section 34, Town of Madison.*

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### APPELLANTS' BRIEF

Dane County proposes to locate a day resource center (Center) at 1490 Martin Street in the Town of Madison. 1490 Martin Street is zoned as a C-1 Commercial District. To operate a day resource center, Dane County needed to rezone the parcel, provide for a conditional use of the parcel, or gain a ruling that the day resource center is a permitted use within the C-1 district. Dane County asked for such a ruling from Hans Hilbert, Assistant Zoning Administrator for Dane County. Not surprisingly, Mr. Hilbert ruled in favor of his employer, Dane County, that the day resource center is a permitted use not requiring conditional use zoning in a C-1 Zoning District. Memorandum from Hans Hilbert, Assistant Zoning Administrator, Dane County, to Travis Myren, Director of Administration, Dane County, *RE: Formal Permitted Use Determination* (June 24, 2014) (hereinafter "Formal Determination") (Exhibit A).

The Town of Madison appeals from that determination, as do Henry and Susan Bassett and William and Renee West.

The Center will be in a building owned by Dane County and its operation will be subcontracted to a nonprofit corporation, Shine608 Inc. Letter from Travis Myren, Director of Administration, Dane County, to Hans Hilbert, Assistant Zoning Administrator, Dane County, *Formal Permitted Use Determination* (June 23, 2014) (hereinafter "June 23 Myren Letter") (Exhibit B). The Center "will be open to the public" and provide services to those in need. *Id.* The proposed Center will be open 12 hours each day, starting at 6 a.m. *Id.* The Center will serve as a replacement to a temporary shelter on East Washington Avenue in Madison that served as many as 125 people per day. <http://madisonshine.org/why-a-resource-center/> (last visited Aug. 12, 2014) (Exhibit C). Users of the Center will be coming

from the greater Madison area by contracted van transportation services or public transportation. *Id.*; *see also* email from Travis Myren, Director of Administration, Dane County, to Roger Lane, Zoning Administrator, Dane County (June 6, 2014, 09:13:00 CST) (hereinafter "June 6 Myren Email") (Exhibit D). It appears likely that the residents of Dane County will be paying to move users to and from the Center by public transportation or van service. *See e.g.* email from Tim Saterfield, Dept. of Human Services, Dane County, to Lynn Green, Director, Dept. of Human Services, Dane County (Apr. 28, 2014, 16:03:00 CST) (Exhibit E). Consistent with Shine608's mission, the Center is likely to serve people who have been banned from other homeless service providers due to alcohol and other drug abuse and mental health issues. *See e.g.*, <http://madisonshine.org/about-us/mission-vision/> (last visited Aug 12, 2014) (Exhibit F); <http://madisonshine.org/why-a-resource-center/> (last visited Aug. 12, 2014).

### **Jurisdiction**

Jurisdiction of the Dane County Board of Adjustment is proper under Dane County Code of Ordinances § 10.26(3) and the Dane County Board of Adjustment Rules and Procedures. Appellants are the Town of Madison, where the Center will be located, and neighboring residential property owners Henry and Susan Bassett, 2030 Irwin Place, and William and Renee West, 2013 Irwin Place. Appellants filed an appeal of the Formal Determination with the Dane County Board of Adjustment on July 21, 2014, within 30-days of the ruling. Appellants are aggrieved as follows. The Bassetts and Wests are neighboring property owners who, because of the Formal Determination, may see reductions in their property values, reductions in their quality of life in using public parks and facilities, and concerns about safety. The Town will likely see an increase in costs associated with protection of public health, safety and welfare; increased calls to and responses from the Town's emergency medical services and police department; increased demand on other Town resources and facilities; and a reduction in property values and the corresponding tax base. Additionally, by finding that the Center does not require a conditional use permit, Dane County has prohibited the Town and its residents from having any input on whether the use is compatible with the area and on any conditions that should be imposed on the Center's operations to protect the Town's and residents' substantial interests.

## Discussion

The Determination that the proposed Center is a permitted use in the C-1 Commercial Zoning District at 1490 Martin Street in the Town of Madison is faulty for four reasons. First, the Center is a governmental use that requires conditional use permitting. Second, the use as a day resource center is not similar to those expressly permitted in a commercial district. Third, the existence of other questionably similar uses in C-1 or C-2 Commercial Districts has no impact on whether the Center is permitted in the C-1 Commercial District. Finally, it is possible that the use as a day resource center is not permitted in a C-1 Commercial District and is thus a prohibited use.

*i. The Center is at best a Governmental Use requiring conditional use permitting.*

The proposed Center is a governmental use that requires conditional use permitting under the Dane County zoning ordinance. A "governmental use" includes but is not limited to "parks, playgrounds, hospitals, police and fire stations, solid waste disposal sites and recreational areas." Dane County Code of Ordinances § 10.01(23h) (relevant excerpts of the Dane County Code of Ordinances are attached as Exhibit G). The Governmental uses share the following characteristics: they are usually both owned and operated by a governmental entity, available to the public, and serve public purposes. Neighboring Jefferson County provides a similar description of conditional use governmental uses, choosing to explicitly include other buildings used by the government that are implicit in the Dane County Code, "such as administrative offices, fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums." Jefferson County Code of Ordinance § 11.05(b)2. Again, these are uses that provide services to the public in buildings that are typically owned by the government and operated by or subcontracted from the government. Additionally, "any service, function, or facility that a governmental unit is authorized by statute to provide" is a governmental use. *See Bd. of Regents of Univ. of Wisconsin v. Dane Cnty. Bd. of Adjustment*, 2000 WI App 211, ¶ 24, 238 Wis. 2d 810, 829, 618 N.W.2d 537, 546 (the court of appeals found no reason for the term

“governmental use” to be interpreted differently in different zoning districts under the Dane County Ordinances).

The Center clearly is a governmental use. The Center will be in a building owned by Dane County and provide services subcontracted from Dane County to a nonprofit, Shine608 Inc. The Center “will be open to the public” and provide services to those in need. Additionally, users of the Center will be coming from all over the greater Madison area by contracted van transportation services or public transportation funded by the County. The Center will be owned by the government, run by subcontract from the government, likely funded in whole or in part by the government, and provide services to the public—in short, a governmental use.

The Determination states that the Center is “not of similar nature to uses that would require a conditional use permit,” but this conclusion is simply wrong. Conditional uses “are of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.” Dane County Ordinance § 10.255(2)(a). Conditional use permits are “designed to cope with situations where a particular use, although not inherently inconsistent with the use classification of a particular zone, may well create special problems and hazards if allowed to develop and locate as a matter of right in [a] particular zone.” *Town of Rhine v. Bizzell*, 2008 WI 76, 311 Wis. 2d 1, 18, 751 N.W.2d 780, 789 (internal quotation omitted).

A conditional use must be “permitted by the zoning ordinance in the zoning district where the parcel is located.” *Id.* § 10.255(2)(d). Furthermore, in granting a conditional use application, the following conditions, among others, *must be* present:

1. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare; [and]
2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.

Dane County Ordinance § 10.255(2)(h).

It is hard to imagine a use more appropriate for the conditional use process than a day resource center for the homeless. The Center is undeniably a use “of such an unusual nature that [its] operation may give rise to unique problems with respect to [its] impact upon neighboring property or public facilities” and create “special problems and hazards” if allowed as a matter of right. While the reasons for individuals being homeless are numerous, significant portions of the homeless in Dane County suffer from alcohol and other drug abuse issues as well as mental health issues. 2012 Annual Report on Homeless Served in Dane County, Paul Soglin, Mayor, City of Madison, p. 6 (*available at <http://www.cityofmadison.com/cdbg/documents/2012AnnualReportFinalwebsite.pdf>*) (relevant excerpt attached as Exhibit H). The rate of alcohol and drug abuse are “disproportionately high among the homeless population.” *Homeless and Dane County Fact Sheet*, Dane County Planning & Development Dept., December 2013, (*available at [http://pdf.countyofdane.com/plandev/comprehensiveplan/documents/Homelessness\\_Fact\\_Sheet.pdf](http://pdf.countyofdane.com/plandev/comprehensiveplan/documents/Homelessness_Fact_Sheet.pdf)*) (Exhibit I).

The current Hospitality House run by Porchlight, Inc. “serves over 7,000 men, women and children a year.” [http://www.porchlightinc.org/day\\_center.html](http://www.porchlightinc.org/day_center.html) (last visited Aug. 12, 2014) (Exhibit J). It is expected that “the intensity of the use may increase as more services are provided to the guests.” June 6 Myren Email. At opening the use will already be more intense than the current Hospitality House, as the proposed Center will be open earlier and longer: 12 hours each day, starting at 6 a.m. As the Center will be replacing a temporary shelter on East Washington Avenue in Madison that currently serves as many as 125 people per day, as well as replacing the current Porchlight Hospitality House, the Shelter can be expected to see greatly increased use. Use is also likely to increase as more homeless are transported to the area by van and the nearby public transportation.

Additionally, it is the mission of Shine608 to “serve the most vulnerable members” of the Madison community. <http://madisonshine.org/about-us/mission-vision/> (last visited Aug 12, 2014). This includes “serving people who have been banned from other homeless service providers, people who actively struggle with alcohol and/or substance abuse, and people struggling with severe mental illness while homeless.”

<http://madisonshine.org/why-a-resource-center/> (last visited Aug. 7, 2014). An increased number of homeless individuals in the area with alcohol and other drug abuse issues and mental health issues will clearly give rise to unique problems for both residents of the neighboring residentially zoned properties, and to the Town of Madison in its capacity to provide for the public health, safety, and welfare of the community.

In sum, the Center is a governmental use that requires the additional public input and potential use restrictions provided by the conditional use process.

*ii. The Center is not of similar type or kind to permitted uses in C-1 Zoning.*

Despite the clear standard in Dane County Code of Ordinance § 10.16(1)(a) that “[a]ny use not listed as a permitted use in a district is prohibited in that district,” the Determination finds the Center is a permitted use because it allegedly “is similar in nature to the retail and service uses” permitted in the C-1 Commercial District. Not only is this finding wholly unsubstantiated in the Determination letter, but also the finding is unsupported by the zoning code. The fact is that the Center is not similar to those uses that are permitted uses in a C-1 district.

Part (a) of the C-1 Commercial District ordinance provides that permitted uses are “[r]etail and service uses including, but not limited to, grocery stores, drugstores, hardware stores, appliance and furniture stores, barbershops and beauty shops without limitation as to size.” Dane County Code of Ordinances § 10.13(1)(a). “Where a general term is preceded by or followed by a series of specific terms that have a common element, the general term is viewed as being limited to items of the same type or nature as those specifically enumerated.” *Bd. of Regents of Univ. of Wisconsin v. Dane Cnty. Bd. of Adjustment*, 2000 WI App 211, ¶ 16, 238 Wis. 2d 810, 618 N.W.2d 537 (discussing *State v. Campbell*, 102 Wis. 2d 243, 246, 306 N.W.2d 272, 273 (Ct. App. 1981)).

The retail and service uses listed under part (a) are purely commercial uses. They are uses that provide goods or services to customers in exchange for payment. The uses are not owned by the government, operated by the government, or typically funded by the



government for the public benefit. "Service" in part (a) plainly includes retail services, not governmental or nonprofit community uses that demonstrably have different objectives and issues associated with them.

Neither part (a) nor any other permitted use under subsection (1) contemplates the type of governmental use of a day resource center for the homeless. Dane County Zoning Administrator Roger Lane (Mr. Hilbert's boss), in an informal opinion email, stated that the Center is a "combination of the certain aspects of the permitted uses." Email from Roger Lane, Zoning Administrator, Dane County, to Laura Guyer, Real Estate & Acquisition Director, Dane County (Jan. 3, 2014, 15:25:00 CST) (Exhibit K). This rationale virtually eliminates the limitation in the zoning code that any use not listed in the code is prohibited. It is hard to imagine **any** type of use that would not share some "aspects of the permitted uses" in a district. More importantly, just because certain aspects of several permitted uses may be present in a proposed use, it does not follow that the entire proposed use is permitted. Certain aspects of a day shelter for the homeless—e.g., providing governmental services to transient individuals in need, many of whom have chronic problems of alcohol abuse, drug abuse or mental illness—are, most assuredly, **not** similar to or contemplated by the listed permitted uses.

The Center raises issues not contemplated by traditional retail and service uses and is a use that is unique and distinguishable from the permitted uses in C-1. The Center is not of a similar kind or nature to the commercial retail and service uses and is not permitted use in the C-1 Commercial District.

*iii. Existing uses have no impact on whether the Center is a permitted use in C-1 Zoning.*

The Determination apparently justifies finding that the Center is a permitted use in the C-1 Commercial District because there are other uses already in the district that Mr. Hilbert may view as similar in nature to the Center. The other uses are not truly like the Center, whose use presents unique and difficult issues. Even if there were existing similar uses, that is irrelevant. The propriety of those uses has not been tested. This argument is beside the point.

Upon the Appellant's open records request, Dane County was unable to provide any documentation demonstrating a determination by the County that those other uses complied with the C-1 zoning. It is unknown whether the County even gave an informal opinion about whether those were permissible uses in a C-1 Commercial District. It appears that the County simply has yet to face a challenge to those other uses it has allowed in the C-1 Commercial District.

What determines whether a use is permitted in a district is the Dane County zoning code, not whether the County may have allowed property to be used in situations where the use was not contested. Without adjudication of the issue, those other uses establish no precedent and are of no value to the Board of Adjustment's review. The only thing that is relevant in this appeal is this property, this governmental owner, the zoning district, the owner's proposed use, and the specific application of the zoning code to those facts.

*iv. The Center may not be a permitted use or permitted conditional use under the Dane County Code of Ordinances.*

While the Center is at best a governmental use that is allowed through conditional use permitting, it is possible the use is simply prohibited under the Dane County zoning ordinances. The Dane County Code of Ordinances need not explicitly prohibit certain uses, for the zoning code already provides a blanket prohibition: "Any use not listed as a permitted use in a district is prohibited in that district." Dane County Code of Ordinances § 10.16(1)(a). Uses such as day resource centers and homeless shelters could have been explicitly called for in the ordinances but, as the Determination points out, they are not. In light of this, the Center may simply be a prohibited use in the C-1 Commercial District.

### Conclusion

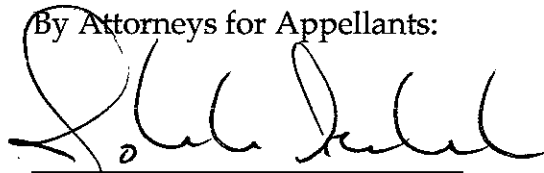
The Center is not a permitted use by right in the C-1 Commercial District. The Center is not of the same type as those retail and service uses expressly permitted in the C-1 Commercial District. The Center is a governmental use that requires conditional use

permitting. If ever there were a use that should require the conditional use permitting process, a day resource center for the homeless is such a use.

For the foregoing reasons, the Board of Adjustment should determine that the day resource center is not a permitted use in the C-1 Zoning District, and remand the matter back to Dane County to determine whether the Center may be allowed as a conditional use in the C-1 Commercial District.

Submitted this 14<sup>th</sup> day of August, 2014.

By Attorneys for Appellants:

A handwritten signature in black ink, appearing to read "John M. Gerlach", written over a horizontal line.

John M. Gerlach  
State Bar No. 1005634  
LaRowe Gerlach Taggart, LLP  
JMGerlach@lgtlawfirm.com

Richard K. Nordeng  
State Bar No. 1013748  
Stafford Rosenbaum, LLP  
222 W. Washington Avenue  
Madison, WI 53703  
rnordeng@staffordlaw.com



# Dane County Planning & Development Zoning Division



June 24, 2014

TO: Travis Myren  
Director of Administration, Dane County

FROM: Hans Hilbert  
Assistant Zoning Administrator, Dane County

Hans  
Hilbert

Digitally signed by Hans Hilbert  
DN: cn=Hans Hilbert, o=Dane  
County Planning and  
Development, ou=Zoning,  
email=hilbert.hans@countyofdane.  
com, c=US  
Date: 2014.06.24 15:18:05 -05'00'

RE: Formal Permitted Use Determination

Thank you for your request for an interpretation of a permitted use in the C-1 Commercial Zoning District. The day resource center is a service use that will operate during normal business hours, and offer services and amenities to members of the public. Based on the information submitted in your request, dated June 23, 2014, I have determined that a day resource center is a permitted use which may be lawfully established in the C-1 Commercial Zoning District, provided it conforms with all requirements and regulations of the C-1 District.

This determination has been based on the following:

1. Dane County Code of Ordinances section 10.13(1)(a) states "Retail and service uses including, but not limited to, grocery stores, drugstores, hardware stores, appliance and furniture stores, barbershops and beauty shops without limitation as to size" are permitted uses in the C-1 Commercial Zoning District. It is my determination that a day resource center is a service use that, for purposes of land use regulation, is similar in nature to the retail and service uses listed.
2. The Dane County Code of Ordinances does not explicitly define a day resource center, nor is such an explicit use exclusively listed as a permitted, conditional, or prohibited use elsewhere in the ordinance.
3. The proposed day resource center will operate as a service use which is similar in nature to other service uses currently operating under C-1 Commercial Zoning within the jurisdiction of Dane County Zoning. Other similar service uses permitted by Dane County Zoning include youth service centers, tax/financial planning centers, fitness centers, food pantries, temporary employment centers, as well as the existing Hospitality House at the proposed site. These uses, which are not explicitly defined, are currently permitted as service uses within the C-1 Commercial Zoning District.
4. I have determined that the proposed use is not of similar nature to uses that would require a conditional use permit or special exemption permit. Such conditional uses require site suitability to allow for specific regulation of such things as: noise, odor, traffic, building size, overnight accommodations, licensed premises, unusual or extended hours of operation, large crowds, and uses that may not be compatible with surrounding land uses unless such use is specifically regulated.

I hope that this determination has satisfied your request. Please do not hesitate to contact me with any additional questions or comments. This determination may be appealed by any party aggrieved by the decision. Any appeal must be filed within 30 days after the date of receipt of this written decision by filing a notice of appeal with the Dane County Zoning Division in accordance with the rules of the Dane County Board of Adjustment.

CC: Roger Lane, Zoning Administrator



TRAVIS MYREN  
Director of Administration

**COUNTY OF DANE**  
DEPARTMENT OF ADMINISTRATION  
Room 425 City-County Building  
210 Martin Luther King Jr. Blvd.  
Madison, WI 53703  
608/266-4941  
FAX 608/266-4425 TDD 608/266-4941



*Transmitted via Email*

June 23, 2014

TO: Hans Hilbert  
Assistant Zoning Administrator, Dane County

FROM: Travis Myren  
Director of Administration, Dane County

RE: Formal Permitted Use Determination

I understand that you are serving as the Zoning Administrator in Roger Lane's absence. As you may know, Dane County intends to purchase the parcel located at 1490 Martin Street in the Town of Madison to serve as a day resource center for homeless individuals. The County has proposed to significantly upgrade the facility to provide more comprehensive and enhanced services. The facility, known as the Hospitality House, is currently owned and operated by Porchlight, Inc. and has been used as a day center for the homeless for the past 10 years. The facility is currently zoned C-1.

Recently, Town of Madison officials have raised questions about whether the day resource center use is permitted in the C-1 zoning district. In January, the Zoning Administrator had opined in an email to County real estate staff that a day resource center would be a permitted use in the C-1 zoning classification. Town of Madison officials have received copies of this email communication. However, to remove any uncertainty about the zoning question, we are requesting a formal determination from the Zoning Division on whether this use is permitted in C-1. To assist in making this determination, I have highlighted the facilities operating features below.

1. The Center's physical plant will be owned by the County. Direct services will be provided through a subcontract with a not for profit organization called Shine608.
2. The Center will only operate during the day. The hours of operation will be between 6:00 AM and 6:00 PM. ~~No one will be sleeping at the facility.~~
3. The Center will offer light food service facilities to prepare snacks and lunch for the guests. No food would be offered for sale.
4. The facility will be open to the public. Anyone who is in need of the services and is willing to abide by the rules would be allowed access the facility.
5. The facility will offer amenities and services to allow homeless individuals to meet basic needs. It will offer protection from the elements, restrooms, showers, locker space for storage, and laundry equipment.
6. The Center will also provide supportive services to assist with employment, transportation, and permanent housing.

7. Most guests of the facility will arrive and depart using van transportation services or public transportation.

I hope this provides the information that you will need to issue a formal determination on whether the day resource center is a permitted use in the C-1 zoning district. Please contact me if you need any additional information.

Cc: Dave Gault, Assistant Corporation Counsel  
Rick Rose, Public Works Director, Town of Madison  
Josh Wescott, Chief of Staff to the County Executive



The Shine Initiative Madison, WI  
608-371-WARM · theshineinitiative@gmail.com

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## Why A Resource Center?

Why do we need a Permanent Day Resource Center?

- The number of people experiencing homelessness in Madison has increased by more than 40 percent between 2010 and 2013. One in every six Madison residents lives at or below the poverty line.
- The 2012-2013 temporary warming shelter demonstrated a clear need for day services. As many as 125 people per day came to the shelter for assistance.
- Transportation difficulties are among the greatest barriers faced by homeless people. Putting everything in one place helps us meet people's needs better, more quickly, and more efficiently.
- Because of gaps in Dane County's homeless services, some of the most vulnerable members of our community are currently not receiving assistance. The Shine Initiative is committed to serving people who have been banned from other homeless service providers, people who actively struggle with alcohol and/or substance abuse, and people struggling with severe mental illness while homeless.

## Join Our Mailing List

First Name:

Your first name

Last Name:

Your last name

Email address: (required)

Your email address

SIGN UP

## Latest News

Library case management work ending?

A "kind-of" update on the Center's timeline

Delays! Updates on timeline for our center





Lane, Roger

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**From:** Lane, Roger  
**Sent:** Friday, June 06, 2014 2:25 PM  
**To:** Myren, Travis  
**Cc:** 'jgersich@dimensionivmadison.com'; Neitzel-Knox, Janet; Nebel, Rob  
**Subject:** RE: Parking at 1490 Martin St.

Dear Travis,

I have reviewed the proposal of intensifying the existing land use at 1490 Martin Street in the Town of Madison. Pursuant to Dane County Code of Ordinance section 10.18(6)(a), reduction of required parking stalls may be permitted if bicycle parking facilities are incorporated into the design and the facility is within 100 feet of a public transportation route.

Given that bike racks will be provided, van service will be part of the facility operation, and the facility is approximately 400 feet from a bus route, Dane County Zoning Division will allow the reduction of parking spots for the new facility at 1490 Martin Street.

Dane County Zoning Division approves the allowance of 16 parking stalls at 1490 Martin Street for the purposes of the new day resource center. If you have any questions or concerns, please let me know.

Respectfully,

Roger Lane  
Dane County Zoning Administrator

---

**From:** Myren, Travis  
**Sent:** Friday, June 06, 2014 9:13 AM  
**To:** Lane, Roger  
**Cc:** 'jgersich@dimensionivmadison.com'; Neitzel-Knox, Janet; Nebel, Rob  
**Subject:** Parking at 1490 Martin St.

Roger,

The County has purchased 1490 Martin Street in the Town of Madison to serve as a day resource center for the homeless. The facility is currently used as a homeless day center, so the use is not changing. However, the zoning code specifies that an increase in intensity may trigger the off street parking requirements of Section 10.18. Although the use and footprint of the building will not change, we expect that the intensity of the use may increase as more services are offered to the guests.

The building will be sectioned into two spaces. Approximately 5,000 square feet will be used to provide resource services. This use would require 17 parking spaces. The remaining 3,400 square feet will be used as warehouse space. This would require an additional 2 parking spaces. Our existing site plan for parking includes 16 total parking spaces. Therefore, we are requesting that you allow a reduction of parking spaces as authorized in the code. Transportation services for guests will be provided through a contract for van service. Bicycle parking will be available, and a bus stop is located near the property.

Please let me know if you have any questions.





**Lowndes, Daniel**

---

**From:** Saterfield, Tim  
**Sent:** Friday, April 04, 2014 4:03 PM  
**To:** Kostelic, Jeffrey; Becker, Casey  
**Cc:** Green, Lynn  
**Subject:** RE: Hospitality House

I think Lynn is talking directly to Pat.

There isn't a specific transportation "plan" in place at this point, but all along there has been a recognition that if the day center was not located downtown (ie. at MARC East or Hospitality House), there would have to be a transportation component. Now that we have a location, we can begin to finalize a plan.

Porchlight currently has two vans available to provide transportation between the downtown overnight shelters and service centers like the central library, Bethel Lutheran day services, Safe Haven day services, Hospitality House, Catholic Multicultural Center, the Job Center, etc. They will work with us during the transition to maintain van transport, and then we can determine whether continued service would be best provided by Shine 608 through the day resource center, or by Porchlight or some other provider.

The Hospitality House location is located on a major bus line that runs down Fish Hatchery Road, for those who are using public transportation. Some level of bus passes are a planned component of the day center service proposed by Shine 608.

Hope this helps.  
Tim



The Shine Initiative Madison, WI  
608-371-WARM · theshineinitiative@gmail.com

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## Our Mission & Vision

### Mission

To expand opportunities for our neighbors to recover from or avoid homelessness.

### Vision

To open a year-round comprehensive resource center in Madison where people experiencing or at risk of homelessness can receive all of the daytime services they need in one place. We seek to serve the most vulnerable members of our community, with an end goal of stable, permanent housing for everyone who walks through our door.

*The Shine Initiative is incorporated in the State of Wisconsin as Shine608, Inc.*

## Join Our Mailing List

First Name:

Last Name:

Email address: (required)

## Latest News

- Library case management work ending?
- A "kind-of" update on the Center's timeline
- Delays! Updates on timeline for our center





**TITLE 2a  
ZONING**

- Chapter 10 Zoning
- Chapter 11 Shoreland, Shoreland-Wetland And Inland-Wetland Regulations
- Chapter 12 Zoning Fees
- Chapter 13 Minimum Standards For Water Quality
- Chapter 14 Manure Storage

**CHAPTER 10  
ZONING ORDINANCE**

- 10.01 Definitions.
- 10.02 Districts.
- 10.03 Zoning District Maps.
- 10.04 Restrictions Upon Lands, Buildings and Structures.
- 10.045 NCO Noise Control Overlay District.
- 10.05 R-1 Residence District.
- 10.051 R-1A Residence District.
- 10.06 R-2 Residence District.
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- 10.11 B-1 Local Business District.
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- 10.12 A-1 Agriculture District.
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**SUBCHAPTER II**

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**10.01 DEFINITIONS.** For the purposes of this chapter certain terms used herein are defined as set forth in this section. Words and phrases not defined in this section or elsewhere in the ordinance shall be construed by resort to the following, in order of preference: Wisconsin Statutes; Wisconsin zoning case law; other states' zoning case law; the dictionary; and common usage.

**(1) Accessory building.** A subordinate or supplemental building, the use of which is incidental to that of the main building on the same lot or the use of the premises on which it is located.

**(2) Accessory use.** A use customarily incidental and accessory to the principal use of a lot or parcel, or building or structure on the same lot or parcel as the principal use.

**(2a) Agricultural use.** Means any of the following activities conducted for the purpose of producing an income or livelihood:

- (a)** Crop or forage production.
- (b)** Keeping livestock.
- (c)** Beekeeping.
- (d)** Nursery, sod, or Christmas tree production.
- (e)** Floriculture.
- (f)** Aquaculture.
- (g)** Fur farming.
- (h)** Forest management.
- (i)** Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

**(2b) Agricultural Accessory Use.** Means any of the following land uses on a farm:

- (a)** A building, structure, or improvement that is an integral part of, or incidental to, an agricultural use.
- (b)** An activity or business operation that is an integral part of, or incidental to, an agriculture use.
- (c)** Farm Residence.

**(d)** A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in par. (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

**(2c) Agriculture-Related Use.** A facility, whether or not located on a farm, that has at least one of the following as a primary, and not merely incidental, purpose:

**(a)** Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the farmland preservation zoning district.

**(b)** Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the farmland preservation zoning district.

**(c)** Processing agricultural by-products or wastes received directly from farms, including farms in the farmland preservation district.

**(2d) Agricultural accessory building.** Means a building or buildings used in the operation of a farm.

**(2f) Agricultural entertainment.** A farm based activity, enterprise, or business that combines the elements and characteristics of agriculture and tourism, which is not necessarily located in an existing building and may have more than one (1) full-time equivalent employee. Examples of agricultural entertainment include: corn mazes, hay rides, sleigh rides, petting farms, on-farm tours, agricultural related museums, demonstrations of farming practices, techniques and methods, fee based fishing and hunting, horseback riding, nature trails, haunted barns and similar activities which are related to agriculture.

**(2k) Adopted town and county comprehensive plan** means a town comprehensive plan adopted by both the affected town board and the Dane County Board of Supervisors under s. 66.1001, Wis. Stats., and s. 10.255(1)(d) and Chapter 82, Subchapter II, Dane County Ordinances.

**(2m) Adult book store** is an establishment which is used for selling or renting, for monetary consideration, the following materials, when such activity constitutes a significant part of the business conducted therein:

**(a)** Any picture, photograph, drawing, motion picture film or similar visual representation or image of a person or portion of human body which depicts sexual conduct, sadomasochistic conduct or nudity in the context of sexual activity, whether or not the same is intended to be viewed on or off the premises; or

**(b)** Any book, pamphlet, magazine, printed matter, however reproduced, or any sound recording which contains any matter enumerated in para. (a) above or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse.

**(c)** As used in paragraphs (a) and (b), *sexual conduct* has the meaning set forth in s. 944.21 (2)(e), Wis. Stats., and as used in this

subsection, *significant part of the business* means dedication or use of more than 10% of the available floor space to the sale or rental of the subject matter referenced herein, including space devoted to viewing of videotapes or films.

(d) Material, however distributed, which is published by a medical products manufacturer, a medical or health association, an insurance company, or by a consumer education organization shall not be considered part of the business of operating an adult book store.

(2n)(a) *Adult entertainment establishment* is any establishment which regularly features for monetary consideration performances or presentations which are distinguished or characterized by an emphasis on exposure to view of less than completely or opaquely covered human genitals, pubic area, anus, vulva, female breasts below a point immediately above the top of the areola; or male genitals in a discernable turgid state, even if opaquely covered; or on acts of or acts which simulate the fondling of another person's genitals, pubic region, anus, or female breasts, sexual intercourse, masturbation, flagellation, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus, or any sexual conduct as defined by s. 944.21(2)(e), Wisconsin Statutes.

(b) The term *regularly features* as used in this subsection means giving special prominence at uniform, orderly intervals on a permanent basis, or always features.

(3) *Animal unit*. One animal unit shall be defined as being the equivalent of 1 cow, 4 hogs, 10 sheep, 10 goats, 100 poultry, 1 horse, 1 pony, 1 mule or 100 rabbits or an equivalent combination thereof.

(4) *Apartment house*. A building containing accommodations for more than two (2) families living independently of each other.

(5) *Apartment house complex*. A group of apartment houses, located on a single parcel of land with certain facilities, such as driveways, parking spaces and the like, common to the buildings in the complex.

(5m) *Beekeeping*. Keeping of more than 1 hive for each 10,000 square feet of lot or parcel area.

(5r) *Bed & breakfast*. A private residence which has rooms set aside for overnight guests whose paid accommodations include breakfast but not other meals, as defined in Wisconsin Statutes sec. 254.61.

(6) *Boarding house*. A building or premises where meals are served by pre-arrangement for definite periods of time for compensation for five (5) or more persons, but not exceeding 20

persons, not open to transients, in contradiction to hotels and restaurants open to transients.

(6a) *Boathouse*. A building for the storage of boats, canoes and other water craft and their accessories.

(6m) *Boat slip* means a mooring accommodation for the in-water storage of a boat or other water craft which is owned by other than a resident or owner of the premises.

(7) *Building*. Any structure having a roof supported by posts, columns or walls and its appendages including, but not limited to balconies, porches, decks, stoops, fireplaces and chimneys. Also included for permit and locational purposes are swimming pools, both above and below ground, permanent hunting blinds with a foundation, and towers, including communication towers. Not included within the definition, for permit purposes or otherwise, are poles, towers and posts for lines carrying telephone messages or electricity and recreational structures of open construction and without walls, such as swing sets, slides, yard gyms, climbers, sand boxes and teeter totters.

(7f) *Building footprint*. The entire area of ground covered by a structure, expressed in square feet, including appurtenances such as, but not limited to, balconies, porches, decks, stoops, fireplaces, and chimneys.

(8) *Building height*. The vertical distance, measured from the mean elevation of the finished grade along the front of the building to the highest point on the roof for flat roofs; to the mean height level between the highest ridge and its associated eave for gable and hip roofs; to the deck line for mansard roofs. The front of the building shall be the side directly facing the public or private thoroughfare which affords primary means of access to the property, excluding the driveway.

(9) *Building line*. The *building line* shall be the point at which the building wall or any appendage of the building such as steps, chimneys, decks, porches or covered patios meet the ground. For earth sheltered homes, the *building line* is a line where the exterior walls of the building if extended vertically would be located on the lot.

(10) *Building setback line*. Is a line that is parallel to the front or street lot line and is located at a distance from either the center line of the adjacent highway or the front lot line as provided for in section 10.17 of this ordinance. For triangular or gored lots that do not have the required lot width at the required building setback line, the building setback line shall be a

line that is parallel to the front lot line or if the front lot line is a curve it shall be parallel to the chord of the arc of the curve of the front lot line and located at the point on the lot where the length of the line meets the lot width requirements of the zoning district in which it is located. (See also *Lot Width*.)

**(11) Campground.** A parcel or tract of land, maintained, intended or used for the purpose of supplying temporary or overnight living accommodations to the public by providing designated areas for the placement of trailers, tents, buses, automobiles or sleeping bags, and may include buildings to provide services to the patrons such as restrooms, bathing, laundry and commissary facilities. A primitive campground shall be any area or site designated for camping purposes which is accessible only by hiking, boating or canoeing.

**(11a) Cemetery.** Shall include, but not be limited to, cemeteries, mausoleums, columbarians and burial chapels. Shall be subject to section 157.06 of the Wisconsin Statutes.

**(11m) Clear area** means an area adjacent to and completely surrounding each and every physical structure comprising part or all of an historic site. No building or structure of any kind, whether or not a permit therefor is required under this chapter, shall be erected in the clear area and no obstacle of any kind, whether attached to an allowed structure or not, shall be placed in the airspace above the clear area, and no soil disturbance shall occur in the clear area.

**(12) Clinic.** An office or building in which dental, veterinary, medical or paramedical services are provided on an outpatient basis. Such services as laboratory, X-ray and first aid services may be provided.

**(13) Club.** An association for some common purpose, but not including a group organized for or which is actually engaged in rendering a service which is customarily carried on as a business.

**(14) Colony house.** A building for the breeding and raising of experimental and laboratory animals, such as white mice and rats, guinea pigs and the like, and for the storage of feed and accessory materials.

**(15) Committee.** The zoning and natural resources committee of the Dane County Board of Supervisors or any other committee of the Dane County Board of Supervisors designated to act as the county zoning agency and delegated the responsibility for zoning matters under sections 59.69, 59.692, 87.30 and 144.26 of the Wisconsin Statutes.

**(16) Community living arrangements.** Community living arrangement means any of the following facilities licensed or operated, or permitted under the authority of the Wisconsin Department of Health and Social Services: child welfare agencies under section 48.60, Wis. Stats., group foster homes for children under section 48.02(7)(m), Wis. Stats., and community based residential facilities under section 50.01, Wis. Stats., but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails.

**(17) Condominium.** Individual ownership of a structure or a unit in a multi-unit structure located on a commonly held parcel of land organized under Chapter 703, Wisconsin Statutes. Buildings in a condominium shall meet the density and locational requirements of the zoning district in which they are located.

**(18) Construction equipment** shall include, but not be limited to, tractors, both wheeled and crawler types, graders, end loaders, scrapers, bulldozers, cranes, back hoes, drag lines, trucks, including dump, stake body or semi-trailer lo-boys of more than two and one-half (2-½) ton capacity, "cherry picker" vehicles and air compressors. Any of the aforementioned equipment that is used in connection with a farm operation and is not leased or contracted for use on any other property shall not be considered construction equipment.

**(18a) Contiguous.** Lots or parcels shall be considered as contiguous for the purpose of this ordinance if they share a common boundary for a distance of at least 66 feet.

**(19) Day care centers.** A place or home which provides care for four (4) or more children under the age of seven (7) years for less than 24 hours a day and is licensed as provided for in section 48.65 of the Wisconsin Statutes.

**(19a) Dependency living arrangement** means a physical arrangement of a dwelling unit in such a fashion that separate living spaces are created within a dwelling unit for the sole purpose of allowing a dependent person to live in the secondary living area while the owner and his or her family reside in the principle living area. The secondary living area may contain a bath and limited kitchen facilities which permit a degree of independence.

**(19b) Dependent** as it pertains to dependency living arrangements, is an individual who requires some assistance in the activities of daily living such as eating, dressing, bathing or ambulation.

**(19d) Development** means any activity requiring a zoning permit or certificate of compliance, including earth-disturbing activities that will lead to the installation of footings, piers, posts, pilings or foundations, as described in s. 10.25(2)(f).

**(19n) Development plan** means a scale drawing of the premises which accurately depicts the shape and dimensions of the lot or parcel, the location and dimensions of all existing and proposed buildings and other structures; the location and dimensions of all parking areas, loading areas, circulation areas, and access drives; the distance in feet between all structures, and between all structures and parking areas, abutting streets and highway rights-of-way or easements and side and rear lot lines; together with such other information as the zoning administrator deems necessary.

**(19q) Development right** means a potential new residential building site available under the policies of an adopted town and county comprehensive plan, subject to the standards of this ordinance and chapters 11, 17 and 75. For purposes of participating in a transfer of development rights program, a development right exists on a particular property if adopted town and county comprehensive plans would support a rezone petition to allow residential development on the property under s. 10.255 of this ordinance and ss. 59.69 and 91.48, Wis. Stats.

**(19r) Domestic fowl.** Domestic fowl includes female chickens, ducks, and quail. Geese, turkeys, and pea fowl are not considered domestic fowl for the purposes of this ordinance.

**(20) Drive-in establishment** means an establishment which accommodates motor vehicles from which the occupants may obtain or receive a service or product which may be used or consumed in the vehicle on the same premises or an establishment which accommodates motor vehicles for the purpose of fueling or providing minor motor vehicle services. All such establishments shall operate pursuant to a conditional use permit secured from the committee.

**(21) Dwelling. (a) Single family dwelling.** A building designed for and occupied exclusively as a residence for one (1) family.

**(b) Multiple family dwelling.** A building designed or intended to be used by more than two (2) families living independently of each other.

**(c) Duplex family dwelling.** A building designed to be occupied by two families living independently of each other.

**(21m) Explosive materials** means explosives, blasting agents and detonators. The term includes, but is not limited to, dynamite and other high explosives, slurries, emulsions, water gels, blasting agents, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters. Exempted from this definition are those explosive materials set forth in Comm 7.02(2) of the Wisconsin Administrative Code.

**(22) Extended care facilities.** A nursing home which is certified by the State of Wisconsin under the Federal Social Security Act to care for patients under the Medicare Program.

**(23) Family.** Any number of individuals related by blood or marriage, or not to exceed five (5) persons not so related, living together on the premises as a single housekeeping unit, including any domestic servants.

**(23f) Farm** means all land under common ownership that is primarily devoted to agricultural use.

**(23ga) Farm Operator.** A person who, or a family at least one member of which, earns substantial farm income, as defined in section 10.01(50m), from farm operations on the farm.

**(23gb) Farm Residence.** Any of the following structures that is located on a farm:

**(a)** A single-family residence that is occupied by any of the following:

1. A person who is both the owner and farm operator of the farm.

2. A parent or child of the owner and farm operator of the farm.

3. An individual who earns more than 50 percent of his or her gross income from the farm.

**(b)** A migrant labor camp that is certified under s. 103.92, Wis. Stats.

**(23h) Governmental uses** shall include, but not be limited to, parks, playgrounds, hospitals, police and fire stations, solid waste disposal sites and recreational areas. For purposes of this chapter, a school is not a governmental use. Installation of communications equipment on a building or structure which is both owned by the town in which located and dedicated to a governmental use or on a structure that is both owned by the County of Dane and used as a warning siren site, is included within this definition.

**(23j) Gross floor area.** The aggregate area of all horizontal levels of a building, expressed in square feet, not including any horizontal level where the average floor to ceiling height is less than 6 feet. When used as a basis of measurement for off-street parking and loading

spaces for any use, gross floor area shall be the sum of the areas of the several floors of the buildings devoted to such use, including all areas devoted to restrooms, storage, utilities and circulation.

**(23m)** *Gross income* means Wisconsin adjusted gross income as defined in s. 71.01(13), Wis. Stats., 1989-90.

**(24)** *Gross vehicle weight* shall mean the weight of any truck or road tractor and its semi-trailer plus the load that the vehicle is rated to haul.

**(24m)** *Historic site* means any burial site designated as an historic site by the county board of supervisors. A burial site has the definition set forth in s. 157.70(1)(b), 1987 Wis. Stats. Any action of the county board designating an historic site shall constitute a zoning map change and shall be subject to town approval and the protest rights of landowners under s. 59.69, Wis. Stats. No person shall enter any property to survey the land for historic sites without the written permission of the property owner.

**(25)** *Home occupation*. A home occupation is any occupation carried on by a member of the immediate family residing on the premises, which meets all of the following conditions:

- (a)** That the occupation is conducted within a dwelling and not in an accessory building;
- (b)** That only members of the immediate family residing on the premises may be employed on the premises, plus a maximum of one other unrelated person;
- (c)** That no stock-in-trade is kept or commodities sold, other than those made on the premises;
- (d)** That samples may be kept but not sold on the premises;
- (e)** That no mechanical equipment is used except such as may be used for purely domestic or household purposes;
- (f)** That such occupation shall not require internal or external alterations, or involve construction features not customary in a dwelling;
- (g)** That not more than 25 percent (25%) of the floor area of one (1) story of the dwelling is devoted to such home occupation;
- (h)** That the entrance to the space devoted to such occupation is from within the building;
- (i)** That there is no evidence, other than the sign referred to in subsection (j) below, that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling; and

**(j)** That one (1) sign shall be permitted, which sign shall be attached to the building, shall not exceed two (2) square feet in area and shall not be lighted at night.

**(26)** *Hospital*. An institution providing health services, primarily for in-patients, and medical and surgical care of the sick and injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

**(27)** *Hotel*. A building in which board and lodging are provided to the transient public for compensation.

**(27g)** *Incidental indoor maintenance*. Maintenance and repair of equipment and vehicles owned and operated by a principal business on the premises, and not as a service to others. All maintenance activities must take place within an enclosed building.

**(27h)** *Indoor storage*. Uses that are primarily oriented to the receiving, holding and shipping of materials for a single business. Such uses are not for retail sales, storage of personal belongings of others, or warehousing of materials for others. With the exception of loading facilities, such uses are contained entirely within an enclosed building.

**(28)** *Junk*. Garbage, waste, refuse, trash, any used motor vehicle upon which no current license plate is displayed, any inoperable motor vehicle, any used tire or used motor vehicle part, and any scrap material such as metal, paper, rags, cans or bottles.

**(29)** *Salvage recycling center*. A salvage recycling center is an area where waste or scrap materials are bought, sold, exchanged, stored, recycled, baled, packed, disassembled or handled, including, but not limited to, motor vehicles, farm equipment, scrap iron and other metals, paper, rags, rubber tires and bottles. A salvage recycling center includes a motor vehicle wrecking or dismantling yard, but does not include a solid waste recycling center as defined in s. 10.01(50).

**(30)**  *kennel*. A kennel is any premise, or portion thereof, where dogs, cats or other household pets are maintained, boarded, bred or cared for, in return for remuneration, or are kept for the purpose of sale.

**(30a)** *Livestock*. Livestock shall include, but is not limited to, cows, sheep, goats, hogs, draft horses, pleasure horses and ponies, mules and poultry. For purposes of this ordinance 100 or more rabbits shall be considered livestock and



subject to the regulations pertaining to the keeping of livestock.

**(30b) Land disturbing activity** means any alteration or disturbance that may result in soil erosion, sedimentation or change in runoff including, but not limited to, removal of ground cover, grading, excavating or filling of land.

**(30f) Light industrial.** The processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from previously processed or previously manufactured materials. All operations (with the exception of loading operations):

**(a)** are conducted entirely within an enclosed building;

**(b)** are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line;

**(c)** do not pose a significant safety hazard (such as danger of explosion); and

**(d)** include no retail sales.

**(30fa) Limited Family Business.** A small family-run commercial operation, accessory to a permitted principle use, that takes place entirely within an accessory building. All employees, except one or one full-time equivalent, must be a member of the family residing on the premises. Limited Family Businesses must comply with all requirements of s. 10.192.

**(30g) Limited Rural Business.** A Limited Rural Business may include any use permitted in the A-B, B-1, C-1 or C-2 zoning districts if it is located exclusively in building(s) in existence prior to April 30, 2005, maintains, restores or enhances the existing exterior character of the building(s), employs no more than 4 non-family employees, and does not conflict with the overall purposes of the district within which the Limited Rural Business is proposed. "Family" has the meaning set forth in section 10.01(23).

**(30m) Location survey,** as indicated in this ordinance, refers to survey information prepared by a licensed surveyor indicating the location of property lines and building location distances from those property lines for the specific portions of the building indicated in this ordinance. Such surveys are not required to provide all the parcel information set forth by Wisconsin Administrative Code Chapter A-E 7.02 Minimum Standards for Property Surveys item A-E 7.01(2) but may exclude unnecessary information as permitted in A-E 7.01(2) and provide only the information required by the zoning ordinance but such

information must comply with the accuracy standard required by A-E 7.06 Measurements.

**(31) Lodging house.** A building in which lodging accommodations are provided by previous arrangements for definite periods of time to four (4) or more but not to exceed twelve (12) individuals not members of the owner's family.

**(32) Lot.** A parcel of land occupied or intended to be occupied by one (1) building and its accessory building and uses, except as otherwise provided herein. A lot may be a parcel designated in a plat or described in a conveyance recorded in the office of the register of deeds. No land included in any street, highway or railroad right-of-way shall be included when computing area.

**(33) Lot depth.** The lot depth is the mean horizontal distance between the front lot line and the rear lot line measured within the lot boundaries.

**(34) Lot width** is the distance between the side lot lines measured along a line that is parallel to the front lot line at the required building setback line. On triangular or gored lots the lot width shall be measured along a line that is parallel to the chord of the arc of the front lot line at the required building setback line, the lot width at this point shall not be less than that required by the zoning district in which the lot is located. (See also *building setback line*.)

**(35) Lot line, rear.** The rear lot line shall mean that lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or gore shaped lot, a line ten (10) feet in length entirely within the lot, parallel to and most distant from the front lot line shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions is applicable, the zoning administrator shall designate the rear lot line.

**(36) Major repairs to motor vehicles.** Repairs and overhauling of motor or engine parts, drive train assemblies, braking systems, body and frame repairs and replacements, refinishing and painting, and wheel alignment.

**(36a) Lot, zoning.** A parcel of land under single ownership occupied or intended to be occupied by one main building, and buildings and uses customarily accessory or incidental thereto, including such open spaces as are provided or are intended to be used in connection therewith or are required by the ordinance. A zoning lot may or may not coincide with a lot of record.

**(36g)** *Majority* means more than one half of the pertinent total.

**(36h)** *Marina* means a shoreside facility that provides accommodation and service for boating and may include, but is not limited to, docks; boat slips; inside or outside storage of boats, boat trailers, storage cradles and other related marina items; sale of boats, boating equipment, fuel and supplies. Docks or boat slips by themselves do not constitute a marina use.

**(36m)** *Mineral extraction*. Quarrying or excavation of sand, gravel, limestone, earth, soil or other mineral resources. This definition includes (when done in connection with mineral extraction) accessory uses such as washing, crushing and other processing of the materials, stockpiling and processing concrete and asphalt pavements for the purpose of recycling for reuse in asphalt or concrete mixtures or base course products, the erection of structures and the installation or storage, or both, of the necessary machinery and equipment used in the mineral extraction operation. Production of asphalt or concrete is not to be considered part of a mineral extraction operation.

**(a)** The following uses are not part of a mineral extraction operation: site preparation for residential or commercial plats, construction or landscaping projects, soil conservation practices, stream, lake or shoreline protection, agricultural land leveling projects if materials are not removed from the property and similar uses.

**(36r)** *Mini-warehouse* is a storage building comprised of separate compartments each of which is intended for separate rental and each of which has its own separate access.

**(37)** *Minor repairs to motor vehicles*. Replacing or repairing of electrical components, installation, alignment or repair of tires, changing or replacing coolants and lubricants, cleaning and polishing, and wheel tire balancing.

**(38)** *Mobile homes park*. Any plot or plots of ground upon which two (2) or more units, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for an accommodation. Is subject to the requirements of section 66.058 of the Wisconsin Statutes.

**(39)** *Motel*. A building containing sleeping rooms for the temporary accommodation of tourists and not for permanent occupancy except by the owner or resident operator.

**(40)** *Motor vehicle*. Cars, trucks, buses, semi-tractors and semi-trailers which may be used to transport goods, materials, freight or passengers.

**(40a)** *Native wildlife rehabilitator*. A person who has permits from the United States Department of Interior, Fish and Wildlife Service and/or the Wisconsin Department of Natural Resources to rehabilitate injured or sick native wildlife as defined in the Wisconsin Administrative Code.

**(40d)** *Occupiable floor area*, when used as a basis of measurement for off-street parking spaces for any use, shall be the sum of the areas of the several floors of the buildings designed or intended to be used for service to the public as customers, patrons, clients, patients or members, including those areas occupied by fixtures and equipment used for the sale of merchandise, or in the case of office use those areas occupied or used by employees. Occupiable floor area shall not include areas used principally for non-public purposes such as restrooms, locker rooms, storage, utilities and areas behind counters.

**(40m)** *Office*. An exclusive indoor land use whose primary function is the handling of information or administrative services. Such uses do not typically provide services directly to customers on a walk-in or on-appointment basis.

**(40t)** *Outdoor storage*. Outdoor storage is primarily oriented to the receiving, holding and shipping of materials for a single business. Such a use, in which any activity beyond loading and parking is located outdoors, is considered an outdoor storage use. Such uses do not include junk or other materials typically associated with a junkyard, salvage recycling center or solid waste recycling center, as defined in this ordinance. Outdoor storage of materials is not permitted within the building setback area described in s. 10.17.

**(41)** *Nonconforming use*. A lawful use that existed prior to adoption of an ordinance which restricts or prohibits said use. [See section 10.21]

**(41m)** *Notice document* is a recorded instrument to notify future landowners and others of unusual features, policies, regulations or other characteristics that may affect future development potential or other speculative use of a specific property. All notice document instruments must meet the minimum recording standards of the Dane County Register of Deeds.

**(42)** *Nursing home*. A home for the aged, chronically ill or incurable person in which three (3) or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation; but not including hospitals, clinics or similar institutions

devoted primarily to the diagnosis and treatment of the sick or injured.

**(43) Park, amusement.** An area, publicly or privately owned, containing amusement and recreational facilities and devices, whether operated for profit or not.

**(44) Park, public.** An area owned by the county or a municipality within the county, operated for the convenience and recreation of the public, and containing such facilities as the owning municipality shall see fit.

[(45) reserved.]

**(46) Person.** Except where otherwise indicated by the context, the word person shall include the plural, or a company, firm, corporation or partnership.

**(46a) Planned unit development.** A form of land development permitted after following the procedures for creating a planned unit development district as provided in section 10.153. The planned unit development district is designed to allow variation in the types and arrangements of land uses and structures in developments conceived and implemented as cohesive, unified projects. Each planned unit development district shall be either a rural planned unit development district or an urban planned unit development district.

**(47) Pleasure horses.** All horses and ponies which are kept or raised for personal use by the owner(s) of or persons residing on the property or their guests. The term does not include horses or ponies kept or raised for commercial breeding purposes, held for sale as beasts of burden or draft animals, boarded for a fee, or offered to the public for riding purposes upon payment of a fee.

**(48) Professional office.** A building in which is provided space for professional offices such as those of doctors, practitioners, dentists, real estate brokers, engineers, lawyers, authors, architects, musicians and other recognized professional occupations.

**(48m) Race event or rally** means a gathering of more than three people for the purpose of repetitive vehicular activity over a fixed course or area, which persists for periods in excess of 30 minutes in any one 24 hour period.

**(48r) Racing vehicle.** A motor vehicle of a type used for racing or participation in a race event or rally. Such vehicles may not normally be legally operated on the public highways.

**(48w) Recorded** means recorded with the Dane County Register of Deeds.

**(49) Refuse.** Refuse means combustible and noncombustible rubbish including, but not limited

to, paper, wood, metal, glass, cloth and products thereof, litter and street rubbish, ashes and lumber, concrete and other debris resulting from the construction or demolition of structures.

**(50) Solid waste recycling center.** A solid waste recycling center is a solid waste disposal operation at which temporary storage and processes such as baling of paper, grinding of glass and flattening of cans, are conducted on segregated solid waste to facilitate reuse of the segregated solid waste as raw material. Also see salvage yard, section 10.20(1)(a).

**(50m) Substantial Farm Income.** Means that a minimum of \$10,400 gross farm income/year for the past three (3) years is currently derived from the farming operation on the farm where the residential use is proposed. Rental income may not be used to meet the income requirement.

**(51) Recreational equipment.** Shall include boats, canoes, snowmobiles or camping and luggage carrying trailers intended to be towed by an automobile or truck or a camper unit to be mounted on a truck. Any motor driven camper or motor home shall be considered as recreational equipment.

**(51a) Religious uses.** Shall include, but not be limited to, churches, convents and monasteries. For purposes of this chapter, a school is not a religious use.

**(52) Rendering plant.** A plant for the reduction of dead animals or slaughtered animals not suitable for human consumption, to by-products such as hide, skin, grease, bones, glue and soap, and for the storage of such by-products.

**(53) Roadside stand.** A structure having a ground area of not over 200 square feet, not permanent by being attached to the ground, readily removable in its entirety and to be used solely for the sale of farm and garden products produced on the premises. Such structures may be located within the setback lines of roads but shall not interfere with visibility along the highway.

**(54) Rooming house.** Same as lodging house.

**(54a) Rural planned unit development district.** A planned unit development district that may include any combination of the permitted or conditional uses in the A-1 (Exclusive), A-3, A-4, RE-1, CO-1, AB and/or LC-1 districts, and/or any residential housing district, as appropriate, to be used only for senior housing developed for seniors ages 55 or older. Any uses which are conditional uses in the applicable zoning district must meet the standards of sub. 10.255(2)(h).

**(55) Sanitary landfill.** Sanitary landfill is a type of land disposal operation involving the disposal of solid waste on land.

**(55a) Sanitary fixture.** Any plumbing fixture that requires discharge to a private onsite wastewater treatment system or public sanitary sewer system pursuant to state or county plumbing code.

**(55m) Schools** means any private, public or religious school but does not include either truck driving schools or construction equipment operator schools unless expressly stated otherwise in this chapter.

**(56) Setback.** The minimum horizontal distance from the front line or from the center of the highway, measured parallel to the highway or front lot line, to the front of the building.

*[(57) - (65) reserved.]*

**(66) Slaughterhouse.** Any building or premises used commercially for the killing or dressing of cattle, sheep, swine, goats or horses, for human consumption and the storage, freezing and curing of meat and the preparation of meat products.

**(66a) Small scale electric generating station.** Electric generating equipment and associated facilities designed for nominal operation at a capacity of 100 megawatts or less, not requiring approval of the state Public Service Commission under section 196.491 Wis. Stats. Equipment and structures, not including towers, for the purposes of creating electricity to be used primarily on the property are not considered small scale electric generating stations.

**(67) Solid waste.** Solid waste means garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, operations and other domestic use and public service activities, but does not include solids or dissolved material in waste water effluents or other common water pollutants.

**(68) Solid waste disposal operation.** A solid waste disposal operation is the operation or maintenance of a solid waste disposal site or facility for the collection, storage, utilization, processing or final disposal of solid waste, including, but not limited to, land disposal, incinerator, transfer, air curtain destruction, composting reduction, shredding, compression, processing and salvage. In-house re-use of the imperfect finished products to make a merchantable finished product is not a solid waste disposal operation.

**(68m) Stormwater runoff** means the waters derived from rains falling or snowmelt or icemelt

occurring within the drainage area, flowing over the surface of the ground and collected in channels, watercourses or conduits.

**(69) Story.** The vertical distance of a building included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling, provided that a basement shall not be considered a story.

**(70) Story, half.** A story under a gable, hip or mansard roof, the wall plates of which on at least two (2) sides are not more than two (2) feet above the floor of that story.

**(71) Street.** A public or private thoroughfare which affords primary means of access to abutting property is a street to that property for the purposes of this ordinance, except driveways to buildings.

**(72) Street line.** The dividing line between the street and the lot.

**(73) Structure** has the meaning set forth in s. 17.05(49).

**(74) Structural alteration.** Any change in the dimensions of a structure or in the interior layout or floor plan of a structure.

**(74m) Substandard lot** means a lot the dimensions of which, although fully conforming when created, are now, in whole or in part, less than existing requirements for the zoning district in which located.

**(75) Tavern.** A building or part of a building open to the public, where fermented malt beverages and/or intoxicating liquors are sold at retail for consumption on the premises. The following shall not be considered a tavern: a restaurant where such beverages are sold only at tables and only in conjunction with meals; a club not open to the public where such beverages are sold in conjunction with the operation of the club; premises where malt beverages are sold by established organizations in conjunction with the operation of a picnic, fair or other amusement enterprise.

**(75m) TDR agricultural conservation easement** means a holder's non-possessory interest in real property imposing any limitation or affirmative obligation, the purpose of which may include any or all of the following: retaining or protecting natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; maintaining or enhancing air or water quality; preserving a burial site, as defined in s.157.70(1)(b), Wis. Stats.; or, preserving the historical, architectural, archaeological or cultural

aspects of real property. TDR agricultural conservation easements need not include any requirements for public access or restrictions on agricultural or forestry practices.

**(76) Terminal, bus.** A building or facility where passengers may board or leave intercity buses, also facilities for baggage handling, bus package services and ticket sales.

**(77) Terminal, truck.** Buildings or land which is used for the storage or distribution of freight or goods by a common carrier.

**(78) Temporary or portable building.** A building or structure that is not attached to the ground by anchors, bolts, footings, foundation piers, pilings, posts or other means of attaching permanently to the ground. Lawn and yard buildings not attached, anchored or affixed to the ground shall not exceed 32 square feet of floor area on a lot in a residential district.

**(78d) Topography** means the configuration of the ground surface and relations among human-made and natural features that may determine ground slope and direction of runoff flow.

**(78m) Communication tower.** Any structure, whether free-standing or attached to an existing building or structure, other than a building or structure which is both owned by the town in which located and dedicated to a governmental use or a structure that is both owned by the County of Dane and used as a warning siren site, that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

**(78s) Transfer of development rights (TDR)** means the conveyance of development rights, as defined herein, by TDR agricultural conservation easement from one parcel of land to another and the recording of that conveyance with the Dane County Register of Deeds and other land records of Dane County. Any individual transfer of development rights transaction may, at the discretion of the parties involved, also include the conveyance of additional rights not enumerated in this ordinance.

**(79) Use, permitted.** A permitted use is a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and regulations of such district in which such use is located.

**(80) Use, principal.** A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use.

**(81) Utility services.** Transmission and distribution lines both above and below ground which carry electricity, petroleum products, natural or manufactured gas, water, sewer or telephone messages. Included are buildings and structures necessary to operate transmission and distribution lines such as substations, transformer installations, repeater stations, pumping stations and water towers, but not including offices, garages, manually operated exchanges, terminal distribution facilities, electric generating plants and sewage disposal plants. Installation of privately owned and operated communications equipment on a water tower which is owned by the town in which located is included within this definition, provided that the installation of this equipment does not compromise the structural integrity of the water tower. A zoning permit will not be issued for the installation of this equipment by the Dane County Planning and Development Department without provision of a structural analysis stamped by a professional engineer (P.E.) and a P.E.'s written statement that the affected tower is structurally capable of accommodating the equipment.

**(81a) Urban planned unit development district.** A planned unit development district conceived and implemented within an urban service area.

**(81b) Urban service area.** Areas identified and mapped by the Capitol Area Regional Planning Commission, or successor agency, designated by the State of Wisconsin in accordance with the federal Clean Water Act, that are planned for urban development and capable of being provided with a full range of services.

**(82) Vision clearance triangle** shall be the area in each quadrant of an intersection which is bounded by the right-of-way lines of the highways or streets and a vision clearance setback line connecting points on each right-of-way line which are located a distance back from the intersection equal to the setback required on the road or highway.

**(82a) Wind Energy System.** Wind Energy System has the meaning given in s. 66.0403(1)(m), Wis. Stats.

**(83) Yard.** A yard is an open space on a zoning lot which is unoccupied or unobstructed from its lowest level to the sky, except as otherwise provided herein. For the purpose of this ordinance, a yard extends along a lot line to a depth or width specified in the yard regulations

for the zoning district in which such zoning lot is located.

**(84) Yard, front.** A front yard is a yard paralleling along the full length of the front lot line between the side lot lines.

**(85) Yard, rear.** A rear yard is a yard paralleling along the full length of the rear lot line between the side lot lines.

**(86) Yard, side.** A side yard is a yard paralleling along a side lot line from the front yard to the rear yard.

[History: (Intro.) am., OA 17, 1992-93, pub. 10/09/92; (2m) cr., OA 16, 1993-94, pub. 12/27/93; (3) am., Sub. 3 to OA 36, 1987-88, pub. 08/02/88; (3) am., OA 9, 1993-94, pub. 04/20/94; (5m) cr., Sub. 3 to OA 36, 1987-88, pub. 08/02/88; (5m) cr., OA 9, 1993-94, pub. 04/20/94; (6m) cr., Sub. 2 to OA 25, 1987-88, pub. 02/29/88; (7) am., OA 33, 1991-92, pub. 04/22/92; (11m) cr., Sub. 2 to OA 12, 1989-90, pub. 11/13/89; (23a) renum. as (23h), (23f), (23g) and (23m) cr., OA 17, 1992-93, pub. 10/09/92; (24m) cr., Sub. 2 to OA 12, 1989-90, pub. 11/13/89; (29) am., Sub. 2 to OA 11, 1991-92, pub. 12/18/91; (30a) am., Sub. 3 to OA 36, 1987-88, pub. 08/02/88; (30a) cr., OA 9, 1993-94, pub. 04/20/94; (36g) cr., OA 17, 1992-93, pub. 10/09/92; (36m) cr., Sub. 2 to OA 25, 1987-88, pub. 02/29/88; (36m) am., Sub. 3 to OA 36, 1987-88, pub. 08/02/88; (36m) cr., OA 9, 1993-94, pub. 04/20/94; (41) am., Sub. 3 of OA 36, 1987-88, pub. 08/02/88; (41) am., OA 9, 1993-94, pub. 04/20/94; (49m) am., Sub. 3 of OA 36, 1987-88, pub. 08/02/88; (49m) cr., OA 9, 1993-94, pub. 04/20/94; (57) through (65), inclusively, rep., Sub. 2 to OA 6, 1989-90, pub. 09/21/90; (73) am., Sub. 2 to OA 12 1989-90, pub. 11/13/89; (74) am., Sub. 1 to OA 31, 1991-92, pub. 04/22/92; (74m) cr., Sub. 2 to OA 12, 1989-90, pub. 11/13/89; (36r) cr., OA 1, 1994-95, pub. 09/02/94; (5r) cr., OA 2, 1995-96, eff. 09/12/95; (25)(b) am., OA 6, 1995-96, eff. 09/12/95; (19n) and (30m) cr., Sub. 2 to OA 4, 1994-95, eff. 12/23/95; (48m) cr., Sub. 2 to OA 19, 1995-96, eff. 02/25/96; (20), (31), (37), (47), (48) and (73) am., (36n) rep. and (36h) cr., OA 16, 1996-97, pub. 01/16/97; (15) and (24m) am., OA 43, 1996-97, pub. 06/17/97; (7) am. and (78m) cr., OA 57, 1996-97, pub. 09/02/97; (23h) and (51a) am. and (55m) cr., OA 16, 1997-98, pub. 03/03/98; (19n) am., (23j) and (40d) cr., and (45) rep., OA 39, 1997-98, pub. 08/17/98; (21m) cr., OA 22, 1999-2000, pub. 06/27/00; (15), (41) and (81) am. and (49m) rep., OA 3, 2000-01, pub. 10/19/00; (23h), (78m) and (81) am., Sub. 2 to OA 13, 2000-01, pub. 05/07/01; (48r) cr., OA 11, 2002-03, pub. 11/19/02; (36m) am., OA 16, 2002-03, pub. 03/04/03; (2n) cr., OA 11, 2004-05, pub. 02/23/05; (2f) cr., Sub. 1 to OA 18, 2004-05, pub. 04/11/05; (2n) am., OA 32, 2004-05, pub. 06/02/05; (11a) am., OA 38, 2004-05, pub. 09/12/05; (8) am., OA 33, 2008-09, pub. 02/19/09; (19d), (30b), (68m) and (78d) cr., OA 16, 2009-10, pub. 11/19/09; (46a), (54a), (81a) and (81b) cr., OA 44, 2009-10, pub. 02/15/10; (2k), (19q), (41m), (48w), (75m) and (78s) cr., OA 45, 2009-10, pub. 3/22/10; (27g), (27h), (30f), (30g), (40m), and (40t) cr., OA 10, 2010-11, pub. 12/10/10; (66a) cr., Sub. 1 to OA 37, 2010-11, pub. 06/23/11; (2d), (7f), (55a) cr., (7) and (23j) am., (23g) resc., OA 4, 2011-12, pub. 08/01/11; (19r) cr., OA 11, 2012-13, pub. 10/31/12; (2a), (23f), (30g) am., (2b), (2c), (23ga), (23gb), (30fa), (50m) cr., OA 12, 2012-13, pub. 12/18/12; (82a) cr., OA 42, 2012-13, pub. 05/14/13.]

**10.02 DISTRICTS.** The following districts are established. The number, shape and area are

best suited to carry out the purposes of this ordinance:

R-1	Residence District.
R-1A	Residence District.
R-2	Residence District.
R-3	Residence District.
R-3A	Residence District.
R-4	Residence District.
RH-1	Rural Homes District.
RH-2	Rural Homes District.
RH-3	Rural Homes District.
RH-4	Rural Homes District.
RE-1	Recreational District.
B-1	Local Business District.
A-1	Agriculture District.
A-1(EX)	Exclusive Agriculture District.
A-B	Agriculture-Business District.
A-Ba	Transitional Agriculture-Business District.
A-2	Agriculture District.
A-3	Agriculture District.
A-4	Small Lot Agriculture District.
C-1	Commercial District.
C-2	Commercial District.
LC-1	Limited Commercial District.
EXP-1	Exposition District.
M-1	Industrial District.
CO-1	Conservancy District.
HD	Historic Overlay District.
TDR-S	Transfer of Development Rights Sending Area Overlay District.
TDR-R	Transfer of Development Rights Receiving Area Overlay District.
PUD	Planned Unit Development District.

[History: 10.02 am., OA 16, 1996-97, pub. 01/16/97; District reference to "Agriculture District (Exclusive)" changed to "Exclusive Agriculture District", Sub. 1 to OA 31, 2001-02, pub. 09/04/02, eff. 09/05/02; am., OA 45, 2009-10, pub. 03/22/10; 10.02 am., OA 18, 2013-14, pub. 12/17/13.]

**10.03 ZONING DISTRICT MAPS.** (1) The location and boundaries of the zoning districts other than the A-1 Agriculture District and the flood prone areas (regional flood) are hereby established as shown on maps entitled "Zoning District Maps" on file in the office of the zoning administrator. The A-1 Agriculture District shall consist of all areas not otherwise designated on the "Zoning District Maps." The zoning administrator shall periodically update the "Zoning District Maps" to show any changes in the zoning district boundary lines resulting from amendments to the zoning ordinance, annexations and changes resulting from city or village extraterritorial zoning provisions. The "Zoning District Maps", together with all information shown thereon and all amendments

Agriculture District shall be rezoned except in accordance with s. 91.48, Wis. Stats.

[History: cr., OA 21, 2008-09, pub. 02/05/09; (2)(d), (3)(d), and (9)(a) am., OA 4, 2011-12, pub. 08/01/11; 10.129 (entire) am., OA 13, 2012-13, pub. 12/18/12.]

**10.13 C-1 COMMERCIAL DISTRICT. (1)**

*Permitted uses.* (a) Retail and service uses including, but not limited to, grocery stores, drugstores, hardware stores, appliance and furniture stores, barbershops and beauty shops without limitation as to size.

(b) Self service laundries and dry cleaning establishments.

(c) Warehousing and storage incidental to a permitted use on the premises. Mini-warehouses are excluded from use in this (C-1) district.

(d) Medical, dental and veterinary clinics.

(e) Banks, offices, office buildings and condominium office buildings devoting not more than two (2) floors to office space.

(f) Utility services.

(g) Rooming and boarding houses.

(h) Bakeries, printing plants, laundries, dry cleaning plants.

(i) Distribution centers and wholesale businesses.

(j) Woodworking shops, machine shops, manufacturing and assembly plants.

(k) Bicycle sales and service.

(L) Rental businesses, except for motor vehicles and construction machinery and equipment.

(m) Experimental laboratories not to exceed 5,000 square feet of floor area.

(o) Sales and repair of lawn and garden equipment.

(p) Games such as horseshoes, volleyball or similar activities not lighted for night operation.

(q) Marinas.

(r) Off-site parking of motor vehicles as provided in section 10.18(3)(c).

(s) Crematoriums.

(t) All uses permitted in the LC-1 Limited Commercial District.

(2) *Conditional uses permitted in the C-1 Commercial District.*

(a) Single family residences, duplexes, multi-family residences.

(b) Banks, offices, office buildings and condominium office buildings devoting more than two (2) floors to office space.

(c) Motels, hotels, taverns, funeral homes and drive-in establishments.

(d) Hospitals, veterinary hospitals, nursing homes, convalescent centers, extended care facilities.

(e) Mobile home parks, subject to special conditions as provided for in s. 10.08(10).

(f) Outdoor amusement parks or other entertainment activity that is open to the public on either a permanent or temporary basis.

(g) Indoor or outdoor movie theater.

(h) Automobile laundries, car wash facilities.

(i) Dog and cat boarding kennels, grooming and training facilities.

(j) Communication towers.

(k) Storage of motor vehicles awaiting disposition either as abandoned vehicles or for the settlement of an insurance claim.

(m) Governmental uses.

(n) Agricultural uses.

(o) Games such as horseshoes, volleyball or similar activities lighted to operate at night.

(3) *Building height limit.* (a) For business buildings, including offices, the maximum building height shall be four (4) stories, provided, however, that a conditional use permit shall be required for any building that provides more than two (2) stories devoted to office space.

(b) Lots or building sites for residential purposes or for combined business and residential uses shall comply with the requirements of the R-4 Residence District.

(4) *Area, frontage and population density regulations.* Area, frontage and population density regulations shall be the same as for the B-1 Local Business District.

(5) *Setback requirements.* Setback from front lot line or highway right-of-way shall comply with the provisions of section 10.17.

(6) *Side yard requirements.* Side yard requirements shall be the same as for the B-1 Local Business District.

(7) *Rear yard requirements.* (a) For buildings to be used exclusively for business purposes the minimum depth of any rear yard shall be 10 feet.

(b) For residential buildings, or buildings combining residential and business uses, the minimum depth of any rear yard shall be 25 feet.

(8) *Off-street parking.* Off-street parking space shall be provided in accordance with the provisions of section 10.18.

(9) *Screening provisions.* On lots adjacent to or abutting land in a residence district, the screening provisions of section 10.16(8) shall be complied with prior to the issuance of a certificate of compliance.

[History: (1)(q) cr., Sub. 2 to OA 25, 1987-88, pub. 02/29/88; (1)(c) am., OA 1, 1994-95, pub. 09/02/94; (2)(c)

and (3)(a) am., OA 16, 1996-97, pub. 01/16/97; (2)(j) am., OA 57, 1996-97, pub. 09/02/97; (1)(r) cr., OA 39, 1997-98, pub. 08/17/98; (8) am., OA 3, 2000-01, pub. 10/19/00; (1)(s) cr., OA 38, 2004-05, pub. 09/12/05; (1)(t) cr., OA 27, 2005-06, pub. 05/16/06.]

#### 10.14 C-2 COMMERCIAL DISTRICT.

(1) *Permitted uses.* (a) All uses permitted in the C-1 Commercial District without limitations as to size.

- (b) Major repairs to motor vehicles.
  - (c) Sales of new and used motor vehicles.
  - (d) Sales of new and used mobile homes, recreational equipment rental, sales and service.
  - (e) Sales of new and used contractor's machinery and equipment.
  - (f) Repairs, storage and service of contractor's machinery and equipment.
  - (g) Rental and leasing of motor vehicles, contractor's machinery and equipment.
  - (h) Bulk fuel storage, sales and storage of lumber and building material.
  - (i) Truck and bus terminals.
  - (j) Auxiliary or supplemental electric generating stations.
  - (k) Fertilizer mixing or blending plants.
  - (L) Slaughterhouses, meat processing plants.
  - (m) Bottling plants.
  - (n) Utility services.
  - (o) Storage, repair and maintenance of carnival, concession and circus machinery and equipment.
  - (p) Automobile and truck driver training schools and construction equipment operator training schools that are privately owned and operated for profit.
  - (q) Parking or storing of motor vehicles.
  - (r) Storage or processing of scrap or waste materials, conducted entirely within a building.
  - (s) Warehouses.
  - (t) Games such as horseshoes, volleyball or similar activities not lighted for night operation.
  - (u) Mini-warehouses.
  - (v) Adult book stores, subject to the standards set forth in s. 10.193.
  - (w) All uses permitted in the LC-1 Limited Commercial District.
- (2) *Conditional uses permitted in the C-2 Commercial District.*
- (a) Outdoor amusement parks or other entertainment activity whether on a permanent or temporary basis that is open to the general public.
  - (b) Movie theaters, outdoor theaters.
  - (c) Drive-in establishments.
  - (d) Automobile race tracks, snowmobile race tracks and courses, all-terrain vehicle race tracks

and courses and motorcycle race tracks including moto-cross and hill climbing courses.

- (e) Mineral extraction subject to the special conditions of section 10.191.
  - (f) Solid waste disposal operations, sanitary landfill sites.
  - (g) Auto laundries, car washes.
  - (h) Taverns.
  - (i) Residence for a watchman or caretaker.
  - (j) Communication towers.
  - (k) Dog and cat boarding kennels, grooming and training facilities.
  - (L) Governmental uses.
  - (m) Agricultural uses.
  - (n) Games such as horseshoes, volleyball or similar activities lighted to operate at night.
  - (o) Religious uses.
  - (p) Motels and hotels.
  - (q) Storage of explosive materials in strict conformance with Wisconsin Administrative Code provisions relating to explosive materials.
- (3) *Building height limit.* The maximum height for all buildings shall be fifty (50) feet. Tanks, storage bins, silos and towers shall not be subject to this limitation.
- (4) *Area, frontage and population density regulations.*
- (a) The area and frontage shall be the same as for the B-1 Local Business District.
  - (b) Any principal building together with its accessory building shall not cover more than sixty percent (60%) of the lot area.
- (5) *Setback requirements.* Setback from front lot line or highway right-of-way shall conform to the provisions of section 10.17.
- (6) *Side yard requirements.* Side yard requirements shall be the same as for the B-1 Local Business District.
- (7) *Rear yard requirements.* (a) For business and commercial buildings, the minimum depth of any rear yard shall be 10 feet.
- (8) *Screening provisions.* On lots adjacent to or abutting land in a residence district, the screening provisions of section 10.16(7) shall be complied with prior to the issuance of a certificate of compliance.
- (10) *Off-street parking.* Off-street parking shall be provided as required in section 10.18.

[History: (1)(u) cr., OA 1, 1994-95, pub. 09/02/94; (2)(o) cr., OA 42, 1994-95, eff. 09/26/95; (2)(d) am., Sub. 2 to OA 19, 1995-96, eff. 02/25/96; (2)(p) cr., OA 15, 1996-97, pub. 01/06/97; (2)(c) and (e) and (8) am., OA 16, 1996-97, pub. 01/16/97; (2)(j) am., OA 57, 1996-97, pub. 09/02/97; (10) cr., OA 39, 1997-98, pub. 08/17/98; (1)(v) cr., OA 3, 1998-99, pub. 09/24/98; (2)(q) cr., OA 22, 1999-2000, pub. 06/27/00; (1)(w) cr., OA 27, 2005-06, pub. 05/16/06.]



permanent dwelling units and do not require a transferred development right:

1. community living arrangements, as defined in s. 10.01(16);
2. dependency living arrangements, as defined in s. 10.01(19a);
3. extended care facilities, as defined in s. 10.01(22); and
4. nursing homes, as defined in s. 10.01(42).

(c) All transferred development rights in (a) above are from TDR-S overlay districts within the same town as the proposed dwelling unit, unless inter-community transfers are expressly authorized in adopted town and county comprehensive plans for both sending and receiving areas.

(d) The landowner records a notice document that details the number of development rights transferred, describes the sending property or properties and references the recorded document number of the restrictive covenant required under s. 10.158(3)(b).

(e) Copies of any recorded notices, and copies of recorded TDR agricultural conservation easements on the sending parcel or parcels in the TDR-S district, must be provided to the zoning administrator before zoning permits will be issued.

[HISTORY: 10.159 cr., OA 45, 2009-10, pub. 03/22/10.]

#### **10.16 GENERAL PROVISIONS AND EXCEPTIONS.**

(1) *Use.* (a) Any use not listed as a permitted use in a district is prohibited in that district and except as otherwise expressly provided, any use listed as a permitted use in any other district shall be construed as a prohibited use in any other district.

(b) The following uses shall be permitted in the districts specified when these uses do not alter the character of the premises in respect to their use for the purposes permitted in that district:

1. In any district, real estate offices and signs advertising property for sale for a period not to exceed one (1) year.
2. In any district, temporary buildings and the temporary storage of materials and equipment incidental to the construction of buildings on the premises, for a period not to exceed one (1) year.

(c) In the agriculture districts: The production of fuel, using products or byproducts from a farm operation on the premises, is a permitted use incidental to the farm operation. Surplus fuel not needed for the farm operation may be sold as any other farm commodity.

(d) Airports that are listed as "Personal by Owner Only" on an application to the Wisconsin Department of Transportation, Bureau of Aeronautics, for airport site approval are permitted to locate in the Agriculture and Rural Homes Districts. All other airports are subject to the provisions of either ss. 10.12(2)(f) or 10.126(2)(e) of this ordinance.

(2) *Height.* Hospitals, churches, schools, communication towers, water towers, chimneys, spires, penthouses, cupolas, silos, windmills and similar structures may be erected to a height greater than the maximum permitted in the district in which they are located; provided, however, that no part of that structure above such height limit shall be used for residential purposes.

(3) *Area, frontage and population density.* (a) Any lot or parcel shown on a recorded subdivision, plat or assessor's plat, or conveyance recorded in the office of the Register of Deeds for Dane County prior to the adoption of this ordinance, may be used as a building site, or for any use permitted in the zoning district in which the lot is located even though such lot or parcel does not conform to the minimum frontage or area requirements of the district in which it is located; provided, however, that no multiple family dwelling or residential unit in combination with some other use shall be erected, altered or converted in use on lots having a width of less than 50 feet.

(b) Two (2) or more lots or parcels of land in common ownership, each of which lacks adequate area or dimensions prescribed for the zoning districts in which they are located, may be used as one zoning lot if all of the following conditions are met:

1. The landowner submits to the department of planning and development a site plan of the properties to be combined, in a format and level of detail approved by the zoning administrator;
2. Prior to the combination of lots, the landowner obtains all necessary local, county, state or federal permits related to any construction or earthmoving proposed on the combined lots, including, but not limited to, the following:
  - a. Filling and grading permits under s. 11.05;
  - b. Erosion control permits, plans or simplified plan checklists under ch. 14;
  - c. Sanitary permits under ch. 46;
  - d. Rezoning of so much of the lots as are classified as wetlands, if required under s. 11.10;

**(6) Officially mapped areas.** (a) No zoning permit shall be issued under this chapter for any lands lying within any officially mapped area of Dane County unless the proper permit from the appropriate city or village shall have been first obtained.

(b) Every applicant for the issuance of any permit required under this chapter shall state in writing that he or she has made diligent inquiry of the applicability of any official map to the applicant's lands; that no such official map is applicable, or if such map is applicable, the approval of the appropriate city or village has been obtained; that the applicant understands the possible adverse consequences of erecting a structure within an officially mapped area without the proper approval of the city or village involved; and, that the applicant has not relied upon any statements of county employees in giving such written assurances.

(c) If an applicant seeks a zoning permit for lands located within an official mapped area, a zoning permit may be issued only after a permit from the appropriate city or village has been issued under section 62.23(6)(d) of the Wisconsin Statutes.

(d) Any zoning permit issued under this chapter shall be void if applicable to lands located within an officially mapped area for which the applicant has not obtained the proper permit from the appropriate city or village. In the event of an error in any application or any misstatement in any application, the zoning administrator shall issue stop work orders if the administrator discovers any official map to be applicable to the lands in question.

[History: (5)(a) am., Sub. 2 to OA 12, 1989-90, pub. 11/13/89; (2)(c), (3)(a) and (3)(b) am., Sub. 2 to OA 4, 1994-95, eff. 12/23/95; (2)(a) am., OA 16, 1996-97, pub. 01/16/97; (2)(am) cr., OA 37, 2007-08, pub. 02/01/08; (2)(b) resc., (3)(a)1. am., and (3)(a)3. cr., OA 4, 2011-12, pub. 08/01/11.]

**10.255 ZONING COMMITTEE. (1) Duties.** (a)

The zoning committee shall be created and constituted by the county board and have the duties as prescribed by subsection (b) hereof.

(b) It shall be the duty of the zoning committee to supervise the administration of the zoning ordinance, to hold hearings on proposed amendments to this ordinance and to make recommendations thereon to the county board, to approve plats for recording in accordance with the provisions of s. 236.10, Wis. Stats.; and to perform such other duties in connection with zoning as may be delegated to it by the county board.

(c) *Effect of denial of a petition to change the zoning district boundaries.* No petition for a change in the zoning district boundaries which has been denied by the Dane County Board of Supervisors shall be resubmitted for a period of one year from the date of said denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the zoning committee.

(d) 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.

(e) In considering land use issues for areas adjacent to local municipalities, notice shall be sent by certified mail to the affected municipality or municipalities. The notice shall include the location, description of use, requested zoning or permit and the date, time and place of the county public hearing. The notice shall state that it shall be incumbent upon the affected municipality to inform the county zoning agency of any concerns, potential problems or questions relative to the impact of the proposed use on a wellhead protection area.

**(2) Conditional uses.** (a) *Statement of purposes.* The development and execution of this ordinance is based upon the division of the county into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use at a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses and are of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities. The following provisions are then established to regulate those conditional uses which require special consideration.

**(b) Authority.** Subject to sub. (c), the zoning committee, after a public hearing, shall, within a reasonable time, grant or deny any application for conditional use. Prior to granting or denying a conditional use, the zoning committee shall make findings of fact based on evidence presented and issue a determination whether the prescribed standards are met. No permit shall be granted when the zoning committee or applicable town board determines that the standards are not met, nor shall a permit be denied when the zoning committee and applicable town board determine that the standards are met.

**(c) Town/zoning committee action.** 1. The town board of the town where a conditional use is proposed shall be given notice and opportunity to approve or disapprove a conditional use. The town board shall communicate its position in writing on the conditional use application within sixty (60) days of the date of the public hearing. The town board may request an extension of the review period of up to forty (40) days by submitting a written request to the zoning committee. The zoning committee shall not take action on the application for conditional use until the time period for action by the town board has expired.

2. Either the town board or the zoning committee may deny an application for conditional use permit. If the town board action is denial no further action by the zoning committee is required. The zoning committee may approve or deny a conditional use permit without town action if the town board fails to act within the time period set forth in sub. 1. above. All such decisions may be appealed to the county board under sub. (2)(j). If the county board reverses a denial by the town board, the application shall be referred to the zoning committee with instructions to draft appropriate conditions.

3. Town board and zoning committee actions shall be supported by written findings of fact. Failure of a town board or the zoning committee to make written findings of fact shall constitute approval of the application. Except for conditional use permit applications for a small scale electric generating station, using wind or solar energy, under s. 10.123(3)(n), written findings of fact shall, at a minimum, address the standards enumerated in sub. (2)(h) and, where applicable, s. 10.123(3). Written findings of fact for conditional use permit applications for a small

scale electric generating station under s. 10.123(3)(n), using wind or solar energy, shall exclusively address the standards enumerated in sub. (2)(o). All findings shall be based solely upon the evidence within the public record.

4. If the town board approves the application subject to conditions and such conditions are amended or deleted by the zoning committee, the conditional use permit as approved by the zoning committee shall be submitted to the town board for approval of the zoning committee's conditions or denial of the permit. The town board shall submit a certified resolution indicating their action to the zoning administrator within forty (40) days of the approval by the zoning committee. If the town board does not act within the forty (40) day time period, the permit shall be deemed approved. If the town board denies the permit with the conditions as amended by the zoning committee, the permit shall be deemed denied. Such denial is appealable to the county board under sub. (2)(j).

**(d) Initiation of conditional use.** Any person, firm, corporation or organization having a freehold interest, a possessory interest entitled to exclusive possession, a contractual interest which may be a freehold interest, or an exclusive possessory interest which is specifically enforceable in the land for which a conditional use is sought, may file an application to use such land for one or more of the conditional uses provided for in this ordinance provided that the conditional use is one which is permitted by the zoning ordinance in the zoning district where the parcel is located.

**(e) Application for conditional use.** An application for a conditional use shall be filed with the zoning administrator on a form prescribed by the zoning administrator. The application shall be accompanied by such plans and other information as required by this section or as may be prescribed by the zoning administrator or the zoning committee, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in par. (h) hereinafter.

1. **Site plan.** All applications for a conditional use permit must be accompanied by a site plan, drawn to a scale large enough to show detail, that includes, at a minimum the following information:

a. All buildings and all outdoor use and/or storage areas, existing and proposed, including

provisions for water and sewer. Existing and proposed uses must be clearly labeled.

b. All dimensions and required setbacks, side yards and rear yards.

c. Location and width of all driveway entrances onto public and private roadways, and of all interior roads or driveways. Traffic flow patterns must be indicated.

d. Parking lot layout in compliance with Section 10.18 of the Dane County Zoning Ordinance.

e. Proposed loading/unloading area.

f. Zoning district boundaries in the immediate area. All districts on the CUP property and on all neighboring properties must be clearly labeled.

g. All natural features such as lakes, ponds, streams (including intermittent watercourses), flood zone and wetland areas, and slopes over 12% grade.

h. The Zoning Administrator may require, at his or her discretion, site plans to show additional detail, including, but not limited to contours, drainage, screening, fences, landscaping, lighting, signs, refuse dumpsters, and possible future expansion areas.

2. *Operational plan.* All applications for a conditional use permit must be accompanied by an operational plan that describes, at a detail acceptable to the Zoning Administrator, the following characteristics of the operation:

a. Hours of operation.

b. Number of employees.

c. Anticipated noise, odors, dust, soot, runoff or pollution and measures taken to mitigate impacts to neighboring properties.

d. Descriptions of any materials stored outside and any activities, processing or other operations taking place outside an enclosed building.

e. Compliance with county stormwater and erosion control standards under Chapter 11 or Chapter 14, Dane County Code.

f. Sanitary facilities, including adequate private onsite wastewater treatment systems and any manure storage or management plans approved by the Madison & Dane County Public Health Agency and/or the Dane County Land and Water Resources Department.

g. Facilities for managing and removal of trash, solid waste and recyclable materials.

h. Anticipated daily traffic, types and weights of vehicles, and any provisions, intersection or

road improvements or other measures proposed to accommodate increased traffic.

i. A listing of hazardous, toxic or explosive materials stored on site, and any spill containment, safety or pollution prevention measures taken.

j. Outdoor lighting and measures taken to mitigate light-pollution impacts to neighboring properties.

k. Signage.

(f) *Hearing on application.* Upon receipt of the application and statement referred to in par. (e) above, the zoning committee shall hold a public hearing on each application for conditional use at such time and place as shall be established by the zoning committee. The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the zoning committee shall, by rule, prescribe from time to time.

(g) Notice of public hearing shall be given by publication of a Class 2 notice as provided for in chapter 985 of the Wisconsin Statutes. Notice to parties of interest shall be according to policies established by the zoning committee.

(h) *Standards.* No application for a conditional use shall be granted by the town board or zoning committee unless such body shall find that all of the following conditions are present:

1. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare;

2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use;

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made;

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and

6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

(i) *Conditions and guarantees.* Prior to the granting of any conditional use, the town board and zoning committee may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in subsection (h) above, or subsection (o) in the case of small scale electric generating stations under 10.123(3)(n), using wind or solar energy. In all cases in which conditional uses are granted, the town board and zoning committee shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

1. In addition to such other conditions as the town board and zoning committee may impose upon any conditional use, in the case of dependency living arrangements, each body shall require as a condition of approval that the use shall be discontinued at the time that a dependent person ceases to reside in the secondary living area. In no event shall the space so created be used for general rental purposes. The town board and zoning committee may, if they so desire, require the owner to record deed restrictions implementing these additional restrictions and such deed restrictions may be required to run in favor of the county, the town and adjacent landowners.

(j) *Appeal.* Any person aggrieved by the grant or denial of a conditional use permit, or the county board supervisor of the district in which the affected parcel is located, may appeal the decision of the town board or zoning committee to the county board. Such appeal must specify the grounds thereof in respect to the findings of the zoning committee, town board or both, the reason why the appellant is aggrieved and must be filed with the office of the zoning administrator within 20 days of the final action. The zoning administrator shall transmit such appeal to the county clerk who shall file such appeal with the county board. The county board shall fix a reasonable time for the hearing of the appeal and give public notice thereof as well as due notice to the applicant and the appellant(s) and decide the same within a reasonable time. The

action of the zoning committee, town board or both, shall be deemed just and equitable unless the county board by a three-fourths vote of supervisors present and voting reverses or modifies the action appealed from. An appeal from a decision of the zoning committee, town board or both, shall be taken to the county board. No other entity of county government has jurisdiction to hear any such appeal and the avenue of appeal provided for herein is exclusive, notwithstanding any appeal procedure as may be authorized by state law for specific conditional uses.

(k) *Effect of denial of application.* No application for a conditional use which has been denied wholly or in part shall be resubmitted for a period of one year from the date of said denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the zoning committee.

(L) In any case where the holder of a conditional use permit issued under this ordinance has not instituted the use or begun construction within one year of the date of approval, the permit shall be null and void.

(m) *Revocation of a conditional use permit.* If the zoning committee finds that the standards in subsection (2)(h) and the conditions stipulated therein are not being complied with, the zoning committee, after a public hearing as provided in subs. (2)(f) and (g), may revoke the conditional use permit. Appeals from the action of the zoning committee may be as provided in sub. (2)(j).

(n) *Abandoned conditional uses.* Any use, for which a conditional use permit has been issued, upon its cessation or abandonment for a period of one year, will be deemed to have been terminated and any future use shall be in conformity with these ordinances.

(o) *Standards for the review of small scale electric generating stations using wind or solar energy.*

1. An application for a conditional use permit for a small scale electric generating station under s. 10.123(3)(n) using wind or solar energy shall be considered by the town and the committee in conformance with Wis. Stats. s. 66.0401(4).

2. No condition or restriction may be placed upon a wind energy system or solar energy system unless such restriction or condition:

a. serves to preserve or protect the public health or safety;

b. does not significantly increase the cost of the system or significantly decrease its efficiency; or

c. allows for an alternative system of comparable cost and efficiency.

(3) *Statement of purposes.* Conditional rezonings are authorized as provided herein to enable adaptation of zoning to unique circumstances regarding particular sites, uses or neighborhoods when the county has not had sufficient experience with the type of use in question to lead to treatment of the use as a conditional use.

(a) *Conditions on rezonings.*

1. The zoning committee may recommend and the county board may adopt an ordinance effecting an amendment of the zoning district map containing the condition that the change in the map will take effect on such date occurring within a specified number of months of the date of county board approval of the amendment when the first on-site inspection for building location is made and approved for the project sought to be established, and in the event such approved inspection has not occurred by the end of the specified time period, the possibility of making effective the rezoning will then be terminated.

2. The zoning committee may recommend and the county board may adopt an ordinance effecting an amendment of the zoning district map containing the condition that the change in the map will take effect on such date occurring within a specified number of months of the date of county board approval of the amendment when a restrictive covenant has been recorded binding the property to conditions specified in the amending ordinance, and in the event such covenant is not recorded by the end of the specified time period, the possibility of making effective the rezoning will then be terminated.

(b) Conditions specified to be in such required covenants shall be related to the purposes of the ordinance. They may include, as specific cases warrant, limits of permissible uses to less than the full range of uses otherwise allowable in the district into which the land is being placed. Enforcement rights over such covenant controls shall be afforded to the county, the town and owners of property within 300 feet of the site. The covenant controls shall be amendable or repealable upon petition of the owner of the lands subject to the controls and approval by the county board after a hearing similar to a rezoning hearing. A rezoning of the lands to a different zoning district shall also act to repeal the

covenant controls. Except as provided above, the covenants shall run with the land.

(c) Other similar controls appropriate to handling by covenant provisions may also be imposed.

[History: (1)(e) cr., Sub. 1 to OA 32, 1992-93, pub. 04/14/93; (2)(c) cr., Sub. 3 to OA 36, 1987-88, pub. 08/02/88; (2)(c)-(m) renum. and (2)(c) cr., OA 9, 1993-94, pub. 04/20/94; (2)(j) am., OA 20, 1989-90, pub. 02/27/90; (2)(j) am., OA 50, 1987-88, pub. 06/18/88; OA 18, 1995-96, effecting (2)(j), vetoed by towns; (2)(b), (e), (f) and (j) and (3) am., OA 16, 1996-97, pub. 01/16/97; (1)(b) and (2)(L) am., and (2)(g) recr., OA 3, 2000-01, pub. 10/19/00; (2) am., OA 54, 2007-08, pub. 06/19/08; (1)(d) am., OA 6, 2008-09, pub. 09/16/08; (2)(e) am., OA 10, 2010-11, 12/10/10; (2)(c)3, (2)(i), and (2)(j) am., (2)(o) cr., Sub. 1 to OA 37, 2010-11, pub. 06/23/11.]

**10.26 BOARD OF ADJUSTMENT.**

(1) *Personnel, term and compensation.* The board of adjustment shall consist of five (5) members, appointed by the county executive with the approval of the county board, each serving for a term of three (3) years, the terms beginning July 1st and being staggered so that the terms of not more than two members shall expire in any year. Members shall reside in the unincorporated areas of the county and no two members shall be from the same town. Compensation of members shall be the same as allowed county board members for attendance at committee meetings.

(2) *Rules, meetings and minutes.* The county board shall adopt rules for the conduct of the business of said board of adjustment, in accordance with the provisions of any ordinance or ordinances adopted pursuant to sections 59.69, 59.692 or 87.30, Wis. Stats. The board of adjustment may adopt further rules as necessary to carry into effect the regulations of the county board. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be public record.

(3) *Appeals to the board.* Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the zoning administrator or other

administrative officer; an appeal may also be taken by the committee. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The committee may appeal only those matters properly before it prior to the committee vote and within thirty (30) days of the public hearing on the matter and only by a 2/3 vote of the committee's members. The committee's appeal shall be exempt from fee.

(4) *Stays.* An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the board of adjustment after the notice of appeal shall have been filed with him or her that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(5) *Hearing appeals.* The board of adjustment shall fix a reasonable time for the hearing of the appeal and publish a class 2 notice thereof under ch. 985, Wis. Stats., as well as give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appeal in person or by agent or attorney.

(6) *Powers of the board of adjustment.* The board of adjustment shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of sections 59.69, 59.692 or 87.30, Wis. Stats., or of any ordinance adopted pursuant thereto.

(b) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

(c) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of

the ordinance shall be observed and substantial justice done.

(7) *Order on appeal.* In exercising the above-mentioned powers such board may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(8) *Majority rule.* The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

(9) *Expiration of authorization.* When any construction shall have been authorized by the board of adjustment pursuant to the provisions of this section, a permit for such construction shall be taken out within one year from the date of such authorization, otherwise such authorization shall become null and void; provided that the board of adjustment, upon request, may extend such authorization for a specific period without the necessity of another public hearing.

(10) *Effect of the denial of an appeal by the board of adjustment.* An appeal that has been denied by the board of adjustment shall not be resubmitted for a period of one year from the date of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the board.

[History: (3) am., OA 20, 1989-90, pub. 02/27/90; (2), (5) and (6)(a) am., OA 16, 1996-97, pub. 01/16/97; (2) and (6) am., OA 43, 1996-97, pub. 06/17/97; (6)(a) am., OA 22, 1997-98, pub. 06/03/98.]

**10.27 SEVERABILITY OF ORDINANCE PROVISIONS.** Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole to any part thereof, other than the part so declared to be invalid.

**10.28 REPEAL OF CONFLICTING PROVISIONS.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.



## Who Are the Homeless Served in Dane County?



- The largest subpopulation of homeless served in Dane County was **individuals in families**; they made up 42% of the total homeless population. This was followed by single men who made up 40% of the homeless population served. In 2012, 1,362 single adult men were served by emergency shelter. During the same period, 881 children with their families and 31 unaccompanied youth spent at least one night in emergency shelter.
- During 2012, 251 families with 480 children stayed on mattresses at The Salvation Army, utilizing the emergency family shelter (**Warming Shelter**) for families with no other housing options. Prior to utilizing the warming shelter, 53% of families reported they had been doubled-up with friends or families, 12% of families reported sleeping on the street or in a vehicle, 12% reported staying in another emergency shelter, 11% reported they had stayed in their own home prior to coming to shelter, 10% reported self paying in a motel, and the remaining reported "other". One hundred forty-six (146) persons reported being evicted, 144 persons reported leaving a violent or threatening situation and 137 persons reported they were leaving as a result of a family or roommate conflict. Twenty percent (20%) of the families at the emergency family shelter reported having at least one family member with an existing mental health issue, 20% reported developmental and/or physical disabilities and 8% reported alcohol and/or other drug issues.
- Prior to seeking shelter, 35% of single men, 10% of single women and 11% of families reported **sleeping on the street or in a vehicle**; 476 single men, 54 single women and 47 households with children reported sleeping on the street or in a vehicle prior to coming to shelter. The 47 families who slept in uninhabitable places was a increase from 2011 when 41 families were reported. The number of single men who slept in uninhabitable places (476) increased from 397 men in 2011, the highest reported number since data started being collected in 2000. The number of single women (54) who slept in uninhabitable places also increased from 33 women in 2011.
- Eighty percent (80%) of people in shelter described themselves as **non-white**; African Americans made up the largest group. Seventy-nine percent (79%) of families, 49% of single women, 48% of single men and 68% of unaccompanied youth identified themselves as non-white.
- Sixty-nine percent (69%) of single men, 64% of single women and 67% of the individuals in families and who stayed in a shelter reported that they have lived in **Dane County** for more than one year. Three percent (3%) of families reported living in Dane County for less than one month. One percent (1%) of single women reported living in Dane County for less than one month. One percent (1%) of single men reported living in Dane County for less than one month.
- Thirty-six percent (36%) of families reported the reason for seeking shelter was the "threat or fear of violence". Twenty percent (20%) of single women reported that the "little or no income" as the reason for seeking shelter with the next highest percentage (16%) reporting "conflicts with family or roommates". Majority of single men reported the main reason for seeking shelter was "little to no income". "Conflicts with family or roommates" was the reason given for seeking shelter for 94% of unaccompanied youth.
- Prior to seeking shelter, 47% of families, 36% of single women and 24% of single men reported being **doubled-up** with friends or family.



- Twenty-four percent (24%) of single men, 27% of families and 43% of single women reported **mental health issues** and 23% of single men, 5% of families and 14% of single women and reported **alcohol and other drug abuse issues**.
- For **families**, 22% reported earning wages at the time of entering shelter, 26% received social security or income from related programs, and 26% received income from W-2 or TANF from another state. The remaining balance reported no income or other sources.
- For **single women**, 18% receive income from wages, 37% report income from social security, social security supplemental income or social security disability income while 33% reported no income and the remaining balance reported "other". Sixty-five percent (65%) single women received food stamps and 31% received medical assistance. Nineteen percent (19%) of **single men** reported earning wages at the time they entered shelter, 23% were receiving SS/SSI/SSDI, 38% reported no income and 20% reported other sources.
- Of the total households served seven percent (7%), 174 households, indicated that they were **veterans** (1% of families, 1% of single women and 11% of single men). This is an increase from 2011 when 5% (167 households) had at least one person with a veteran's status.
- Two percent (2%) of families, 2% of single women and 11% of single men reported someone in the household was on **probation or parole**.
- In 2012, there were 41 persons in a shelter aged **62 or older**, which is a similar to 2011 when 46 individuals were reported to be served in shelter.

# Dane County Planning & Development Dept

## December 2013

### Homelessness and Dane County Fact Sheet

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#### Why are People Homeless?

There are two trends largely responsible for the rise in homelessness over the past 20-25 years: a growing shortage of affordable rental housing and a simultaneous increase in poverty.

#### **Lack of Affordable Housing**

There has been an increase of 41% from 2000 to 2009 in fair market rent for a two-bedroom unit, according to HUD (National Low Income Housing Coalition, 2009).

#### **Poverty**

Two factors help account for increased poverty: eroding employment opportunities for large segments of the workforce and the declining value and availability of public assistance.

In 2007, 12.5% of the U.S. population, or 37 million people, lived in poverty. The official poverty rate in 2007 was not statistically different than in 2006 (U.S. Bureau of the Census, 2007). Children are overrepresented, composing 35.7% of people in poverty while only being 24.8% of the total population.

In 2012, 15% of the US population was living in poverty, or 46.5 million people<sup>i</sup>.

The poverty rate in 2012 for children under age 18 was 21.8 percent. The poverty rate for people aged 18 to 64 was 13.7 percent, while the rate for people aged 65 and older was 9.1 percent<sup>ii</sup>.

Poor people are frequently unable to pay for housing, food, childcare, health care, and education. Difficult choices must be made when limited resources cover only some of these necessities. Often it is housing, which absorbs a high proportion of income that must be dropped.

#### **Eroding work opportunities**

Other reasons why homelessness persists include stagnant or falling incomes and less secure jobs which offer fewer benefits.

#### Other Factors

Particularly within the context of poverty and the lack of affordable housing, certain additional factors may push people into homelessness. These include:

#### **Lack of Affordable Health Care**

For families and individuals struggling to pay rent, a serious illness or disability can start a downward spiral into homelessness, beginning with a lost job, depletion of savings to pay for care, and eventual eviction.

One in three Americans, or 86.7 million people, are uninsured. Of those uninsured, 30.7% are under eighteen. In 2007-2008, four out of five people that were uninsured were working families. Work-based health insurance has become rarer in recent years, especially for workers in the agricultural or service sectors (Families USA, 2009).

In 2011, the percentage of people without health insurance decreased to 15.7 percent from 16.3 percent in 2010. The number of uninsured people also decreased, to 48.6 million, down from 50.0 million in 2010.

In 2012, the percentage of people without health insurance decreased to 15.4 percent from 15.7 percent in 2011. The number of uninsured people in 2012 was not statistically different from 2011, at 48.0 million<sup>iii</sup>.

## Domestic Violence

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Battered women who live in poverty are often forced to choose between abusive relationships and homelessness. In addition, 50% of the cities surveyed by the U.S. Conference of Mayors identified domestic violence as a primary cause of homelessness (U.S. Conference of Mayors, 2005). Approximately 63% of homeless women have experienced domestic violence in their adult lives (Network to End Domestic Violence).

### Mental Illness

Approximately 16% of the single adult homeless population suffers from some form of severe and persistent mental illness (U.S. Conference of Mayors, 2005). Despite the disproportionate number of severely mentally ill people among the homeless population, increases in homelessness are not attributable to the release of severely mentally ill people from institutions. Most patients were released from mental hospitals in the 1950s and 1960s, yet vast increases in homelessness did not occur until the 1980s, when incomes and housing options for those living on the margins began to diminish rapidly.

According to the 2003 U.S. Department of Health and Human Services Report, most homeless persons with mental illness do not need to be institutionalized, but can live in the community with the appropriate supportive housing options (U.S. Department of Health and Human Services, 2003). However, many mentally ill homeless people are unable to obtain access to supportive housing and/or other treatment services. The mental health support services most needed include case management, housing, and treatment.

### Addiction Disorders

While rates of alcohol and drug abuse are disproportionately high among the homeless population, the increase in homelessness over the past two decades cannot be explained by addiction alone. Many people who are addicted to alcohol and drugs never become homeless, but people who are poor and addicted are

clearly at increased risk of homelessness. Addiction does increase the risk of displacement for the precariously housed; in the absence of appropriate treatment, it may doom one's chances of getting housing once on the streets. Homeless people often face insurmountable barriers to obtaining health care, including addictive disorder treatment services and recovery supports.

## Dane County and Homelessness

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In Dane County, the causes and conditions of homelessness and poverty reflect those described nationwide. Below are local statistics and descriptions of Dane County initiatives as well as details about funding and programs.

### Statistics

In 2012, 3,382 individuals stayed at least one night in a Dane County shelter program. This number represents 1,436 people in families (445 families with 881 children under 18 years of age), 1,362 single men, 549 single women, 31 unaccompanied youth under the age of 18 and 2 couples without children.

It was reported that in 2012, a total of 1,654 individuals were turned away without shelter. This number was a decrease from 2011 when 2,003 were turned away without shelter. In 2012, 63% of those turned away were families with children. The primary reasons indicated for turn-aways were "no shelter beds or vouchers available."

### Available Housing

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In Dane County there are a combined total of 1,059 transitional housing and supportive permanent housing beds/units and rent subsidized units operated by non-profit organizations.

In 2012, the CDA operated 859 units as public housing and 168 units as affordable housing (Monona Shore Redevelopment, Burr Oaks

Senior Housing and Revival Ridge). The DCHA operated 102 units across Dane County.

According to WHEDA and HUD, there are 8,628 federally assisted housing units in Dane County: 4,683 for families with children, 3,733 for elderly and disabled tenants, and 212 for special needs tenants. This is an increase from 2011. Sixty-four percent (64%) of the units are located within the Madison city limits.

## Dane County Programs

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- Dane County primarily provides funding for emergency shelters for single men and women and families. In 2014 the county will provide just over \$1.2 million to support shelter programs.
- The county will provide just over \$243,000 for housing counseling, family support and crisis funds in 2014.
- \$150,000 (including \$100,000 in outside revenue) has been included in the 2014 budget to operate a day resource center for the homeless.
- \$1.6 million is available in 2014 to develop various housing alternatives for low income individuals.

In addition to Dane County programs, there are dozens of programs, agencies and non profit organizations that work to support the homeless and housing insecure throughout the City and County.

### References

*This fact sheet was excerpted from the National Coalition for the Homeless Report, July 2009; and, the 2012 Annual Report on Homeless Served in Dane County, City of Madison, Community Development Division.*

*Additional statistics included are from the US Census and noted.*

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<sup>i</sup> US Census, *Current Population Survey (CPS), 2013 Annual Social and Economic Supplement (ASEC)*.

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<sup>ii</sup> US Census, *Current Population Survey (CPS), 2013 Annual Social and Economic Supplement (ASEC)*. *Since unrelated individuals under 15 are excluded from the poverty universe, there are 468,000 fewer children in the poverty universe than in the total civilian non-institutionalized population.*

<sup>iii</sup> US Census, *Current Population Survey (CPS), 2013 Annual Social and Economic Supplement (ASEC)*.

For further information, please contact:

**Dane County Planning & Development Dept.**

210 Martin Luther King Jr., Blvd  
Room 116  
Madison, WI 53703  
Phone: 608-266-4251



- Home
- Homelessness in Madison
- About Porchlight
- Porchlight Programs**
- Porchlight Products
- How to Help
- News & Events
- Publications

### Porchlight Programs

#### Hospitality House

Hospitality House is Porchlight's daytime resource center for homeless and low-income people in Dane County. Services at Hospitality House include employment and housing counseling, assistance in obtaining identifications, personal hygiene essentials and work clothes and telephone and mail services. Hospitality House is also the site for the DIGS program (Porchlight's emergency eviction prevention and utilities assistance funds). Hospitality House serves over 7,000 men, women and children a year.

#### Hospitality House Hours:

- April-October: the Hospitality House is open from 8:30am-4:30pm, Monday-Friday.
- November-March: the Hospitality House is open from 8:30am-4:30pm seven days a week. **These hours begin on Saturday, November 2nd.**

Hospitality House is located at 1490 Martin Street. A shuttle bus runs Monday-Friday mornings to Hospitality House from the Salvation Army and the Drop-In Shelter, leaving Salvation Army at 8:00am.



2011 HOSPITALITY HOUSE SERVICES	
PERSONS SERVED	1,000
• EMERGENCY SERVICES	1,000
• HOUSING SERVICES	1,000
• FOOD SERVICES	1,000
• PERSONAL HYGIENE SERVICES	1,000
• PHONE AND MAIL SERVICES	1,000
• JOB TRAINING SERVICES	1,000
• ID SERVICES	1,000
• TRANSPORTATION SERVICES	1,000
• SUPPORTIVE SERVICES	1,000
• OTHER SERVICES	1,000

Porchlight Inc. | 306 North Brooks Street | Madison, WI 53715 | Phone: 608.257.2534 | Fax: 608.257.2507





**Rick Rose**

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**From:** Lane, Roger <lane.roger@countyofdane.com>  
**Sent:** Monday, May 12, 2014 3:23 PM  
**To:** Rick Rose  
**Subject:** FW: 1490 Martin Street Zoning

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**From:** Lane, Roger  
**Sent:** Thursday, February 13, 2014 10:52 AM  
**To:** Allan, Majid  
**Subject:** FW: 1490 Martin Street Zoning

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**From:** Lane, Roger  
**Sent:** Friday, January 03, 2014 3:25 PM  
**To:** Guyer, Laura  
**Subject:** RE: 1490 Martin Street Zoning

Dear Laura,

The resource center would be permitted by right in the C-1 Commercial Zoning District. Service uses, medical clinics, and rooming/boarder houses are all permitted by right in this district. I would view the resource center being a combination of the certain aspects of the permitted uses.

No special zoning approvals would be needed. If remodeling, you may need a building permit from the Town of Madison.

Regards,

Roger Lane  
Dane County Zoning Administrator

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**From:** Guyer, Laura  
**Sent:** Friday, January 03, 2014 1:54 PM  
**To:** Lane, Roger  
**Cc:** Zimmermann, Jan  
**Subject:** RE: 1490 Martin Street Zoning

Thanks, Roger! This is very helpful.

The tentative answers to your questions are:

1. The center will not be open 24 hours
2. The center will most likely offer meals. At a minimum it will offer snacks. Lunch would be the primary meal if meals are provided.
3. I don't know how to answer the question of being open to the general public. My understanding is that it will be open to the public and that anyone that is willing to follow the rules would be welcome. The center, at a minimum, would offer an indoor space for people to escape the elements and have access to restrooms. The

center might also offer snacks/meals, showers, locker space, laundry, computer access, private meeting offices, and a location for individuals to meet with case workers.

4. No one will be sleeping at the facility

Will keep you posted on the site and whether we are going to put in offer in on it.

thanks  
laura

---

**From:** Lane, Roger  
**Sent:** Friday, January 03, 2014 12:45 PM  
**To:** Guyer, Laura  
**Cc:** Zimmermann, Jan  
**Subject:** RE: 1490 Martin Street Zoning

Dear Laura,

I researched the zoning of 1490 Martin Street. In 2000, a petition was submitted to change the zoning for the multi-family complex to the north of Porchlight property. At that time, most of the multi-family complex was zoned C-1 including 1480/1490 Martin Drive. When the C-1 zoning changed to R-4, the 1480 and 1490 Martin Drive properties were inadvertently included as part of the change. The petition's legal description did not include the 1480/1490 Martin Drive properties.

I have concluded that the zoning of 1480 and 1490 Martin Drive actually holds the zoning district classification of C-1 Commercial. The zoning maps will be revised to reflect the correct zoning.

To determine the correct land use category, I have a few questions about the proposed resource center. Will the center be open 24-hours? Will they be offering meals? What types of services with they be providing to the general public? Will there be anyone sleeping at the facility or living at the facility?

Respectfully,

Roger Lane  
Dane County Zoning Administrator

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**From:** Guyer, Laura  
**Sent:** Thursday, January 02, 2014 2:06 PM  
**To:** Lane, Roger  
**Cc:** Zimmermann, Jan  
**Subject:** FW: 1490 Martin Street Zoning

Hi Roger,

The County is considering the purchase of 1490 Martin Street for use as a day resource center for the homeless. The property is currently used for the same purpose and is owned and operated by Porchlight, Inc. Based on the email below, can you let me know what the County would need to do in terms of rezoning/CUPs if we buy the property.

thanks  
Laura

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**From:** Dominic Landretti [mailto:[appraisal@landretti.com](mailto:appraisal@landretti.com)]  
**Sent:** Thursday, January 02, 2014 1:56 PM  
**To:** Zimmermann, Jan; Guyer, Laura  
**Cc:** Sean Hall  
**Subject:** 1490 Martin Street Zoning

Jan and Laura

The zoning at 1490 Martin Street, Madison was changed in 2000 from C-1 to R-4 indicating the current use is illegal. It appears the change may have been an error based on a discussion with Dane County Zoning. Nevertheless, the zoning will need to be changed to permit the existing use. I suggest we include a hypothetical condition that the zoning has been change to C-1 and appraise the existing use.

Please let me know how to proceed.

Thanks

Dominic

Dominic Landretti, MAI  
Owner – Valuation Consultant  
Landretti & Company, LLC  
1818 Parmenter Street, Suite 202  
Middleton, Wisconsin 53562  
(O) 608-836-3406 x100  
(F) 608-836-3418  
(C) 608-575-6861  
[appraisal@landretti.com](mailto:appraisal@landretti.com)  
[www.landretti.com](http://www.landretti.com)

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To: [roser@town.madison.wi.us](mailto:roser@town.madison.wi.us)      [Remove this sender from my allow list](#)  
From: [lane.roger@countyofdane.com](mailto:lane.roger@countyofdane.com)

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