



# Dane County Planning & Development Zoning Division

March 20, 2024

MAIER FARM REAL ESTATE LLC  
7085 SCHUMACHER RD  
WAUNAKEE WI 53597

RE: Wetland Use Violation

Dear Mr. Maier,

This letter serves as a determination by Dane County Zoning that the installation of drain tile and pump within a delineated wetland on your property does not meet the criteria of a permitted wetland use under Dane County Code of Ordinances (DCCO) Section 11.07(2)(c) and is therefore prohibited under 11.09. The use described in 11.07(2)(c) allows the maintenance and repair of existing agricultural drainage systems such as existing ditches and drain tiling. Maintenance and repair within this context is also limited to ditching, tiling, dredging, excavating or filling and does not encompass the installation of a pump or other equipment or structures.

Your justification for the project as maintenance and repair centered on the property's designation as 'prior converted cropland' by the NRCS, implying the existence of a historical agricultural drainage system.

However, your arguments raise concerns:

- The assumption of a pre-existing system solely based on the land's classification is insufficient.
- Lack of knowledge about the system due to past ownership does not excuse unauthorized wetland modification.
- No evidence of existing ditches or drain tile was presented.

While increased and more frequent rain events may have impacted historical drainage patterns, installing entirely new tiling and a pump goes beyond mere repair or maintenance of a pre-existing system as defined under 11.07(2)(c). Repair and maintenance are limited to activities that uphold the existing level of drainage for continued agricultural use, not the creation of new systems to maintain historical practices. As a result, your actions constitute a wetland zoning violation for a prohibited use in a wetland under DCCO 11.09.

Your options for compliance with Dane County wetland zoning regulations are:

1. Eliminate the prohibited wetland use by removing the drain tiling and pump from the wetland.
2. Effectively rezone the tiled land out of the wetland zoning district by following the procedure established in [DCCO 11.10](#).

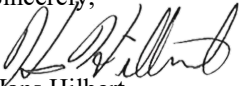
Removal of the drain tile and pump will require an erosion control permit from Dane County Land and Water Resources for any ground disturbing activity within or within 75 feet of the wetland. In addition, all corrective actions will need to be part of a restoration plan approved by the Wisconsin Department of Natural Resources as requested in their Notice of Non-Compliance dated February 12, 2024.

Please let me know if you need any assistance in developing a plan of action leading to compliance or would like more information on the requirements of rezoning land out of wetland.

If steps towards compliance are not pursued, further enforcement actions will commence including citations and a summons and complaint filed in Dane County Circuit Court.

*Any person aggrieved by any decision of the zoning administrator or other administrative officer, may appeal that decision to the Dane County Board of Adjustment by following the procedures in DCCO 10.101(9) within 30 days of the determination date.*

Sincerely,



Hans Hilbert  
Assistant Zoning Administrator  
County of Dane  
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