

👉 **05hr_SC-NRT_ab0299_pt01**



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Natural Resources and Transportation...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

Senate

Record of Committee Proceedings

Committee on Natural Resources and Transportation

Assembly Bill 299

Relating to: the effect of county shoreland zoning ordinances in territories annexed by cities, villages, or towns or incorporated as cities, or villages.

By Representatives Gunderson, Albers, Bies, Fields, Gottlieb, Gundrum, Hahn, Hines, Hundertmark, Jensen, Kestell, Krawczyk, Lehman, Montgomery, Moulton, Mursau, Musser, Nischke, Ott, Pettis, Suder, Vos, Vrakas, Wieckert, Ziegelbauer and Zepnick; cosponsored by Senators Kapanke, Lazich, Stepp, Grothman and Lassa.

June 17, 2005 Referred to Committee on Natural Resources and Transportation.

November 3, 2005 **PUBLIC HEARING HELD**

Present: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.
Absent: (0) None.

Appearances For

- Representative Scott Gunderson — 83rd Assembly District
- Senator Dan Kapanke — 32nd Senate District
- Jerry Deschane — WI Builders Association
- Tom Larson, Madison — WI Realtors Association
- David Eisele — WI Home Builders Association

Appearances Against

- Richard Wedepohl — WI Department of Natural Resources
- Nate Rice, Oconomowoc

Appearances for Information Only

- None.

Registrations For

- William Chapman — City of Oconomowoc
- Curt Witynski — League of Wisconsin Municipalities
- Jim Hough — WI Economic Development Association

Registrations Against

- Kathleen Falk — Dane County Executive
- Karen Etter Hale, Madison — WI Audobon Council and Madison Audobon Society
- Anne Sayers, Madison — WI League of Conservation Voters

- Bill O'Connor — WI Association of Lakes

December 1, 2005 **EXECUTIVE SESSION HELD**

Present: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.
Absent: (0) None.

Moved by Senator Stepp, seconded by Senator Kedzie that **Assembly Bill 299** be recommended for concurrence.

Ayes: (3) Senators Kedzie, Stepp and Kapanke.
Noes: (2) Senators Wirch and Breske.

CONCURRENCE RECOMMENDED, Ayes 3, Noes 2

Dan Johnson
Committee Clerk

Vote Record

Committee on Natural Resources and Transportation

Date: December 1, 2005 _____

Bill Number: **AB 299** _____

Moved by: STAPP _____ Seconded by: KEDZIE _____

Motion: **Concurrence** _____

Committee Member

Senator Neal Kedzie, Chair

Senator Cathy Stepp

Senator Dan Kapanke

Senator Robert Wirch

Senator Roger Breske

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

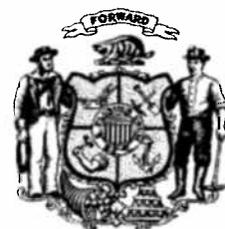
Totals: _____

Motion Carried

Motion Failed



WISCONSIN STATE LEGISLATURE



**Senate Natural Resources and Transportation Committee
Public Hearing
330 Southwest, State Capitol
November 3, 2005 10:00**

Agenda

✓ 1. Call of the Role

- House Keeping / Able to P

✓ 2. Agenda

✓ Senate Bill 158

Relating to: fishing with a bow and arrow at night.

✓ Senate Bill 213

Relating to: private motor carriers transporting livestock.

✓ Assembly Bill 762

Relating to: exempting from motor carrier regulations certain vehicle combinations operated in intrastate commerce.

Senate Bill 329

Relating to: the parking of vehicles on highways.

Assembly Bill 240

Relating to: the immobilization, impoundment, and disposal of unregistered motor vehicles.

Assembly Bill 128

Relating to: the removal of fishing shanties or similar shelters.

Assembly Bill 345

Relating to: acreage requirements for areas in which farm-raised deer that may be hunted are kept and transfers of registration certificates for keeping farm-raised deer.

Assembly Bill 299

Relating to: the effect of county shoreland zoning ordinances in territories annexed by cities, villages, or towns or incorporated as cities, or villages.

ANNOUNCEMENTS

✓ You may speak before the committee or simply register your vote on the hearing slips. Be sure to fill out the slips and hand it to the Page.

*Mary Ann's
needs to
be out of
12:30 pm*

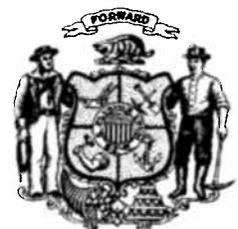
- The owner must have complied with the requirement to register the deer farm with DATCP on January 1, 2003, and must have been registered continuously since that date.
- The deer must be confined in an area not less than the acreage under the DNR deer farm license on December 31, 2002.
- The owner must have offered the opportunity to hunt prior to January 1, 2003. The owner must submit evidence showing compliance with these statutory requirements and DATCP must verify the evidence

Assembly Bill 299

- Assembly Bill 299 eliminates the requirement that the county shoreland zoning ordinance continues in effect and must be enforced by the annexing city or village.
- Assembly Amendment 1 corrects an error in the relating clause of the bill. The relating clause in the bill refers to annexation by cities, villages, or towns. Annexation is only done by cities or villages, and Assembly Amendment 1 deletes the reference to annexation by towns.

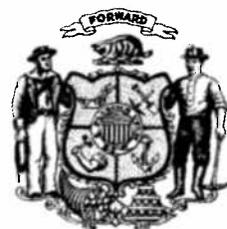


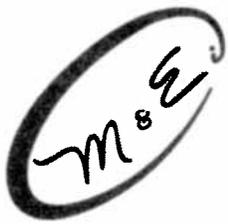
WISCONSIN STATE LEGISLATURE





WISCONSIN STATE LEGISLATURE





Martenson & Eisele, Inc.

Planning ■ Surveying ■ Engineering ■ Architecture

Professionals dedicated to serving people committed to improving their communities

November 2, 2005

David D. Eisele, P.L.S.

I am a partner in the Consulting firm of Martenson & Eisele, Inc., located in Menasha, Wisconsin. Our primary business is providing Planning, Engineering, Environmental and Land Surveying services to residential, commercial and industrial developers in and around the Fox Valley and the state of Wisconsin.

I would like to speak in favor of Assembly Bill 299. I would like to site an example of why I am in support of it.

Exhibit A (How lots were developed under County Shoreland Ordinance in the Village of Fremont)

In 2000 we commenced development of a 4.6-acre parcel for single-family residential lots. This parcel was situated in the Town of Fremont at the end of a narrow man made channel extending southerly off Partridge Lake in Waupaca County. Development in the Town with out sewer would have resulted in only 3 lots. That was not an option since the developer had to get more lots to make the venture profitable. The Village of Fremont is adjacent to this site and could provide sanitary sewer service to it. The developer opted for annexation of the site to the Village of Fremont to get the sanitary sewer benefit and potentially more lots.

Because this site is within 1000 feet of a lake, Waupaca County's Shoreland Ordinance controlled how we could develop the site. The County's minimum requirements for the lots was a 75-foot building setback from the ordinary high water mark of the channel, the lots must contain 20,000 square feet, and the lot must have 100 feet of frontage along the ordinary high water mark. These requirements allowed the developer seven lots meeting the County Ordinance. However, in order to attain the lot area requirements we had to use private roads for access to the lots, with the private road being an integral part of the lot. This presented an obstacle with the Wisconsin Department of Administration's Platting Statutes Chapter 236-16(2), which abbreviated says, that no street can be less than 60 feet in width unless otherwise permitted by local ordinance. The Village did not have an ordinance that would have permitted private roads, so we wrote a Planned Unit Development overlay ordinance that permitted private roads. The process to get this ordinance approved and adopted took several months, causing a delay in the development process. In addition to that, the Department of Transportation required a Special Exception to Trans 233.05

Menasha - 1377 Midway Road, PO Box 449, Menasha, WI 54952-0449 ■ 920-731-0381 ■ 920-733-8578 FAX

Omro - 109 W. Main St., Omro, WI 54963 ■ 920-685-6240 ■ 920-685-6340 FAX

www.martenson-eisele.com ■ info@martenson-eisele.com

because of the private access points. Trans 233.05 states no land divider may divide land in such a manner that a private road or driveway connects with a state trunk highway, so we proceeded in seeking and receiving the Special Exception from the DOT. Again taking a fair amount of time and work.

I would also note that the surrounding area includes lots that are 50 to 60 feet wide along the channel to its mouth at Partridge Lake. To the west of this site lies a several hundred-unit campground. The lots created as a result of the present state statute have resulted in lots that do not conform to lot sizes existing in the neighborhood and the sale price of the new lots have been compromised by the small existing lots and the size and character of those homes.

This project was started in September of 2000 and took us until November of 2003 to get the final plat recorded at the Register of Deeds Office.

Exhibit B (How lots could have been developed under Village Ordinances)

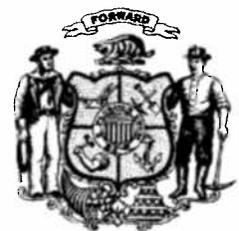
The Village has a Shoreland Ordinance, which allows for **no** minimum water frontage, a minimum lot area of 10,000 square feet and a minimum building set back from the ordinary high watermark of 25 feet and a minimum average lot width of 80 feet. Using the Village ordinance we could have developed 9 total lots, dedicated a 50-foot wide public roads on each side of the site. This would have provided 4 waterfront lots on the channel and 5 off channel lots adding ~~4~~ lots or building sites over the platted version under the county ordinance.

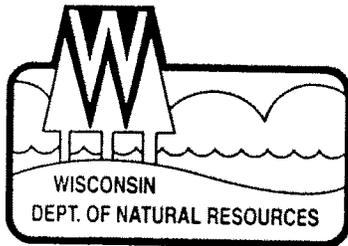
The same feet of sanitary sewer would have been installed which would have served more lots for the same amount of dollars. The same is true for the installation and users of the public utilities electric, telephone and cable TV. The dedicated public streets would have taken the maintenance burden and frustration from the lot owners. The Village would have the freedom to provide police protection, garbage collection and other municipal duties with public streets, that is not offered them with private streets.

Under the present state statute in this case, the number of lots and the costs per lot to develop goes directly against rational land use and Smart Growth Planning. This is not just a single incident; similar scenarios have been repeated a number of times in the Fox Valley and surrounding municipalities.



WISCONSIN STATE LEGISLATURE





State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711

**2005 AB 299, Senate Committee on Natural Resources and
Transportation
Department of Natural Resources Testimony
Richard Wedepohl, Chief, Dam Safety/Floodplain/Shoreland Section
November 3, 2005**

The department is providing testimony in opposition to the proposal to eliminate shoreland zoning requirements that have been in place since 1968 by exempting those lakeshores and rivers that have been annexed into cities or villages after 1982. The department, however, is open to further discussion on changes that can be made to the existing statutes on this subject that would allow cities and villages more flexibility in how they administer and adopt shoreland zoning ordinances.

Shoreland zoning has provided standards to near shore areas for almost 40 years for the protection of water resource values, water quality, recreation, fish and wildlife habitat, and natural scenic beauty. And for over two decades this protection applied to all shorelands by requiring controls on lands after annexation or through incorporation as a city or village.

Shoreland zoning provides for setbacks of structures from waterways, minimum lot sizes, and for controls on protecting near-shore vegetation.

If this bill were approved as currently written, protections from development on lands adjacent to navigable waters would be much reduced. For example, individual homes could be built right up to the water's edge - just because they now happened to be located within a city or village. No minimum lot sizes would be required so several homes could be built where only one structure was previously allowed. Most importantly, the protection offered by shoreland buffers would be lost given there would be no requirement to have them in place.

It has been said that protection would still be available for all shorelands under NR 151, the runoff management rule. It is important to know that these regulations do not apply to areas where land disturbance is less than 1 acre, as would be the case for most individual residential lots. For those larger developments that would be subject to NR 151, in most cases setbacks of between 10 and 50 feet are required, as opposed to the 75 foot setback required under current shoreland zoning law. Also, the protective area buffer requirements under NR 151 are much weaker. For example, a blue-grass lawn is a compliant buffer.

Notwithstanding our concerns with this bill, there are problems that the department would like to see corrected. Under current law, any areas that are annexed by a city or village must continue to

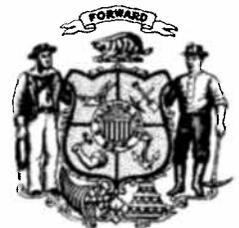
retain the same standards that are present in the county ordinance at time of annexation. In some cases these county ordinances do not fit well with ordinances in effect by the city or village. While counties have the benefit under current law to change their ordinances over time, cities and villages have not had this flexibility. Current law requires them to maintain the county's standards in effect at time of annexation, thereby forcing some cities to have to apply different ordinance requirements, in different areas, just because the annexation occurred at different times. The department would support changes that would simplify zoning requirements in annexed areas but would oppose total elimination of this long standing protective requirement. Specifically we would propose that minimum shoreland zoning standards continue to be applied in any new annexed areas, but that local communities be allowed to develop their own ordinances as long as they met minimum standards established by NR 115.

Summary

Protections, that have worked well for almost 25 years, would be lost if this bill were adopted as written. However changes to the statute, which would simplify administration by cities and villages, would be welcomed.



WISCONSIN STATE LEGISLATURE





WISCONSIN ASSOCIATION OF LAKES

ONE POINT PLACE • SUITE 101 • MADISON, WI 53719-2809 • 800/542-5253(WI) • 608/662-0923 • FAX 608/833-7179

MEMORANDUM

TO: Senate Committee on Natural Resources and Transportation

FROM: Bill O'Connor, Legislative Counselor (608.255.7277)
Wisconsin Association of Lakes

DATE: November 3, 2005

RE: AB-299

The Wisconsin Association of Lakes ("WAL") opposes AB-299 because we believe the proposed legislation would undermine property values and threaten the near shore environment.

WAL supports shoreland zoning because it protects both property values and natural resources. Under present law, lake and stream shore areas in unincorporated areas are subject to county shoreland zoning ordinances. For some 30 years, these county shoreland zoning ordinances have included minimum standards regulating critical development issues, including the distance buildings are set back from the water's edge.

The vast majority of shore frontage outside of villages and cities is developed with single-family residential buildings. A large percentage of these structures have been constructed in the last 30 years and therefore meet state minimum standards for shoreland development.

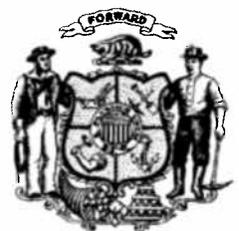
Current law protects the owners of these existing structures by retaining county shoreland standards until an annexing city or village either enacts its own ordinance (meeting state minimum standards) or until the county board amends its shoreland ordinance as it effects the annexed territory. By contrast, Assembly Bill 299 would *immediately eliminate all* existing shoreland zoning upon the annexation of land by a city or village. WAL's membership includes thousands of lakefront owners who have invested millions of dollars in structures that are set back a minimum of 75 feet from the water's edge. Our members are concerned that this bill is overbroad and oversimplified.

We recognize that some changes in shoreland standards may be appropriate in some cases after unincorporated areas are annexed. But the effect of this legislation would be to immediately suspend all shoreland standards on all incorporated or annexed areas, regardless of the circumstances or impacts.

Because we feel this bill is likely to significantly damage the value of our member's investments in shoreland residences and in the natural resources that are concentrated in the near shore area, the Wisconsin Association of Lakes opposes this bill.



WISCONSIN STATE LEGISLATURE





Wisconsin Builders Association

Dedicated to Preserving and Promoting the American Dream

President
Dan Schneider
Keil

President-Elect
Frank Madden
Mequon

Treasurer
Mark Etrheim
La Crosse

Secretary
Jason Steen
Osseo

Past President
Mike Lotto
Green Bay

Associate Senior
Officer
Ralph O. Kennedy, II

Associate Advisor to
the Senior Officers
Judy Carpenter
La Crosse

Area
Vice Presidents

2002-2005
Judy Carpenter
La Crosse

Mike Marthaler
Eau Claire

Jim Klappa
Milwaukee

Kevin Pitts
Green Bay

2003-2006
Bob Sarow
Janesville

Tracy Royer
Appleton

Julie Meyer
Racine

Dave Kautza
Antigo

Jim Selting
Eau Claire

2004-2007
John Anderson
Menasha

Greg Schaeffer
Madison

Mark Bootz
Green Bay

Tom Thompson
La Crosse

Ted Peotter
Wausau

Deputy Executive
Vice-President
Jerry Deschane



MEMORANDUM

TO: Senator Neal Kedzie and Members of the Natural Resources and Transportation Committee

FROM: Jerry Deschane

DATE: November 3, 2005

RE: Support AB 299

The Wisconsin Builders Association urges your support for Assembly Bill 299, sponsored by Representative Gunderson. This legislation repeals an outdated zoning provision in Wisconsin law, section 59.692(7). This provision requires a municipality to duplicate, in every detail, county zoning for property that is annexed, if that property is subject to shoreland zoning.

The original purpose of this law was to assure that there were adequate water quality protections in place. Since its enactment, however, several new protections have been added, including:

- Stormwater regulations under NR 151 and NR 216
- Construction erosion regulations under Chapter 101
- Grading and navigable waters protection under Chapter 30.

Section 59.692(7) is no longer needed. The law creates practical problems for zoning administrators:

- A city shoreland zoning ordinance must match the county zoning ordinance, which is impractical for street layout and urban services
- The ordinance cannot be updated. A community that has seen multiple annexations must maintain copies of old zoning ordinances affecting scattered parcels of land.

The DNR has acknowledged that this is a problem for local land use officials, and the department has suggested a similar, although narrower, solution to the problem.

Please let us know if you have any questions.

4868 High Crossing Boulevard • Madison, Wisconsin 53704-7403
(608) 242-5151 • (800) 362-9066 • Fax (608) 242-5150
www.wisbuild.org



AB
299

Wisconsin Builders Association

Dedicated to Preserving and Promoting the American Dream

President
Dan Schneider
Kiel

President-Elect
Frank Madden
Mequon

Treasurer
Mark Etrheim
La Crosse

Secretary
Jason Steen
Osseo

Past President
Mike Lotto
Green Bay

Associate Senior Officer
Ralph O. Kennedy, II

Associate Advisor to the Senior Officers
Judy Carpenter
La Crosse

Area Vice Presidents

2002-2005
Judy Carpenter
La Crosse

Mike Marthaler
Eau Claire

Jim Klappa
Milwaukee

Kevin Pitts
Green Bay

2003-2006
Bob Sarow
Janesville

Tracy Royer
Appleton

Julie Meyer
Racine

Dave Kautza
Antigo

Jim Selting
Eau Claire

2004-2007
John Anderson
Menasha

Greg Schaeffer
Madison

Mark Bootz
Green Bay

Tom Thompson
La Crosse

Ted Peotter
Wausau

Deputy Executive Vice-President
Jerry Deschane



List of Surface Water Protection Regulations

- 1) Local zoning, which regulates land development for surface water protection among other purposes
- 2) Local erosion control ordinances, which regulate land development solely for surface water protection
- 3) Local subdivision regulations, which regulate land development for surface water protection among other purposes
- 4) Local stormwater regulations, which regulate land development solely for surface water protection
- 5) Local floodplain ordinances, which regulate land development for surface water protection and loss mitigation
- 6) County stormwater and erosion control regulations, which regulate land development solely for surface water protection
- 7) Regional stormwater regulations, which regulate land development solely for surface water protection
- 8) DNR Chapter 30 regulations, which regulate land development solely for surface water protection*
- 9) DNR Floodplain regulations, which regulate land development for surface water protection and loss mitigation
- 10) DNR wetland regulations, which regulate land development solely for surface water protection
- 11) DNR Stormwater regulations, which regulate land development solely for surface water protection*
- 12) U.S. Environmental Protection Agency stormwater regulations, which regulate land development solely for surface water protection
- 13) U.S. Army Corps of Engineers wetland regulations, which regulate land development solely for surface water protection.

How many regulations are enough?

* Regulation attached.

4868 High Crossing Boulevard • Madison, Wisconsin 53704-7403

(608) 242-5151 • (800) 362-9066 • Fax (608) 242-5150

www.wisbuild.org

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

(a) *Performance standards.* The grading project meets the stormwater performance standards of ss. NR 151.11 and 151.12 for stormwater discharges from land disturbing construction activities for non-transportation projects and ss. NR 151.23 and 151.24 for transportation projects.

Note: The department maintains a list of technical standards that it has determined adequate and effective for designing best management practices to control erosion and sediment runoff. Contact the department storm water program in the Bureau of Watershed Management at (608) 267-7694 to obtain a copy of this list or visit the department's stormwater website at www.dnr.wi.gov/org/water/wm/ups/stormwater.htm.

(b) *Buffers on lakes and streams.* An undisturbed, vegetated area is maintained or established adjacent to the waterway in accordance with the distances in s. NR 151.12 (5) (d) 1. a. to c. for protective areas around lakes or streams. In the absence of a specified distance in s. NR 151.12 (5) (d) 1. a. to c., the vegetated area may not be disturbed or must be established for 35 feet landward from the ordinary high water mark. Construction or land disturbance within this buffer may occur for an activity that is otherwise authorized under ch. 30 or 31, Stats., exempted under ch. 30, Stats., or is a stormwater best management practice designed to comply with ch. NR 151 or 216.

Note: The duff layer beneath a pine forest is easily washed away during increased flows due to construction and would therefore not be adequate buffer coverage.

Note: A grading project including placement of a road and culvert to cross a navigable waterway is not excluded from eligibility for this general permit if the culvert is authorized under ch. 30, Stats. This section does not prohibit a local ordinance from being more restrictive.

(c) *Buffers on wetlands.* The grading does not disturb an existing vegetated area in accordance with the distances in s. NR 151.12 (5) (d) 1. a. or d. to f. for protective areas around wetlands. Construction or land disturbance for a stormwater best management practice designed to comply with ch. NR 151 or 216 may occur within this buffer, but not within the wetland.

(d) *Elevation change.* The difference in elevation between pre- and post-construction contours does not exceed 5 feet within the bank area, except for areas immediately adjacent to exposed or walkout basements where the difference in elevation between pre- and post-construction contours may not exceed 10 feet within the bank area.

Note: This section does not prohibit a local ordinance from being more restrictive.

(e) *Slope.* The grading may not disturb or create a slope that exceeds 20% within the bank area.

(f) *Revegetation.* The vegetation plan required in s. NR 341.05 (2) (o) shall be implemented and monitored for one year after project completion. During the monitoring period, the grading site shall be inspected regularly, and any areas requiring additional stabilization or revegetation shall be addressed to ensure final stabilization. One year after project completion, a report and photographs shall be submitted to the department to demonstrate that the grading site is stabilized. If after one year, final stabilization has not been achieved or maintained, the department may require the landowner to submit a revised vegetation plan to the department, and implement the revised plan.

(g) *Designated waters.* The grading site is not located in or adjacent to any of the following:

1. A state natural area designated or dedicated under ss. 23.27 to 23.29, Stats.
2. A federal wild and scenic river designated under s. 30.27, Stats., or 16 USC 1274 (a)(8).
3. A state wild river designated under s. 30.26, Stats.

(h) For grading projects on an outstanding or exceptional resource water under s. 281.15, Stats., upon receipt of a general permit application, the department shall conduct a site inspection.

(4) **PLANS PART OF PERMIT.** The general permit shall require that the applicant comply with submitted project plans or modified project plans as a condition of the permit.

(5) **NON-COMPLIANCE WITH GENERAL PERMIT.** Activities which do not meet the requirements in sub. (3) or a general permit issued by the department shall require an individual permit.

(6) **INDIVIDUAL PERMIT.** The department has authority under s. 30.206 (3r), Stats., to require an individual permit in lieu of a general permit.

History: CR 04-085: cr. Register April 2005 No. 592, eff. 5-1-05.

NR 341.09 Individual permits. (1) **PROCEDURES.** (a) Individual permits shall be processed according to the procedures in subch. IV of ch. NR 310.

(b) If the department determines that a pond or artificial water body application submitted under this section has the potential to impact an endangered or threatened species in accordance with s. 29.604, Stats., the application shall be deemed incomplete until the applicant submits documentation to demonstrate one of the following:

1. The pond or artificial water body project avoids impacts to the endangered or threatened species in accordance with s. 29.604, Stats.

2. The pond or artificial water body project has received an incidental take authorization under s. 29.604, Stats.

(c) If the applicant modifies their pond or artificial waterbody project plans to meet the requirements of par. (b), the modified plans shall be submitted before the department can consider the application complete or issue an individual permit.

(2) **APPLICABLE ACTIVITIES.** A grading project which is not authorized by a general permit under s. NR 341.08 requires authorization by an individual permit pursuant to s. 30.19 (4), Stats.

(3) **GRADING STANDARDS.** A grading project that meets the standards in s. 30.19 (4) (c), Stats., may be authorized under an individual permit.

History: CR 04-085: cr. Register April 2005 No. 592, eff. 5-1-05.

NR 341.10 Enforcement. (1) Noncompliance with the provisions of ss. 30.19 and 30.206, Stats., this chapter, or any conditions of a general permit or individual permit issued by the department, constitutes a violation and may result in a forfeiture. The department may seek abatement under s. 30.294, Stats., for any activity in violation of ss. 30.19 and 30.206, Stats.

(2) If the activity may be authorized by a general permit under s. 30.206, Stats., failure of an applicant to follow the procedural requirements may not, by itself, result in abatement of the activity.

(3) When an after-the-fact permit application has been filed with the department, the department shall follow the procedures in ch. NR 301 for violations.

(4) Any violation of these rules shall be treated as a violation of the statutes they interpret or are promulgated under.

(5) No person may grade on the bank of a navigable waterway if the activity is not eligible for an exemption, authorized by a general permit or individual permit issued under this chapter, or otherwise authorized under this chapter.

History: CR 04-085: cr. Register April 2005 No. 592, eff. 5-1-05.

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

available at: <http://www.dnr.state.wi.us/org/water/wm/npa/alamn.htm> or contact the storm water coordinator in the runoff management section of the bureau of watershed management at (608) 267-7694.

4. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 8. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

Note: To achieve the infiltration requirement for the parking lots or roads, maximum extent practicable should not be interpreted to require significant topography changes that create an excessive financial burden. To minimize potential groundwater impacts it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollutant source areas such as parking lots.

5. Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this paragraph:

a. Areas associated with tier 1 industrial facilities identified in s. NR 216.21 (2) (a), including storage, loading, rooftop and parking.

b. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21 (2) (b).

Note: Runoff from tier 2 parking and rooftop areas may be infiltrated but may require pretreatment.

c. Fueling and vehicle maintenance areas.

d. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.

e. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subd. 5. e. does not prohibit infiltration of roof runoff.

f. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.

g. Areas within 400 feet of a community water system well as specified in s. NR 811.16 (4) or within 100 feet of a private well as specified in s. NR 812.08 (4) for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

h. Areas where contaminants of concern, as defined in s. NR 720.03 (2), are present in the soil through which infiltration will occur.

i. Any area where the soil does not exhibit one of the following characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10% fines or greater. This subd. 5. i. does not apply where the soil medium within the infiltration system provides an equivalent level of protection. Subdivision 5. i. does not prohibit infiltration of roof runoff.

Note: The areas listed in subd. 5. are prohibited from infiltrating runoff due to the potential for groundwater contamination.

6. Exemptions. The following are not required to meet the requirements of this paragraph:

a. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the bottom of the infiltration system.

b. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.

c. Redevelopment post-construction sites.

d. In-fill development areas less than 5 acres.

e. Infiltration areas during periods when the soil on the site is frozen.

f. Roads in commercial, industrial and institutional land uses, and arterial residential roads.

7. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.

8. a. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

b. Notwithstanding subd. 8. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(d) *Protective areas.* 1. In this paragraph, "protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

a. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, 75 feet.

b. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

c. For lakes, 50 feet.

d. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineation shall be made in accordance with s. NR 103.08 (1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

e. For less susceptible wetlands, 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

f. In subd. 1. a., d. and e., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.

g. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

2. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.

3. The following requirements shall be met:

a. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.

Note: It is recommended that seeding of non-aggressive vegetative cover be used in the protective areas. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover may be measured using the line transect method described in the university of Wisconsin extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".

c. Best management practices such as filter strips, swales or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.

Note: Other regulations, such as ch. 30, Stats., and chs. NR 103, 115, 116 and 117 and their associated review and approval process may apply in the protective area.

4. Exemptions. This paragraph does not apply to:

a. Redevelopment post-construction sites.

b. In-fill development areas less than 5 acres.

c. Structures that cross or access surface waters such as boat landings, bridges and culverts.

d. Structures constructed in accordance with s. 59.692 (1v), Stats.

e. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

Note: A vegetated protective area to filter runoff pollutants from post-construction sites described in subd. 4. e. is not necessary since runoff is not entering the surface water at that location. Other practices necessary to meet the requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants prior to runoff entering a surface water of the state.

(e) *Fueling and vehicle maintenance areas.* Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

Note: A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

(f) *Location.* To comply with the standards required under this subsection, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003.

(g) *Timing.* The BMPs that are required under this subsection shall be installed before the construction site has undergone final stabilization.

History: CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02.

NR 151.13 Developed urban area performance standard. (1) **INFORMATION AND EDUCATION.** (a) *Applicability.* This section applies to any incorporated municipality with an average density of 1,000 people per square mile or greater, based on the latest decennial census made by the United States census, as well as any commercial and industrial areas contiguous to these areas.

Note: The municipality has primary responsibility for complying with this section. However, the general population is expected to follow municipal ordinance requirements and requests to carry out activities such as: proper curbside placement of leaves for collection, relocating vehicles for street sweeping and utilizing proper disposal methods for oils and other chemicals.

(b) *Requirements.* For areas identified under par. (a), all of the following shall be implemented by March 10, 2008:

1. A public information and education program, utilizing materials identified by the department, promoting beneficial on-site reuse of leaves and grass clippings and proper use of lawn and garden fertilizers and pesticides, proper management of pet wastes and prevention of dumping oil and other chemicals in storm sewers. Information and education materials shall include instruction on how to apply fertilizers in accordance with a nutrient application schedule, based on appropriate soil tests, and the application of pesticides in accordance with an integrated pest management plan.

2. A municipal program, as appropriate, for the collection and management of leaf and grass clippings, including public education about this program.

3. The application of lawn and garden fertilizers on municipally controlled properties, with pervious surface over 5 acres each, shall be done in accordance with a site specific nutrient application schedule based on appropriate soil tests. The nutrient application schedule shall be designed to maintain the optimal health of the lawn or garden vegetation.

4. Detection and elimination of illicit discharges to storm sewers.

(2) **PERMITTED MUNICIPALITIES.** (a) *Applicability.* This section applies to municipalities that are subject to the municipal storm water permit requirements of subch. I of ch. NR 216.

Note: A municipal separate storm sewer system could become subject to subch. I of ch. NR 216 if it is designated by the department under s. NR 216.025.

(b) *Program.* A municipality shall develop and implement a storm water management program, including the adoption and administration of any necessary ordinance, to meet the following requirements:

Note: The program to meet the requirements of this section may be the same as the municipal storm water management program required by s. NR 216.07(1) to (6) or some other plan.

1. Stage 1 requirements. The municipalities listed under par. (a), shall implement the following by March 10, 2008:

a. All of the requirements contained in sub. (1) (b).

b. To the maximum extent practicable, a 20% reduction in total suspended solids in runoff that enters waters of the state as compared to no controls.

Note: It is expected that the municipality will be able to achieve the 20% reduction by municipal street sweeping, using either conventional or high efficiency sweepers, regular catch basin cleaning, de-icer management, and education to change human behavior toward reducing pollution.

2. Stage 2 requirements. To the maximum extent practicable, the municipalities listed under par. (a) shall implement a 40% reduction in total suspended solids in runoff that enters waters of the state as compared to no controls, by March 10, 2013.

Note: It is expected that the municipality will be able to achieve the 40% reduction through the use of high efficiency street sweeping or structural BMP retrofit practices. The stage 2 requirements may include application of BMPs to privately owned lands, such as shopping centers.

(c) *Location.* To comply with the standards required under this subsection, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003.

(d) *Exclusion.* This section does not apply to areas subject to subch. II of ch. NR 216.

History: CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02.

NR 151.14 Non-municipal property fertilizer performance standard. (1) **APPLICABILITY.** This section applies when all of the following conditions are met:

(a) The property is not owned by a municipality.

(b) The property has over 5 acres of pervious surface where fertilizers are applied.

(c) The property discharges runoff to waters of the state.

(2) **RESPONSIBLE PARTY.** The landowner shall comply with this section.

(3) **REQUIREMENTS.** No later than March 10, 2008, the application of lawn and garden fertilizers on these properties shall be done in accordance with site-specific nutrient application schedules based on appropriate soil tests. The nutrient application schedule shall be designed to maintain the optimal health of the lawn or garden vegetation.

Note: The landowner should consider using slow release fertilizers or "spoon feeding" nutrients to reduce the concentration of nitrates reaching groundwater.

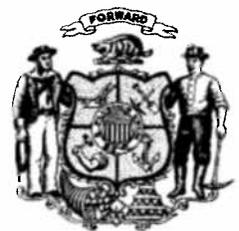
History: CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02.

NR 151.15 Implementation and enforcement.

(1) **IMPLEMENTATION.** This subchapter shall be implemented as follows:



WISCONSIN STATE LEGISLATURE





22 EAST MIFFLIN STREET, SUITE 900
MADISON, WI 53703
TOLL FREE: 1.866.404.2700
PHONE: 608.663.7188
FAX: 608.663.7189

MEMORANDUM

TO: Honorable Members of the Senate Committee on Natural Resources and Transportation

FROM: Matthew Stohr, Legislative Associate *MS*

DATE: November 3, 2005

SUBJECT: 2005 Assembly Bill 299

The Wisconsin Counties Association (WCA) feels the intent of 2005 Assembly Bill 299 (AB 299) is good, however, there are a few amendments that we respectfully request that you consider. As you are aware, county zoning departments are confronted with heavy workloads and at the same time are experiencing staff cuts due to county fiscal constraints. To this end, WCA is certainly supportive of measures to reduce the workload of counties, especially when an essential service isn't compromised. WCA has heard from county officials that this bill is a step in the right direction since the current statutes relating to shoreland zoning and annexation need to be clearer and less duplicative; however, WCA respectfully requests that the Committee consider amending this bill to encourage local units of government to cooperate to preserve Wisconsin's shoreland areas.

WCA respectfully requests that AB 299 be amended to allow for certain portions of Wisconsin state statute 59.692 (7) (a) to remain in effect. First, statute 59.692 (7) (a) (1) allows for consistent shoreland zoning standards in counties. Without this measure in place, an unintended consequence could be efforts by third parties to pressure unincorporated areas to be annexed by cities/villages. Second, statute 59.692 (7) (a) (3) allows for cooperation between cities, villages and counties. Third, statute 59.692 (7) (a) (3) (ad) (1) and (3) serve as a tool for consistency among shoreland zoning ordinances and allow enforcement cooperation between cities, villages and counties.

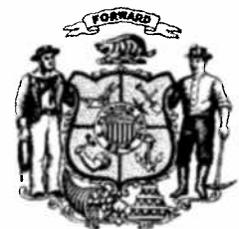
With the recommended changes listed above, WCA respectfully requests that the corresponding municipal statutes, 66.0203 (10), 66.0213 (2) (b) and 66.0215 (7) (b), also not be repealed by AB 299. WCA feels that the changes listed above will allow for consistency among shoreland zoning ordinances and provide opportunities for local units of government to deem what is appropriate for the enforcement of such ordinances.

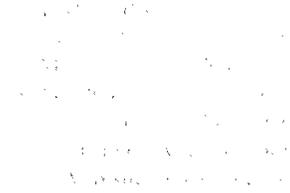
Thank you for considering our comments.

Please do not hesitate to contact me at the WCA office if you have any questions.



WISCONSIN STATE LEGISLATURE





100 West Washington Street, Suite 1000
Milwaukee, WI 53202-3000

William M. K. ...
E-mail: wemg@wri.org

Memorandum

To: Members, Senate Natural Resources and Transportation Committee
From: Tom Larson
Date: November 3, 2005
Re: AB 299 – Shoreland Zoning After Annexation

The Wisconsin Realtors Association requests your support for AB 299, legislation that will allow cities and villages to apply their own shoreland zoning standards to newly annexed property in shoreland areas.

Background

Under current law, when a property owner annexes property into a city or village, the zoning regulations of the city or village apply. The city or village get to decide whether the property is zoned for residential, commercial or agricultural use, the density of the development, and other standards related to the development of the property.

However, if the annexed land is within 1000 feet of a lake or pond (300 feet of a river or stream), the city or village cannot change the zoning standards on the land after it is annexed. The county's shoreland zoning regulations (which must meet the minimum standards adopted by the DNR) continue to apply.

Problems With Current Law

The application of county shoreland zoning standards to cities and villages is inappropriate for the following reasons:

- **County shoreland zoning standards are designed for land in unincorporated areas that is not serviced by public sewer and water.** They are inappropriate for cities and villages that have the public services to develop at higher densities.

-- More --



REALTOR® is a registered mark which identifies a professional in real estate who subscribes to a strict Code of Ethics as a member of the NATIONAL ASSOCIATION OF REALTORS®

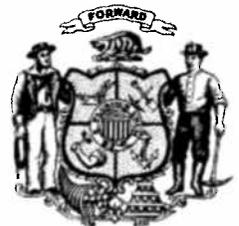
- **Maintaining county shoreland zoning standards is a barrier to economic development.** If a property owner annexes land into a city or village that is zoned agricultural or low-density residential, the property owner is prohibited from changing the zoning of the property to a higher, more economically-productive use appropriate for commercial or higher density development. This prevents communities from growing, and threatens the economic vitality of our state.

- **County shoreland zoning standards promote inefficient uses of land and higher public service costs.** County shoreland zoning standards generally require development to occur at lower densities than what is allowed under city or village zoning standards. Lower-density standards require more land to accommodate development and result in more expensive public service costs, such as sewer and water.

We encourage you to support AB 299. If you have any questions, please contact me at (608) 240-8254.



WISCONSIN STATE LEGISLATURE



no date

DIFFERENCES BETWEEN NR115 AND NR151

AB
2019

Background: Arguments have been made by advocates of proposed legislation initiatives that the urban performance measures, as identified under NR 151 Subchapter III, can substitute for the protections available under NR115. Specifically, an author of a bill that proposed to eliminate shoreland zoning in annexed areas stated “While this legislation would remove the duplicate zoning ordinances, all of the environmental safeguards are left in place. Waterways would be protected by the newly-enacted NR 151, which mandates a setback (buffer) from all waterways, whether in an urban or rural setting. Furthermore, wetland and Chapter 30 regulations are in place to prevent degradation of any wetlands or navigable waters. Making this change will not harm the environment, it will only remove local government duplication.” Taken to its end point, one could argue that the protections under NR115 are no longer needed given NR151 is now in place.

Although NR151 will provide for more water quality protection in many areas, there are significant differences or misperceptions that need to be clarified. When NR151 was developed it was specifically designed to be complementary to NR115 and many of its provisions were limited because NR115 currently exists.

Discussion: The purpose of NR151 is very narrow, specifically it is designed to help achieve water quality standards. The purpose of NR115 is much broader, being in part to “further the maintenance of safe and healthful conditions, to prevent and control water pollution, to protect spawning grounds, fish and aquatic life, control building sites, and to reserve shore cover and natural beauty”. Performance standards under NR151 are focused on achieving water quality results while NR115 standards have a much stronger habitat focus. Importantly the NR151 standards are not applicable to many of the areas covered by NR115.

Significant differences between the protective area standards under NR151 and shoreland zoning standards under NR115 include:

- **Applicability:** NR151 only apply when greater than 1 acre of land is disturbed on land owned by a single individual. In many areas of the state where minimum lot sizes of ½ acre (unsewered areas) and ¼ acre (sewered areas) exist, NR151 standards would not apply even if the entire lot was graded. For example, an existing home may be completely torn down, the buffer removed, and a new home built right to the water’s edge.
- **Re-development:** Shoreland zoning standards apply for both new development and re-development. NR151 only applies to new development. In areas where residential use currently exists and changes are being proposed that would not change that use, NR151 standards would not apply. For example, an existing home may be completely torn down, the buffer removed, and a new home built right to the water’s edge even if greater than 1 acre of land was disturbed.
- **Impervious limits:** Under some circumstances NR151 impervious surfaces are allowed right up to the water’s edge. Although any run-off water would have to be

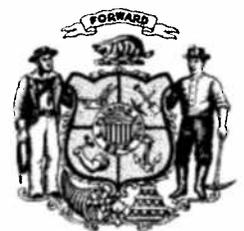
diverted to some type of settling basin, construction of impervious surfaces are permitted and could be locally significant.

- **Buffers:** Buffer distances under NR151 vary between 10 feet and 50 feet (75 feet for outstanding/exceptional waters). The shoreland buffer under NR115 is 75 ft. A turf-grass lawn is considered a buffer under NR151. Importantly, the NR151 buffer is required only post development on sites developed after 2002. Under NR115, a natural shoreland primary buffer of 35 feet is required immediately adjacent to the water's edge along with a secondary (turf-grass) buffer of 40 feet. Under NR151 the existing natural buffer can be totally removed and re-graded as long as it was replaced with turf-grass or other buffer.

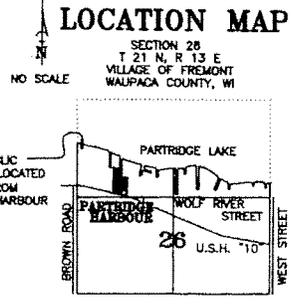
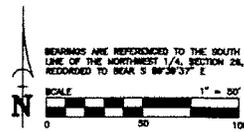
Summary Very significant differences exist between the level of protection provided between NR151 Performance Standards and NR115 Shoreland Zoning Standards. Performance standards would only rarely apply to development of individual shoreland lots. Natural shoreland buffers would be lost without the current standards contained in NR115 and development could occur right to the water's edge.



WISCONSIN STATE LEGISLATURE



"EXHIBIT A"



UTILITY EASEMENTS - NO POLES OR BURIED CABLES ARE TO BE PLACED SUCH THAT THE INSTALLATION WOULD DISTURB ANY SURVEY STAKE OR OBSTRUCT VISION ALONG ANY LOT LINE OR STREET LINE. THE DISTURBANCE OF A SURVEY STAKE BY ANYONE IS A VIOLATION OF SECTION 236.32 OF WISCONSIN STATUTES. UTILITY EASEMENTS AS HEREIN SET FORTH ARE FOR THE USE OF PUBLIC BODIES AND PRIVATE PUBLIC UTILITIES HAVING THE RIGHT TO SERVE THE AREA.

ACCESS RESTRICTION CLAUSES
 AS OWNER, I HEREBY RESTRICT LOTS 4 AND 5 IN THAT NO OWNER, POSSESSOR, USER, NOR LICENSEE, NOR OTHER PERSON SHALL HAVE ANY RIGHT OF DIRECT VEHICULAR INGRESS OR EGRESS WITH U.S.H. "10" AS SHOWN ON THE PLAT; IT BEING EXPRESSLY INTENDED THAT THIS RESTRICTION SHALL CONSTITUTE A RESTRICTION FOR THE BENEFIT OF THE PUBLIC ACCORDING TO SECTION 236.293, WISCONSIN STATUTES, AND SHALL BE ENFORCEABLE BY THE COUNTY OF WAUPACA OR ITS ASSIGNS. ANY ACCESS SHALL BE ALLOWED ONLY BY SPECIAL EXCEPTION. ANY ACCESS ALLOWED BY SPECIAL EXCEPTION SHALL BE CONFIRMED AND GRANTED ONLY THROUGH THE DRIVEWAY PERMITTING PROCESS AND ALL PERMITS ARE REVOCABLE.

HIGHWAY SETBACK LINES
 NO IMPROVEMENTS OR STRUCTURES ARE ALLOWED BETWEEN THE RIGHT-OF-WAY LINE AND THE HIGHWAY SETBACK LINE. IMPROVEMENTS AND STRUCTURES INCLUDE, BUT ARE NOT LIMITED TO, SIGNS, PARKING AREAS, DRIVEWAYS, WELLS, SEPTIC SYSTEMS, DRAINAGE FACILITIES, BUILDINGS AND RETAINING WALLS. IT IS EXPRESSLY INTENDED THAT THIS RESTRICTION IS FOR THE BENEFIT OF THE PUBLIC AS PROVIDED IN SECTION 236.293, WISCONSIN STATUTES, AND SHALL BE ENFORCEABLE BY THE WISCONSIN DEPARTMENT OF TRANSPORTATION OR ITS ASSIGNS. CONTACT THE WISCONSIN DEPARTMENT OF TRANSPORTATION FOR MORE INFORMATION. THE PHONE NUMBER MAY BE OBTAINED BY CONTACTING THE COUNTY HIGHWAY DEPARTMENT.

NOISE BARRIERS
 THE LOTS OF THIS LAND DIVISION MAY EXPERIENCE NOISE AT LEVELS EXCEEDING THE LEVELS IN S.TRANS 405.04, TABLE 1. THESE LEVELS ARE BASED ON FEDERAL STANDARDS. THE DEPARTMENT OF TRANSPORTATION IS NOT RESPONSIBLE FOR ABATING NOISE FROM EXISTING STATE TRUNK HIGHWAYS OR CONNECTING HIGHWAYS, IN THE ABSENCE OF ANY INCREASE BY THE DEPARTMENT TO THE HIGHWAY'S THROUGH-LANE CAPACITY.

CURVE	RADIUS	DELTA	LENGTH	CHORD BEARING	CHORD	TANGENT IN	TANGENT OUT
1	5795.00'	002°18'11"	232.94'	N 79°31'13.5" W	232.92'	N 78°22'08" W	N 80°40'19" W
2	5795.00'	000°24'45"	41.72'	N 78°34'30.5" W	41.72'	N 78°22'08" W	N 78°46'53" W
3	5795.00'	001°53'26"	191.22'	N 79°43'36.0" W	191.21'	N 78°46'53" W	N 80°40'19" W
E1	5795.00'	000°26'57"	45.43'	N 80°26'50.5" W	45.43'	N 80°13'22" W	N 80°40'19" W
E2	5795.00'	000°04'46"	8.04'	N 80°37'56.0" W	8.04'	N 80°35'33" W	N 80°40'19" W
E3	5795.00'	000°22'11"	37.39'	N 80°24'27.5" W	37.39'	N 80°13'22" W	N 80°35'33" W
E4	5795.00'	000°03'03"	5.14'	N 78°23'39.5" W	5.14'	N 78°22'08" W	N 78°25'11" W

- NOTES**
1. ALL LINEAR MEASUREMENTS HAVE BEEN MADE TO THE NEAREST ONE HUNDREDTH OF A FOOT.
 2. ALL ANGULAR MEASUREMENTS HAVE BEEN MADE TO THE NEAREST 20 SECONDS AND COMPUTED TO THE NEAREST HALF SECOND.
 3. FRONT YARD BUILDING SETBACK IS 30' THROUGHOUT THE PLAT OF PARTRIDGE HARBOUR.

SURVEYOR'S CERTIFICATE
 I, DAVID D. EISELE, REGISTERED LAND SURVEYOR, HEREBY CERTIFY:

THAT I HAVE SURVEYED, DIVIDED, AND MAPPED PARTRIDGE HARBOUR, BEING PARTS OF GOVERNMENT LOT 1 AND GOVERNMENT LOT 2, SECTION 26, TOWN 21 NORTH, RANGE 13 EAST, VILLAGE OF FREMONT, WAUPACA COUNTY, WISCONSIN DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST 1/4 CORNER OF SAID SECTION 26; THENCE SOUTH 89 DEGREES 39 MINUTES 37 SECONDS EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4, A DISTANCE OF 977.27 FEET; THENCE NORTH 01 DEGREE 41 MINUTES 39 SECONDS EAST, ALONG THE EAST LINE OF YOGI BEAR CAMPGROUND, 103.87 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 01 DEGREE 41 MINUTES 39 SECONDS EAST, ALONG THE EAST LINE OF YOGI BEAR CAMPGROUND, 632.93 FEET; THENCE SOUTH 75 DEGREES 08 MINUTES 43 SECONDS EAST, 155.40 FEET TO A MEANDER CORNER WHICH IS NORTH 75 DEGREES 08 MINUTES 43 SECONDS WEST, 20 FEET OR MORE FROM THE WATER'S EDGE OF A CHANNEL OF PARTRIDGE LAKE; THENCE, ALONG A MEANDER LINE, SOUTH 01 DEGREE 00 MINUTES 51 SECONDS WEST, 224.20 FEET TO A MEANDER CORNER WHICH IS SOUTH 46 DEGREES 51 MINUTES 22 SECONDS WEST, 28 FEET MORE OR LESS FROM SAID WATER'S EDGE; THENCE, ALONG A MEANDER LINE, SOUTH 87 DEGREE 50 MINUTES 18 SECONDS EAST, 92.79 FEET TO A MEANDER CORNER WHICH IS SOUTH 43 DEGREES 04 MINUTES 34 SECONDS EAST, 28 FEET MORE OR LESS FROM SAID WATER'S EDGE; THENCE, ALONG A MEANDER LINE, NORTH 01 DEGREE 40 MINUTES 56 SECONDS EAST, 60.56 FEET TO A MEANDER CORNER WHICH IS SOUTH 89 DEGREE 28 MINUTES 11 SECONDS EAST, 20 FEET OR MORE FROM SAID WATER'S EDGE; THENCE SOUTH 89 DEGREES 28 MINUTES 11 SECONDS EAST, 140.22 FEET; THENCE SOUTH 02 DEGREES 02 MINUTES 55 SECONDS WEST, ALONG THE WEST LINE OF LOT 2, CERTIFIED SURVEY MAP #1779, A DISTANCE OF 497.80 FEET; THENCE NORTH 89 DEGREES 39 MINUTES 37 SECONDS WEST, 124.47 FEET; THENCE SOUTH 00 DEGREES 20 MINUTES 23 SECONDS WEST, 120.17 FEET; THENCE, ALONG THE NORTH RIGHT OF WAY LINE OF U.S.H. "10", A DISTANCE OF 232.94 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 5795.00 FEET WITH A CHORD WHICH BEARS NORTH 79 DEGREES 31 MINUTES 13.5 SECONDS WEST, 232.92 FEET THE POINT OF BEGINNING, INCLUSIVE OF ALL LANDS LYING BETWEEN SAID MEANDER LINE AND THE CHANNEL TO PARTRIDGE LAKE, CONTAINING 191,576± SQUARE FEET [4.40± ACRES].

THAT SUCH PLAT IS A CORRECT REPRESENTATION OF ALL EXTERIOR BOUNDARIES OF THE LAND SURVEYED AND THE SUBDIVISION THEREOF MADE.

THAT I HAVE MADE SUCH LAND DIVISION AND PLAT BY THE DIRECTION OF THE OWNERS SHOWN HEREON.

THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236 OF THE WISCONSIN STATUTES, AND THE SUBDIVISION REGULATIONS OF THE VILLAGE OF FREMONT IN SURVEYING, DIVIDING AND MAPPING THE SAME.

GIVEN UNDER MY HAND THIS _____ DAY OF _____, 2003.

DAVID D. EISELE, REGISTERED WI LAND SURVEYOR 3-374

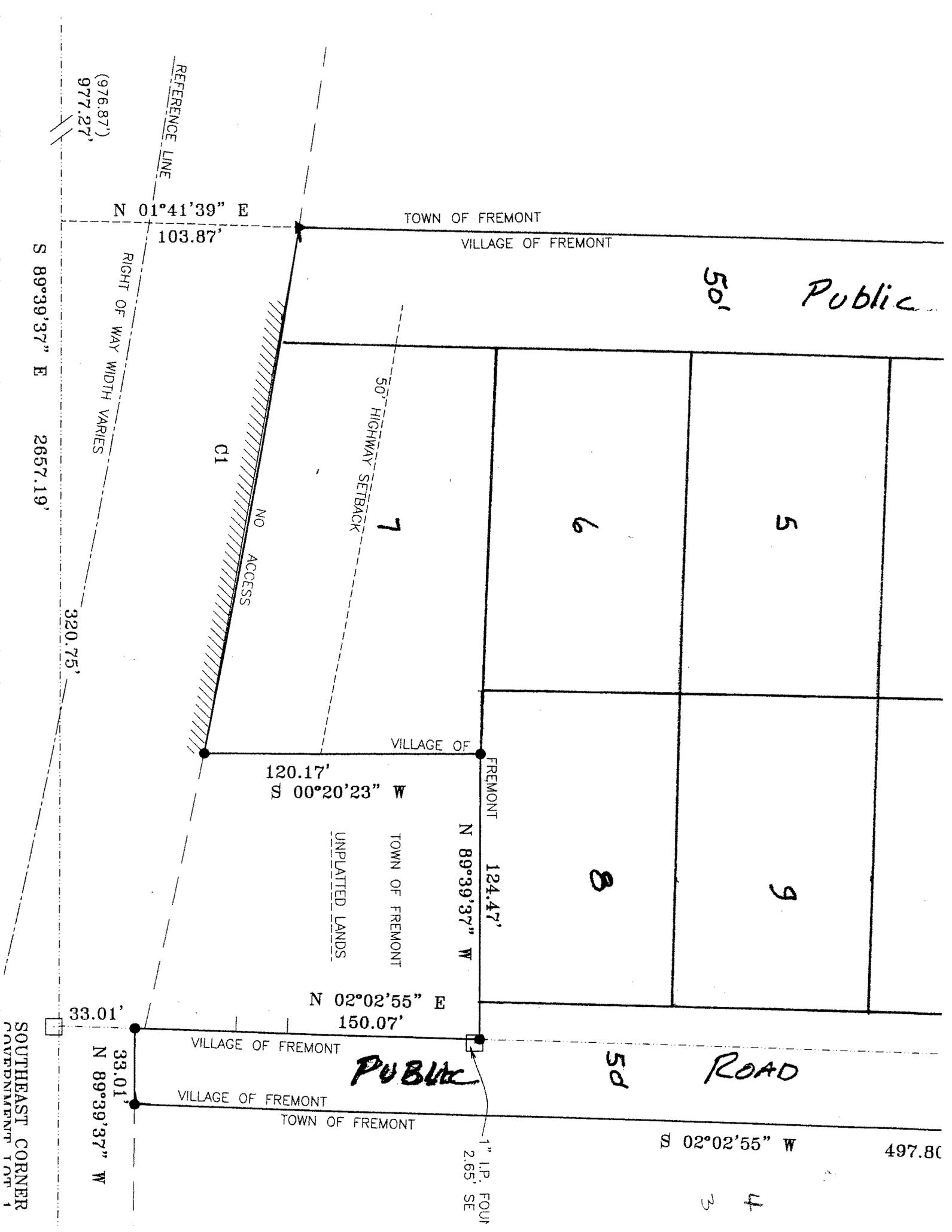
LEGEND
 1" O.D. ROUND IRON PIPE SET, 24" LONG, WEIGHING 1.13 LBS. PER LINEAL FOOT AT ALL OTHER LOT CORNERS

- 1-1/4" O.D. ROUND STEEL REINFORCING BAR SET, 30" LONG WEIGHING 4.303 LBS. PER LINEAL FOOT
- 1" IRON PIPE FOUND
- 1-1/4" ROUND STEEL REINFORCING BAR FOUND
- ▲ RAILROAD SPIKE FOUND
- ± WETLANDS
- [] TOTAL LOT AREA IN SQUARE FEET
- ◆ GOVERNMENT CORNER
- //// NO ACCESS

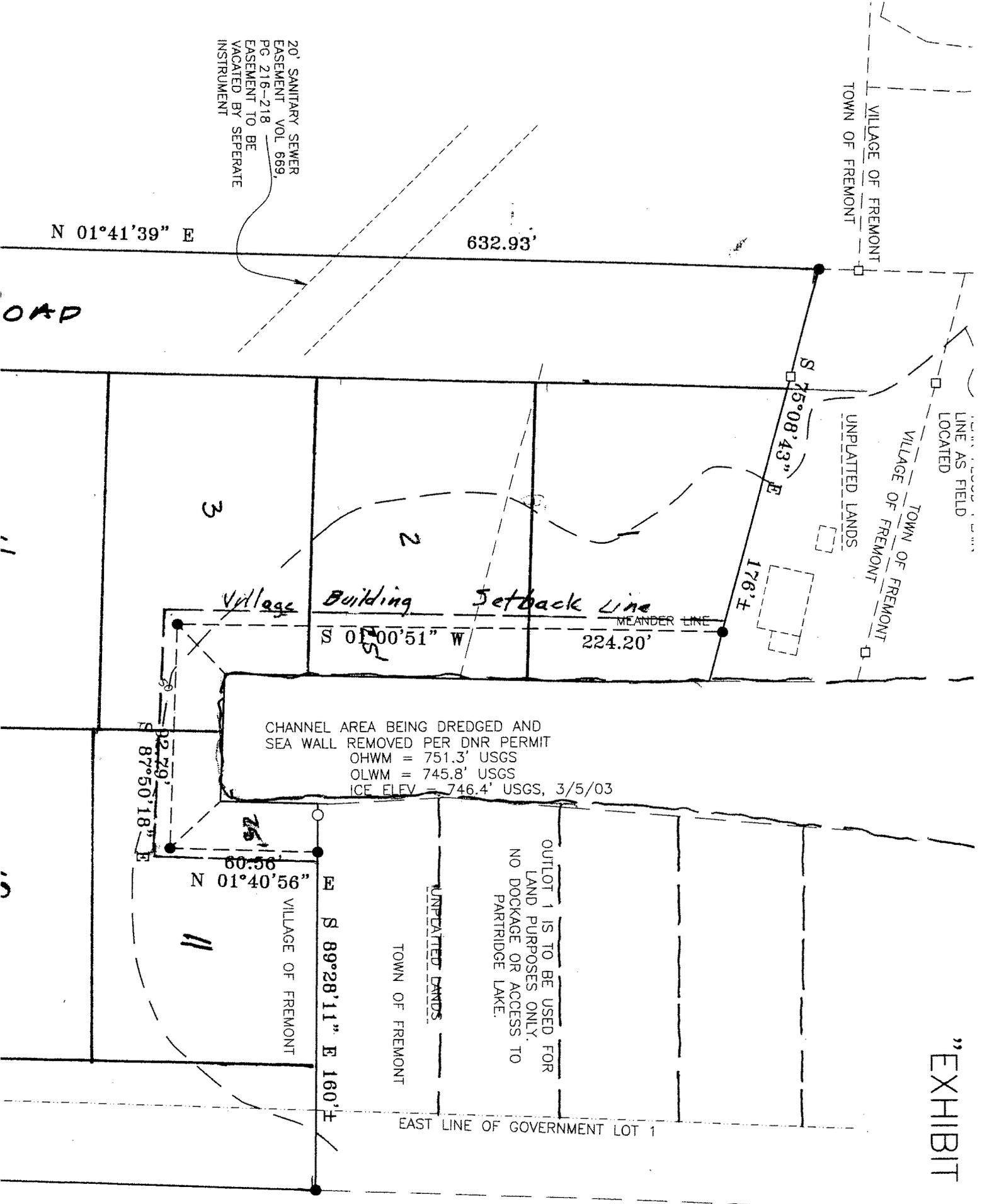
WOLF RIVER STREET
 CENTER SECTION 26
 T 21 N, R 13 E
 P.K. NAIL



Martenson & Eisele, Inc.
 Planning - Surveying - Engineering - Architecture
 1377 Midway Road, Menasha, WI 54952
 Phone (920) 731-0361 Fax (920) 733-6578
 www.martenson-eisele.com
 info@martenson-eisele.com



"EXHIBIT B"



20' SANITARY SEWER
EASEMENT VOL. 669,
PG 216-218
EASEMENT TO BE
VACATED BY SEPERATE
INSTRUMENT

N 01°41'39" E

632.93'

VILLAGE OF FREMONT
TOWN OF FREMONT

OAD

S 75°08'43" E

LINE AS FIELD
LOCATED
UNPLATTED LANDS
VILLAGE OF FREMONT
TOWN OF FREMONT

3

2

Village Building Setback Line

S 01°00'51" W

224.20'

176'±

CHANNEL AREA BEING DREDGED AND
SEA WALL REMOVED PER DNR PERMIT
OHWM = 751.3' USGS
OLWM = 745.8' USGS
ICE ELEV = 746.4' USGS, 3/5/03

S 87°50'18" E
92.29'

26'

N 01°40'56"

VILLAGE OF FREMONT

E S 89°28'11" E 160'±

UNPLATTED LANDS

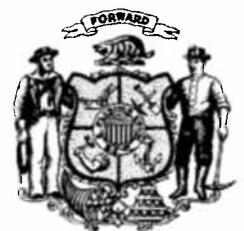
TOWN OF FREMONT

OUTLOT 1 IS TO BE USED FOR
LAND PURPOSES ONLY.
NO DOCKAGE OR ACCESS TO
PARTRIDGE LAKE.

EAST LINE OF GOVERNMENT LOT 1



WISCONSIN STATE LEGISLATURE



DATE: September 30, 2003

FILE REF: 2003 Assembly Bill 527

TO: Carmen Wagner - WT/2
Richard Wedepohl - WT/2

FROM: Linda Meyer - LS/5

SUBJECT: Proposed Changes to 2003 AB 527, to Simplify Shoreland Zoning Requirements for Annexed and Incorporated Shoreland Areas

I've attached a copy of 2003 Assembly Bill 527 and a copy of the bill history. I have generated this memo to put on paper the specific amendments to AB 527 that we discussed in general terms at the Shoreland Management Team meeting last week. Hopefully, this specific proposal can be presented to the legislators who introduced this bill, in an effort to convince them to amend it as follows:

Section 1. Instead of deleting all references to sub. (7), 59.692 (6m) should be amended to read:

59.692 (6m) For an amendment to an ordinance enacted under this section that affects an activity that meets all of the requirements under s. 281.165 (2) or (3)(a), the department may not proceed under sub. (6) or (7)(b) ~~or (c)~~, or otherwise review the amendment, to determine whether the ordinance, as amended, fails to meet the shoreland zoning standards.

Section 2. Instead of repealing it entirely, section 59.692 (7), Stats., should be amended to read:

59.692 (7)(a) Provisions of a county shoreland zoning ordinance that are enacted under this section that were applicable, prior to annexation, to any shoreland area annexed by a city or village after May 7, 1982, shall continue in effect and shall be enforced after annexation by the annexing city or village unless any either of the following occurs:

1. The city or village enacts, administers and enforces a zoning ordinance, for the annexed area, that complies with the shoreland zoning standards ~~and that is at least as restrictive as the county shoreland zoning ordinance.~~

2. ~~After annexation, the city or village requests the county to amend the county shoreland zoning ordinance as it applies to the annexed area to delete or modify provisions that meet the specifications under par. (ag), the county enacts the amendment and the city or village administers and enforces the amended ordinance as it applies to the annexed area.~~

~~3. After annexation, the city or village requests that the county shoreland zoning ordinance, as it applies to the annexed area, continues to be in effect and enforced by the county and the county agrees to enforce the ordinance.~~

(ad) Provisions of a county shoreland zoning ordinance that are enacted under this section that were applicable, prior to incorporation, to any shoreland area that is part of a town that incorporates as a city or village under s. 66.0203, 66.0211, 66.0213 or 66.0215 after April 30, 1994, shall continue in effect and shall be enforced after incorporation by the incorporated city or village unless any either of the following occurs:



1. The city or village enacts, administers and enforces a zoning ordinance that complies with the shoreland zoning standards and that is at least as restrictive as the county shoreland zoning ordinance.

~~2. After incorporation, the city or village requests the county to amend the county shoreland zoning ordinance as it applies to the incorporated area to delete or modify provisions that meet the specifications under par. (ag), the county enacts the amendment and the city or village administers and enforces the amended ordinance.~~

~~3. After incorporation, the city or village requests that the county shoreland zoning ordinance, as it applies to the incorporated area, continues to be in effect and enforced by the county and the county agrees to enforce the ordinance.~~

~~(ag) For purposes of pars. (a) 2. and (ad) 2., the types of provisions that may be deleted or modified are those that establish specified land uses or requirements that are associated with those uses and that are not necessary to effect the purposes of s. 281.31 (1) that relate to the protection of navigable waters.~~

~~(ar) The county may not enact an amendment under par. (a) 2. or (ad) 2. that is less restrictive than the shoreland zoning standards.~~

~~(aw) Any amendment enacted under par. (a) 2. shall apply only to the annexed area of the city or village requesting the amendment.~~

(b) If the department determines that a zoning ordinance enacted by a city or village under par. (a) 1. or (ad) 1. does not meet the shoreland zoning standards or is not as restrictive as the county shoreland zoning ordinance, the department shall, after providing notice and conducting a hearing on the matter, either issue an order declaring the city or village ordinance void and reinstating the applicability of the county shoreland zoning ordinance or issue an order declaring the city or village ordinance void and adopting an ordinance for the annexed or incorporated area for the city or village that does meet the shoreland zoning standards and that is at least as restrictive as the county shoreland zoning ordinance.

(c) If the department determines that an amendment enacted by a county under par. (a) 2. or (ad) 2. does not meet the shoreland zoning standards, the department, after providing notice and conducting a hearing on the matter, shall issue an order declaring the amendment void and shall reinstate the applicability of the county shoreland zoning ordinance, that was in effect before amending the ordinance, to the annexed or incorporated area.

(d) As far as applicable, the procedures set forth in s. 87.30 apply to this subsection.

(e) Paragraphs (a) and (ad) do not apply to wetlands in shorelands that are governed by the provisions in s. 61.351 or 62.231.

Section 3. Section 66.0203 (10) should not be repealed or amended.

Sections 4 to 10. Sections 66.0213, 66.0215, 66.0217, 66.0219 and 66.0223 should not be amended.

Please let me know if you have any questions about the changes to 2003 AB 527 that I am recommending. Thank you.