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# Turke & Strauss LLP

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SENT VIA EMAIL

June 13, 2019

Mr. Roger Lane  
Zoning Administrator  
Dane County Planning & Development  
City County Building, Room 116  
210 Martin Luther King Jr. Blvd.  
Madison, WI 53703  
[lane.roger@countyofdane.com](mailto:lane.roger@countyofdane.com)

Re: Zoning Amendment Petition 11422 (the "Petition")

Dear Mr. Lane,

My law firm has been retained by Brad and Susan Madigan (the "Madigans") in connection with the Petition. As you know, according to the Petition, Mr. David Esser intends to divide property he owns creating two additional parcels (the "New Esser Parcels") and seeks to rezone the New Esser Parcels to RR-2. The Madigans own a property near the New Esser Parcels and received notification of the upcoming public hearing regarding the Petition, and the Madigans plan to attend the public hearing on June 25, 2019.

The Madigans strongly object to the proposed zoning amendment in the Petition and ask the Dane County Zoning and Land Regulation Committee to postpone a decision indefinitely on the Petition until an agreement can be reached between the Madigans and Mr. Esser on the allocation of HDRs (Housing Development Rights) that remain from the original Madigan/Esser farm.

The Madigans and Mr. Esser are relatives, and the dispute over the allocation of HDRs stems from a farm formerly owned together by the Madigan and Esser families. According to the density study prepared by the Dane County zoning department you sent me (a copy of which is attached) Robert Esser and Richard Madigan, jointly owned a farm with approximately 198 acres as of June 28, 1979, when the A-1EX zoning was adopted, and consequently the farm was eligible to receive 5 HDRs.

Since 1979, title to the farm has changed several times, but I understand ownership was always equally divided between the Esser and Madigan families, and Robert Esser and Richard Madigan formed a partnership (the Esser-Madigan Farm) that held an ownership interest in the farm. I further understand that both the Esser and Madigan families equally shared all income and expenses in connection with the farm and partnership, including income from the sale in 1985 of approximately 10-acres of the farm to Brad and Susan Madigan by a land contract (which included the allocation of one HDR from the original farm).

In December 2000, the remaining farm consisted of approximately 188.5 acres and was divided between the Madigan and Esser families, with each family receiving approximately half of the 188.5 acres. The property distributed to the Madigan family included the farmhouse from the original farm and the allocation of 2 HDRs allocated to the farmhouse (prior to December 2000, the farmhouse had been converted to a duplex and sold to Brad Madigan). At that time, I understand the Esser-Madigan Farm partnership was also dissolved and its assets were equally divided between the two families.

According to the density study, today 2 of the 5 HDRs from the original Madigan/Esser farm remain to be allocated between the parcels owned by the Madigan and Esser families. I understand no written agreement exists between the parties and all recorded deeds and other documents related to the original farm property are silent as to the allocation of HDRs, but the Madigans informed me when the farm was divided between the two families, the Madigan and Esser families intended to evenly divide the farm, the partnership and all jointly held assets, which would include the 2 remaining unallocated HDRs. Therefore, the 2 remaining unallocated HDRs are assets should be evenly distributed to the two families.

The Madigans intend to diligently attempt to resolve the dispute they have with Mr. Esser, and therefore the Madigans respectfully ask the Dane County Zoning and Land Regulation Committee to postpone action indefinitely until a resolution can be reached between the parties regarding the allocation of the 2 remaining HDRs.

Very truly yours,

TURKE & STRAUSS LLP

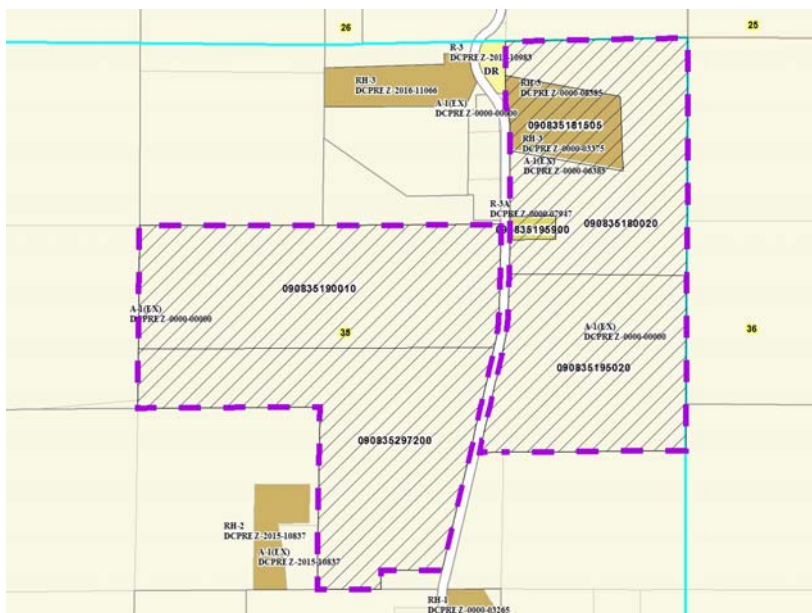
A handwritten signature in black ink, appearing to read "Peter D. Turke", with a stylized, cursive script.

Peter D. Turke

DRAFT: FOR DISCUSSION PURPOSES ONLY

IMPORTANT NOTE: ACREAGE VALUES AND OWNERSHIP HEREIN ARE DERIVED FROM HISTORICAL AND CURRENT RECORDS LOCATED AT THE DANE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT (EG. GIS, PLAT BOOKS, ZONING PERMIT DATA, CSM'S, ETC). DENSITY POLICIES VARY AMONG TOWNS AND MAY REQUIRE INTERPRETATION.

		<b>Applicant:</b> ESSER FAMILY TRUST			
<b>Town</b>	Dane	<b>A-1EX Adoption</b>	6/28/1979	<b>Orig Farm Owner</b>	Robert Madigan & Robert Esser
<b>Section:</b>	35	<b>Density Number</b>	35	<b>Original Farm Acres</b>	198.71
<b>Density Study Date</b>	1/27/2017	<b>Original Splits</b>	5.68	<b>Available Density Unit(s)</b>	2



## Reasons/Notes:

- [5] Original HDR (splits)
- [-1] Rezone 3375/6385
- [-2] Rezone 1348/7947 (duplex)
- [2] HDR's Remain with the Farm.

Note: Parcels included in the density study reflect farm ownership and acreage as of the date of town plan adoption, or other date specified. Density study is based on the original farm acreage, NOT acreage currently owned.

<u>Parcel #</u>	<u>Acres</u>	<u>Owner Name</u>	<u>CSM</u>
090835181505	10.19	BRAD A MADIGAN & SUSAN M MADIGAN	04638
090835195020	40.16	ESSER FAMILY TRUST	
090835190010	53.48	ESSER FAMILY TRUST	
090835297200	54.4	RICHARD MADIGAN & MADIGAN REV LIVING TR, RICHARD D	
090835180020	39.19	RICHARD MADIGAN & MADIGAN REV LIVING TR, RICHARD D	
090835195900	1.29	TREVOR B MADIGAN & ALICIA MADIGAN	09865