

**DODGE COUNTY LAND RESOURCES AND PARKS COMMITTEE  
MINUTES  
September 25, 2023**

The Dodge County Land Resources and Parks Committee met on **September 25, 2023** at 7:00 p.m. on the 1<sup>st</sup> Floor of the Administration Building, Juneau, Wisconsin.

**Call to Order:** Chair Mary Bobholz called the meeting to order at 7:00 PM.

**Members present:** Mary Bobholz, Dale Macheel, Benjamin Priesgen and Dan Siegmann.

**Members excused:** Donna Maly

Other County Board members in attendance requesting a per diem: **None**

**Staff present:** Bill Ehlenbeck - Director, Joseph Giebel – Manager of Code Administration,

Others present: Dodge County Corporation Counsel – Kim Nass; No one from the public was present at this meeting.

The Chairman asked the staff to confirm compliance with the open meeting laws and the public hearing notice requirements. Mr. Giebel noted that the meeting was properly noticed in accord with the open meeting law and noted that the required notices for the public hearings listed on the agenda were posted, mailed and published in accord with the statute and code requirements.

1. The minutes from the September 11, 2023 meeting were reviewed by the Committee.

Motion by Dan Siegmann to approve the minutes as written.

Second by Ben Priesgen

Vote: 4-0 Motion carried.

**The hearing procedures were read into the record.**

**PUBLIC HEARING**

Petition of the Dodge County Land Resources and Parks Committee to amend the Sanitary Ordinance, Dodge County, Wisconsin. The petition includes a series of amendments that are intended to clarify the maintenance, reporting and maintenance fee requirements for private onsite wastewater treatment systems and its components, for holding tanks and for alternative sanitation systems. The petition also includes definitions of certain terms used within the Ordinance.

Motion by Mary Bobholz to submit a favorable recommendation to the County Board on the request to amend the Sanitary Ordinance, Dodge County, Wisconsin.

Second by Dale Macheel     Vote 4-0     Motion carried.

**Closed Session**

Request by the Corporation Counsel – Kim Nass, to convene in closed session for the purpose of conferring with legal counsel for Dodge County, who will render oral or written advice concerning strategy to be adopted by Dodge County with respect to litigation in which it is involved, namely, Katrina Dalgren, Plaintiff, v, Dodge County and Dodge County Land Resources and Parks Committee, Defendants, and, Dodge County Wisconsin Circuit Court Case No. 2022CV000289. This portion of the meeting is closed pursuant to Section 19.85(1)(g), of the Wisconsin Statutes.;

Motion by Mary Bobholz to convene in closed session for the purpose of conferring with legal counsel for Dodge County, who will render oral or written advice concerning strategy to be adopted by Dodge County with respect to litigation in which it is involved, namely, Katrina Dalgren, Plaintiff, v, Dodge County and Dodge County Land Resources and Parks Committee, Defendants, and, Dodge County Wisconsin Circuit Court Case No. 2022CV000289. This portion of the meeting is closed pursuant to Section 19.85(1)(g), of the Wisconsin Statutes.;

Second by Ben Priesgen      Vote 4-0      Motion carried.

The Committee met in closed session.

Motion by Dale Macheel to reconvene in open session  
Second by Ben Priesgen      Vote 4-0      Motion carried.

The Committee reconvened in open session in order to consider the following matters:

**ADMINISTRATION**

- A. Proposed 2024 Department Budget Update  
Bill Ehlenbeck provided the Committee with a brief update on the proposed 2024 Department Budget. The upper Ledge Road reconstruction project remains unfunded at this point, so it has been removed from the proposed 2024 budget. No other significant changes have been made to the budget since the last update.
- B. No Committee Member Reports
- C. No additional per diems

Future meetings: October 9, 2023 at 7:00 PM

Motion by order of the Chair to adjourn the meeting.

Motion carried.

Meeting adjourned at 7:57 p.m.

Respectfully Submitted,

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Secretary

Disclaimer: The above minutes may be approved, amended or corrected at the next committee meeting.

# Land Resources and Parks Department Staff Report

**County Rezoning Petition # 2023-0754**

**Filing Date: August 31, 2023**

**Hearing Date: October 9, 2023**

**Applicant (Agent):**

Raymond Schrab  
6536 Hawthorne Lane  
Hartford, WI 53027

**Owner:**

Victoria Schrab Revocable Trust  
104 Fakes Ct. Apt 212  
Beaver Dam, WI 53916

**Location**

PIN# 024-1016-1924-000; 024-1016-1921-000;  
SE ¼ of the NW ¼, Section 19, Town of Hustisford, the site address being N3650 County Road DJ.

**Applicants Request**

A rezoning petition has been submitted by the applicant in order they be allowed to rezone approximately 10-acres of land from the A-1 Prime Agricultural zoning district to the A-2 General Agricultural zoning district under the Dodge County Land Use Code in order to allow for the creation of a non-farm residential lot.

**Land Use Code Provisions**

1. Subsections 2.3.4.A through 2.3.4.J of the Land Use Code details procedural matters, the approval criteria and the form for the petition. The Committee must hold a public hearing and report to the County Board. The role of the Town boards in the process is also outlined in this section.
2. Subsection 2.3.4.B states that a petition for rezoning may be made by any property owner in the area to be affected by the rezoning.

**Purpose Statements**

The purpose of the A-1 Prime Agricultural Zoning District is to promote areas for uses of a generally exclusive agricultural nature in order to protect farmland, allow participation in the state's farmland preservation program, and accommodate changing practices in the agricultural industry, subject to appropriate standards.

The purpose of the A-2 General Agricultural Zoning District is to promote areas for agriculture which are transitional, allowing for expansion of urban areas limited to rural residential development, and the conversion of agricultural land to other related uses, subject to appropriate standards.

**Physical Features of Site**

**The features of the proposed construction and property that relate to the rezoning request are as follows:**

The County has Zoning Jurisdiction over this site as the Town of Hustisford has adopted the County's Land Use Code. The site is located within the A-1 Prime Agricultural Zoning District.

The County has Shoreland Jurisdiction over portions of both lots.

- Portions of the 10-acre lot to be rezoned are designated as wetlands.

The proposed lots are not located within the County's Floodplain jurisdiction.

The topography of the site is rolling with slopes ranging from 0 to 12%;

Land Use, Site: Residential and agricultural.

- The majority of the proposed 10-acre lot is designated as a wetland. The east edge of the proposed 10-acre lot is vacant open space upland area which is intended for non-farm residential use. The remaining approximate 70-acres contains a residence, agricultural outbuildings and farmland which will remain in agricultural and residential use at this time.

Land Use, Area: Agricultural with scattered residences along Birch Road and CTH DJ.

Designated Archaeological Site:    Yes             No

Density Standards

The base farm tract for this property contains 79+acres within the A-1 Prime Agriculture Zoning District. The Code would allow a maximum of 3.76-acres for non-farm residential use under the conditional use permit process. Therefore, in this case, rezoning is required to allow for the creation of a 10-acre nonfarm residential lot at this location.

The proposal is consistent with the Dodge County Comprehensive Plan and Farmland Preservation Plan:

- The site is designated as agricultural according to the County's Future Land Use Map which can include a limited amount of residential development, but where the predominant land use would be agricultural in nature.

Town Recommendation

A recommendation has not been forwarded to the Department regarding this petition as of September 28, 2023.

**STAFF ADVISORY:**

***This staff advisory is only advice to the Land Resources and Parks Committee. The Committee may or may not consider the advice of the staff and decision making authority is vested in the Committee only.***

The staff has reviewed the petition for compliance with the approval criteria listed in Section 2.3.4.I of the Code with Chapter 91.48 of the Wisconsin State Statutes. The staff comments are listed in Exhibit A for the Committee review.

The staff believes that the committee can make the findings necessary under Section 2.3.4.I of the code and Chapter 91.48 of the Wisconsin State Statutes in order to submit a favorable recommendation to the County Board for this proposal.

## Exhibit A

### 2.3.4.I Approval Criteria

In acting on a rezoning petition, the County Board of Supervisors shall consider the stated purpose of the proposed zoning district and shall approve the rezoning petition only if it finds that:

**2.3.4.I.1** Adequate public facilities and services (including sewage and waste disposal, water, gas, electricity, schools, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;

- It is the staff's position that there are adequate public facilities and services to serve the proposed lots;

**2.3.4.I.2** Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of affected local units of government to provide them;

- It is the staff's position that the proposed development project will not place an unreasonable burden on the ability of the Town to provide adequate public facilities or services;

**2.3.4.I.3** The proposed development will not result in significant adverse impacts upon surrounding properties or the natural environment, including air, water, noise, stormwater management, soils, wildlife, and vegetation;

- It is the staff's position that if the proposed area to be rezoned is developed in accord with the Land Use Code provisions, the development project will not have an unreasonable adverse effect on surrounding properties or the environment;

**2.3.4.I.4** The land proposed for rezoning is suitable for development and will not cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural areas;

- It is the staff's position that the area to be rezoned is suitable for development and if the land is developed in accord with the land use code provisions, the project will not cause unreasonable soil erosion;

**2.3.4.I.5** The proposed rezoning is consistent with the Dodge County Comprehensive Plan and Farmland Preservation Plan and the stated purposes of this Code;

- It is the staff's position that the proposal is consistent with the Dodge County Comprehensive Plan as the site is designated as agricultural according to the County's Future Land Use Map which can include a limited amount of residential development, but where the predominant land use would be agricultural in nature.
- It is the staff position that the proposal is consistent with the Farmland Preservation Plan

**2.3.4.I.6** The proposed rezoning will not be used to legitimize, or "spot zone," a nonconforming use or structure;

- It is the staff's position that the proposed rezoning is consistent with the County's Future Land Use Map as this site is designated as agriculture. Therefore it is the staff's position that the proposed rezoning will not result in spot rezoning.

**2.3.4.I.7** The proposed rezoning is the minimum action necessary to accomplish the intent of the petition, and an administrative adjustment, variance, or Conditional Use Permit could not be used to achieve the same result.

- It is the staff's position that the proposed rezoning is the minimum action necessary to accomplish the intent of the petition;

**2.3.4.I.8** For all proposed rezoning petitions that will remove land from the A-1 Prime Agricultural Zoning District, the following additional findings shall be made:

**2.3.4.I.8.a** The land is better suited for a use not allowed in the A-1 Prime Agricultural Zoning District;

- It is the staff's position that the land to be rezoned is better suited for non-agricultural use.

**2.3.4.I.8.b** The rezoning is substantially consistent with the Dodge County Comprehensive Plan and Farmland Preservation Plan;

- The property is designated as agricultural and conservancy according to the County's Future Land Use Map and therefore it is the staff's position that the proposed rezoning is substantially consistent with the Dodge County Comprehensive Plan and the Farmland Preservation plan;

**2.3.4.I.8.c** The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use;

- It is the staff's position that the proposed rezoning will not substantially impair or limit the current or future agricultural use of the adjacent parcels;

**2.3.4.J Approval by Affected Town Boards**

Approval of rezoning petitions by affected town boards shall occur pursuant to the procedures set forth in Section 2.2.15.

- A recommendation has not been forwarded to the Department regarding this petition.

**Dodge County Land Resources and Parks Committee Decision**

**County Rezoning Petition # 2023-0754**

**Filing Date: August 31, 2023**

**Hearing Date: October 9, 2023**

**Applicant (Agent):**

Raymond Schrab  
6536 Hawthorne Lane  
Hartford, WI 53027

**Owner:**

Victoria Schrab Revocable Trust  
104 Fakes Ct. Apt 212  
Beaver Dam, WI 53916

**Location**

PIN# 024-1016-1924-000; 024-1016-1921-000;  
SE ¼ of the NW ¼, Section 19, Town of Hustisford, the site address being N3650 County Road DJ.

**Applicants Request**

A rezoning petition has been submitted by the applicant in order they be allowed to rezone approximately 10-acres of land from the A-1 Prime Agricultural zoning district to the A-2 General Agricultural zoning district under the Dodge County Land Use Code in order to allow for the creation of a non-farm residential lot.

**CONCLUSIONS OF LAW**

**Based upon the facts presented in the application and at the public hearing the committee concludes that:**

**2.3.4.I Approval Criteria**

**2.3.4.I.1** Are there adequate public facilities and services available to serve the subject property while maintaining adequate levels of service to existing development? (sewage and waste disposal, water, gas, electricity, schools, police and fire protection, and roads and transportation, as applicable)

(Yes / No / N/A);

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2.3.4.I.2** Will the provision of public facilities to this project place an unreasonable burden on the ability of affected local units of government to provide them?

(Yes / No / N/A);

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2.3.4.1.3** Will the proposed development result in significant adverse impacts upon surrounding properties or the natural environment? (air, water, noise, stormwater management, soils, wildlife, and vegetation)

(Yes / No / N/A);

Comments

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**2.3.4.1.4** Will the development of this land cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural areas?

(Yes / No / N/A);

Comments

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**2.3.4.1.5** Is the proposal consistent with the Dodge County Comprehensive Plan and Farmland Preservation Plan and the stated purposes of this Code?

(Yes / No / N/A);

Comments

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**2.3.4.1.6** Will the proposed rezoning be used to legitimize, or “spot zone,” a nonconforming use or structure?

(Yes / No / N/A);

Comments

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**2.3.4.1.7** Is the proposed rezoning the minimum action necessary to accomplish the intent of the petition?

(Yes / No / N/A);

Comments

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**2.3.4.1.8** For all proposed rezoning petitions that will remove land from the A-1 Prime Agricultural Zoning District, the following additional findings shall be made:

**2.3.4.1.8.a** Does the Committee believe that the land to be rezoned is better suited for residential use or for agricultural use?

(Residential / Agricultural )

If the land to be rezoned is better suited for agricultural use, are there other areas on this property that would be better suited for the proposed residential use?

Comments

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**2.3.4.I.8.b** Is the rezoning petition substantially consistent with the Dodge County Comprehensive Plan and Farmland Preservation Plan;

(Yes / No / N/A);

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2.3.4.I.8.c** Will the rezoning substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use;

(Yes / No / N/A);

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2.3.4.J Approval by Affected Town Boards**

Has the Town submitted a recommendation regarding this request?

( Yes / No )

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Does the application contain sufficient information necessary to make a decision on the rezoning petition?**

- Yes;
- No - the following additional information is needed before a decision can be made:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Committee Action**

**Based upon the facts presented in the application and at the public hearing, does the committee believe that the criteria in Section 2.3.4.I can be met for this proposal?**

( Yes / No )

Motion by \_\_\_\_\_ to submit a (favorable / unfavorable) recommendation to the County Board of Supervisors on the rezoning petition as proposed.

Motion second \_\_\_\_\_

**Vote**

Dale Macheel	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Donna Maly	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Ben Priesgen	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Dan Siegmann	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present
Mary Bobholz – Chair	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Abstain	<input type="checkbox"/> Not Present

**Motion (Carried / Denied)**

**ORDER AND DETERMINATION – REZONING PETITION**

On the basis of the above findings of fact, conclusions of law and the record in this rezoning matter, the committee:

- shall provide a favorable recommendation to the County Board on the rezoning petition as proposed. An ordinance shall also be drafted effectuating the recommendation of the committee and said ordinance shall be submitted to the Board for approval;
- shall provide a favorable recommendation to the County Board on the proposed rezoning petition as modified by the committee. An ordinance shall also be drafted effectuating the recommendation of the committee and said ordinance shall be submitted to the Board for approval;
- shall provide an unfavorable recommendation to the County Board on the rezoning petition as proposed;
- shall provide a “No Recommendation” to the County Board on the proposed rezoning petition as proposed;

Dodge County Land Resources and Parks Committee

Signed \_\_\_\_\_ Attest \_\_\_\_\_  
Chairperson Secretary

Dated: \_\_\_\_\_

Filed: \_\_\_\_\_



**DODGE COUNTY**  
**LAND RESOURCES & PARKS DEPARTMENT**  
 127 E. OAK STREET • JUNEAU, WI 53039  
 PHONE: (920) 386-3700 X2 • FAX: (920) 386-3979  
 E-MAIL: landresources@co.dodge.wi.us

τ THIS AREA FOR OFFICE USE ONLY τ	
Activity No. <b>230754</b>	Application Date: <b>8/31-2023</b>
	Receipt #: <b>CC</b>

## REZONING PETITION

Petition Fee: \$350 (Payable to Dodge County)

NAMES & MAILING ADDRESSES		PROPERTY DESCRIPTION			
Petitioner (Agent) <i>Raymond A. Schrab</i>	Parcel Identification Number (PIN) <i>024-1016-1924-000</i>				
Street Address <i>6536 Hawthorne Lane</i>	Town <i>Hartford</i>	T	N	R	E
City • State • Zip Code <i>Hartford, WI 53027</i>	Section <i>19</i>	<i>SE</i> 1/4	<i>NW</i> 1/4	Acreage	Lot (Block) <i>16</i>
Property Owner (If different from petitioner) <i>Victoria Schrab</i>	Subdivision or CSM (Volume/Page/Lot)				
Street Address <i>104 Fakes Ct. Apt. 212</i>	Address Of Property (DO NOT include City/State/Zip Code)				
City • State • Zip Code <i>Beaver Dam, WI 53916</i>	Is this property connected to public sewer? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

### CONTACT PERSON

Name and daytime phone number (include area code) of a person we can contact if we have any questions about your petition.

Name *Raymond Schrab* Daytime Phone *(262) 229-7645*

### PROPOSED REZONING

Current Zoning District <i>A-1 Prime Agriculture</i>	Proposed Zoning District <i>A-2 General Agriculture</i>
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### Reason For Rezoning

*Create non-farm residential lots.*

Please complete the site map on the reverse side of this sheet.

### CERTIFICATE

I, the undersigned, hereby petition to rezone the aforementioned property and certify that all the information both above and attached is true and correct to the best of my knowledge.

Signature *Raymond Schrab* Date *8/31/2023*

Daytime Contact Number *(262) 229-7645*

◆ AREA BELOW THIS LINE FOR OFFICE USE ONLY ◆

**DC QMap**

The data used to create this map is a compilation of records, information, and data from various city, county and state offices, and other sources. This map is only advisory, does not replace a survey, and may not be used for any legal purpose. Dodge County assumes no liability for any use or misuse of this information.







General	WI Historical Society	Floodplain / Wetland	County Zoning
Urbanized Roads	Historic Structures	FEMA Floodplain/Storage/Dam Shadow	Planned Unit Development
Soils	Archaeological Sites	DNR Wetland Areas/Points	Hartford Extraterritorial
Airport Ordinance 3-Mile Buffer	Survey Areas	Shoreland Zoning Buffer	General Agricultural
Sewer Service Areas	<b>Non-Metallic Mining</b>	Lakes/Ponds/Sloughs	Prime Agricultural
Highly Developed Shoreline	Active Mining Area	Rivers/Streams/Creeks	One Family Residential
Elevation Contours	Approved Mining Area		Two Family Residential
	Mine Property Boundaries		Multi-Family Residential
			General Commercial
			Extensive Commercial
			Light Industrial
			Industrial
			Waterbody
			ROW/City/Village

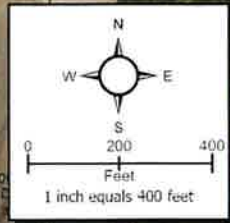
# Victoria Schrab Rev. Trust

## Town of Hustisford, Sec. 19

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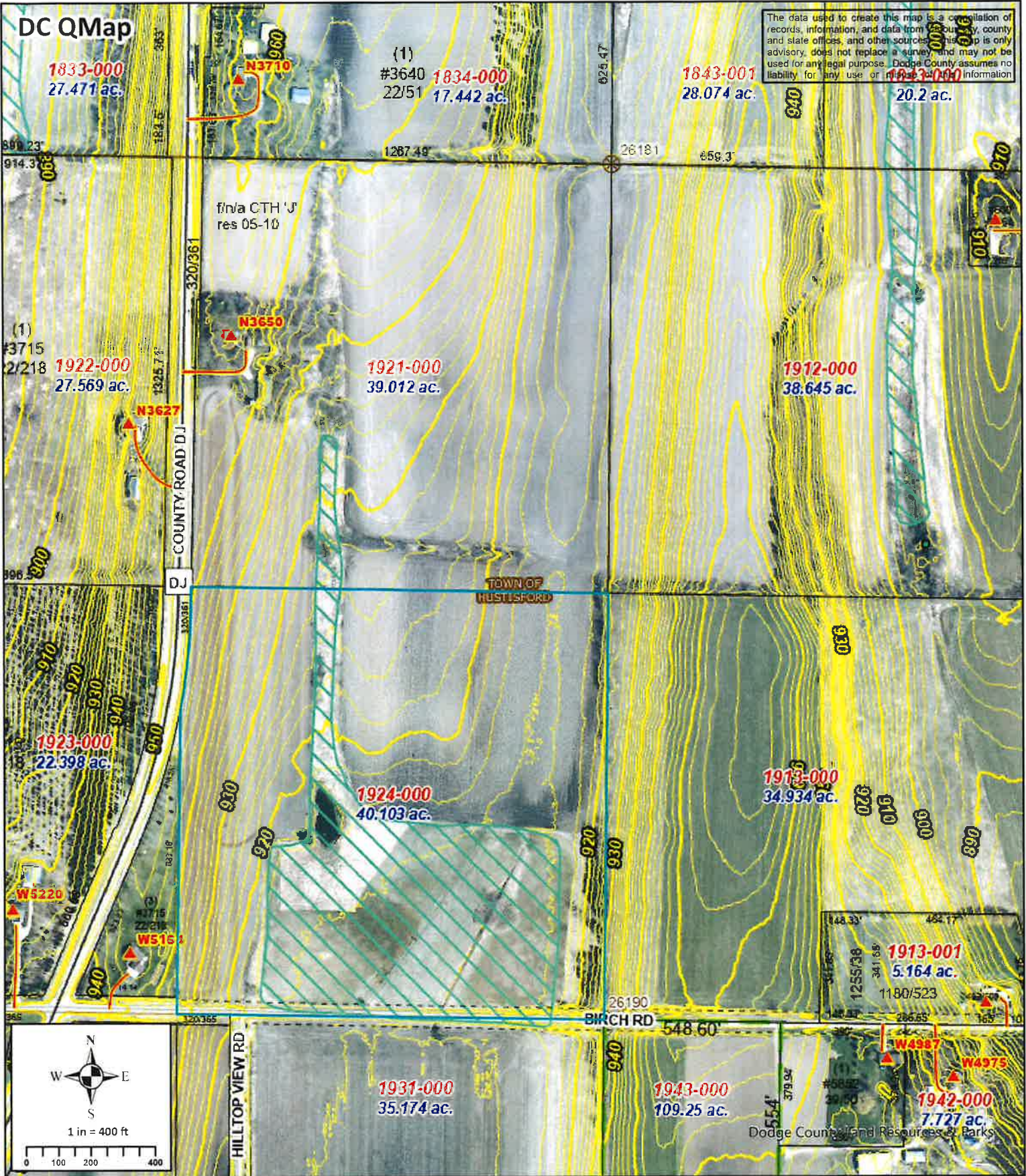


-  Schrab Trust Property
-  Tax Parcels
-  Area to be Rezoned (A-1 to A-2)
-  Base Farm Tract



# DC QMap

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General	WI Historical Society	Floodplain / Wetland	County Zoning
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Airport Ordinance 3-Mile Buffer	Survey Areas	Shoreland Zoning	General Agricultural
Sewer Service Areas	Non-Metallic Mining	Shoreland Zoning Buffer	Prime Agricultural
Highly Developed Shoreline	Active Mining Area	Lakes/Ponds/Sloughs	One Family Residential
Elevation Contours	Approved Mining Area	Rivers/Streams/Creeks	Two Family Residential
	Mine Property Boundaries		Multi-Family Residential
			General Commercial
			Extensive Commercial
			Light Industrial
			Industrial
			Waterbody
			ROW/City/Village

Proposal to Amend the Enforcement & Penalties  
Section of the Floodplain Ord. from Sup  
Siegmann

8-19-23

EXCEPT AS PROVIDED IN WI STATS § 87.30(2)(b),  
ANY PERSON WHO PLACES OR MAINTAINS ANY  
STRUCTURE, BUILDING, FILL, OR DEVELOPMENT  
WITHIN ANY FLOODPLAIN IN VIOLATION OF  
THIS ORDINANCE AND WHO REFUSES TO  
COMMUNICATE WITH THE COUNTY DEPARTMENT  
FOR REMEDY, MAY NOT BE FINED MORE  
THAN \$50.00 FOR EACH OFFENSE. EACH  
DAY DURING WHICH SUCH VIOLATION EXISTS  
IS A SEPARATE OFFENSE.

## **9.0 ENFORCEMENT AND PENALTIES**

Any violation of the provisions of this ordinance by any person, firm or corporation shall be unlawful and shall be referred to the Dodge County Corporation Counsel who shall expeditiously prosecute all such violators. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

## **9.1 RESPONSIBILITY FOR INSPECTION AND ENFORCEMENT**

The land use administrator shall have primary responsibility for enforcing all provisions of this Ordinance, pursuant to the policies and procedures set forth in this chapter. The land use administrator is hereby empowered to cause any building, other structure, or tract of land to be inspected and examined for suspected or potential violations of this Ordinance after proper notification. If permission to enter the property is withheld, the land use administrator may seek a court order to require inspection of the property.

## **9.2 REMEDIES AND ENFORCEMENT POWERS**

### **9.2.1 Persons Authorized to Seek Relief**

In case of any violation, Dodge County, the County Board of Supervisors, the Board of Adjustment, the land use administrator, the committee, or any owner of property affected by any violation may institute appropriate action or proceeding for relief pursuant to the procedures set forth in this chapter.

### **9.2.2 Types of Remedies and Enforcement Powers**

The County shall have the following remedies and enforcement powers:

#### **A. Revoke Permits**

Any development permit or other form of authorization required under this Ordinance may be revoked when the land use administrator and the committee determine that:

1. There is departure from the plans, specifications, or conditions as required under terms of the permit;
2. The development permit was procured by false representation or was issued in error; or
3. Any of the provisions of this Ordinance are being violated.

#### **B. Injunctive Relief**

The County may seek an injunction or other equitable relief in court to stop any violation of this Ordinance or of a permit, certificate, or other form of authorization granted hereunder.

#### **C. Abatement**

The County may seek a court order in the nature of mandamus, abatement, injunction, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.



#### **D. Penalties**

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$50 nor more than \$500 dollars and costs of prosecution for each violation. In default of payment of such forfeiture and costs, violators shall be imprisoned in the County Jail until payment thereof, for a period not to exceed 6 months.

#### **E. Other Remedies**

The County shall have such other remedies as are and as may be from time to time provided by Wisconsin law for the violation of zoning, subdivision, sign, or related Ordinance or Code provisions.

#### **F. Other Powers**

In addition to the enforcement powers specified in this Chapter, the County may exercise any and all enforcement powers granted by Wisconsin law.

#### **G. Continuation**

Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions, undertaken by the County pursuant to previous and valid ordinances and laws.

#### **9.2.3 Remedies Cumulative**

The remedies and enforcement powers established in this chapter shall be cumulative, and the County may exercise them in any order.

### **9.3 ENFORCEMENT PROCEDURES**

#### **9.3.1 Non-Emergency Matters**

In the case of violations of this Ordinance that do not constitute an emergency or require immediate attention, the land use administrator shall give notice of the nature of the violation to the property owner or to any other person who is party to the agreement or to any applicant for any relevant permit in the manner hereafter stated, after which the persons receiving notice shall have 30 days to correct the violation before further enforcement action shall be taken. Notice shall be given in person, by United States Registered or Certified Mail, or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

#### **9.3.2 Emergency Matters**

In the case of violations of this Ordinance that constitute an emergency as a result of safety or public concerns or violations that will create increased problems or costs if not remedied immediately, the County may use the enforcement powers available under this chapter without prior notice, but the land use administrator shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who is party to the agreement, and to applicants for any relevant permit.

## **Land Resources and Parks Department**

### **Request for Amendment of the Floodplain Ordinance Enforcement and Penalty Provisions**

#### **Committee discussion on possible amendments to the “Enforcement and Penalties” sections of the County Floodplain Ordinance**

County Board Supervisor Dan Siegmann has submitted a request to amend the penalty provisions of the Dodge County Floodplain Ordinance.

#### **The current Floodplain Ordinance Provisions are as follows:**

##### **Section 9.2.2.D. Penalties**

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$50 nor more than \$500 dollars and costs of prosecution for each violation. In default of payment of such forfeiture and costs, violators shall be imprisoned in the County Jail until payment thereof, for a period not to exceed 6 months.

#### **The proposed amendment for discussion is as follows:**

“Except as provided in WI Stats 87.30 (2)(b), any person who places or maintains any structure, building, fill, or development within any floodplain in violation of this Ordinance and who refuses to communicate with the County Department for remedy, may not be fined more than \$50.00 for each offense. Each day during which such violation exists is a separate offense.”

#### **Applicable Statute provisions:**

Section 87.30 (1) Wis. Stats. requires counties to adopt and enforce a reasonable and effective floodplain ordinance. The State DNR also provides a model floodplain ordinance that meets the minimum federal and state floodplain standards.

Section 87.30(1)(b), Stats., permits a county to adopt a floodplain zoning ordinance that is more restrictive than the provisions required by the State, but not less restrictive.

**Staff Comments:**

The Land Use, Sanitary, Shoreland Protection, Floodplain, Airport and the Nonmetallic Mining Reclamation codes have been adopted by the County Board of Supervisors in order to promote and protect the public health, safety, peace comfort and general welfare of the citizens. Effective enforcement of the rules and regulations within the codes is necessary in order to promote and maintain a safe and desirable living and working environment for all citizens. The Dodge County Codes have been developed to contain similar enforcement and penalty provisions so as to provide fair and consistent enforcement options by the County that can be used to bring about the correction of violations.

The County Codes generally contain the following enforcement options:

**Revoke Permits**

Any development permit or other form of authorization required under this Code may be revoked when the Land Use Administrator and the Committee determine that:

- There is departure from the plans, specifications, or conditions as required under terms of the permit;
- The development permit was procured by false representation or was issued in error; or
- Any of the provisions of this Code are being violated.

**Injunctive Relief**

The County may seek an injunction or other equitable relief in court to stop any violation of this Code or of a permit, certificate, or other form of authorization granted hereunder.

**Abatement**

The County may seek a court order in the nature of mandamus, abatement, injunction, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

**Penalties**

Any person, firm, or corporation who fails to comply with the provisions of this Code shall, upon conviction thereof, forfeit not less than \$50 nor more than \$500 dollars and costs of prosecution for each violation. In default of payment of such forfeiture and costs, violators shall be imprisoned in the County Jail until payment thereof, for a period not to exceed 6 months.

**Other Remedies provided by Wisconsin Law**

The County shall have such other remedies as are and as may be from time to time provided by Wisconsin law for the violation of ordinances and codes

**Remedies Cumulative**

The remedies and enforcement powers established in this Codes are cumulative, and the County may exercise them in any order.

## **Dodge County Penalty Provisions**

### **Why are Penalties Imposed?**

The penalty provisions in the Codes are one option that can be used by the Department to bring about the correction of a violation. After providing individuals ample opportunity, many citizens simply ignore requests to correct the violations. It is believed that the assessment of daily fines for each violation will motivate citizens with violations to correct them more promptly. The penalty amounts within the County codes range from \$50.00 to \$500 per day and costs of prosecution for each violation.

### **When are Penalties Imposed?**

Penalties are only imposed after a violation has been confirmed by the staff, the owner has been officially notified of the violation and has been given the opportunity to bring the violation into compliance, and the violation remains uncorrected after the timeline listed within the official notice of violation.

In most cases, parties are given advance notice with a “notice of complaint:” from the Department. This notice provides the parties an opportunity to voluntarily resolve the violations before they become formally recognized. Failure to voluntarily resolve the alleged violation will eventually lead to the confirmation of a violation and the issuance of a formal “Notice of Violation”. This notice requires correction of the violation within 30 days and officially notifies the parties of the potential penalty provisions of the Codes. From the date of the first “notice of complaint” letter, it will usually take 60 days before penalties would be imposed. It is presumed that the violating party will have had ample time to correct a violation before penalties are imposed. Once penalties have been imposed, they can run against the property until all violations are abated. To ensure that parties have due process to challenge any violations or penalties imposed, they have the right to appeal the decisions of the Department if they feel the violation orders are erroneous.

### **Why does the Code contain a range of penalties from \$50.00 to \$500.00?**

The range of penalties listed within the Code allows the County the option to determine the amount of the fine based on the type and severity of the violation. The relevant circumstances associated with the violation can be used to determine the amount of the penalty and may include the following factors:

- The actual or potential extent of the harm caused;
- The likelihood to cause harm;
- The seriousness or gravity of the violation (the level of threat to property, health or safety of people and animals or the environment);
- Whether the violation is subject to correction by obtaining a permit or cannot be corrected by permit;
- The culpability of the violator in causing the violation;
- The length of time over which the violation occurs;
- The history of past violations, either of a similar or different nature on the same or different property under the same ownership;
- The financial burden to the violator;
- The factors and policies that have been adopted by the Committee or County Board;
- Any other relevant circumstances.

Once imposed, the daily penalty will continue to accrue until the violation is corrected.

**STAFF ADVISORY:**

***This staff advisory is only advice to the Land Resources and Parks Committee. The Committee may or may not consider the advice of the staff and decision making authority is vested in the Committee only.***

It is the staff's position that having a range of penalty amounts within the code enforcement section of the Code will allow the County the flexibility to determine the amount of the fine to be assessed for a violation to be based on the type and severity of the violation. The relevant circumstances associated with the violation can be used to determine the amount of the penalty to increase the effectiveness of the enforcement options. A policy can be created by the Committee so that the Committee has the opportunity during the violation process to set the final level of the penalties to be used by the Corporation Counsel when pursuing the violation through the court process. The Committee can also have the opportunity through policy to work with the Corporation Counsel to stay the imposition of the penalties and to decrease the amount of the penalties, either temporarily or permanently, if it is determined that substantial progress is being made by the parties to correct the violation and that decreasing the penalties would further the goal of correcting the violation.

It is the staff's position that reducing the range of penalty options in the County Codes to a maximum of \$50.00 per day for violations would decrease the effectiveness of the enforcement efforts of the County to gain compliance in the most severe cases and would benefit the parties in violation at the expense of the law abiding citizens.