

2001 DRAFTING REQUEST

Bill

Received: **11/23/2001**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Terese Berceau (608) 266-3784**

By/Representing: **Tom Powell**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Addl. Drafters:

Subject: **Munis - zoning
Counties - zoning**

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Control of municipal comprehensive plans over certain town and county plans

Instructions:

See attached. Muni comp. plans control over competing town and county plans in extraterritorial area.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	shoveme 01/17/2002	rschluet 01/23/2002	jfrantze 01/24/2002	_____	lrb_docadmin 01/24/2002	lrb_docadminS&L 02/07/2002	

FE Sent For: *at introduction*

<END>

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1/1	shoveme	<i>[Signature]</i> 1-1-23	<i>[Signature]</i> 1-1-24	<i>[Signature]</i> 1-1-29			

11 MES 1/17/01

FE Sent For:

<END>



202 State Street
Suite 300
Madison, Wisconsin 53703-2215

608/267-2380
800/991-5502
Fax: 608/267-0645

E-mail: league@lwm-info.org
www.lwm-info.org

Date: October 2, 2001
To: Tom Powell, Aide to Representative Terese Berceau
From: Curt Witynski, Assistant Director
Re: Enhancement of Municipal Extraterritorial Powers

See p. 2

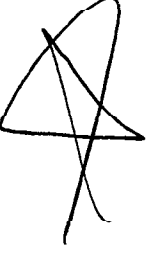
As a follow up to our recent conversation about municipal extraterritorial zoning and plat approval powers, I've attached several outlines and articles summarizing municipal authority in the extraterritorial area.

You asked for any suggestions we might have for legislative changes that would enhance a municipality's extraterritorial zoning and plat approval authority. In response, I'm submitting the following three legislative proposals for your and Representative Berceau's consideration:

- Authorize municipalities to require developers to install public improvements, such as streets, curbs, sidewalks and sewers, as a condition of approving plats located in a municipality's extraterritorial plat approval jurisdiction. Under current law, as interpreted by the courts, only the town or municipality in which the subdivision lies can require the installation of public improvements as a condition of plat approval. Thus, in the extraterritorial area, the city or village cannot impose such a requirement. *Rice v. Oshkosh*, 148 Wis.3d 78 (1989).
- Authorize municipalities to condition approval of subdivisions contiguous to municipalities and located within their extraterritorial plat review jurisdiction on annexation. In *Hoepker v. City of Madison Plan Commission*, (1997), the City of Madison conditioned approval of Hoepker's plat on annexation to the City because the City was concerned about having a sixty-two lot development on its immediate fringe which would not be served by public sewer and water. The Supreme Court held that the City could not condition approval of the plat on annexation. In its decision, the Court suggested that the City's legitimate concerns about allowing unsewered developments to occur on its fringe would have to be addressed by the legislature. The Court said:

We have not overlooked the City's and the League of Wisconsin Municipalities' assertion that municipalities should have authority to condition plat approval on annexation, because otherwise municipalities will be forced to approve unsewered development on their immediate fringe. While this may very well be good public policy, the question of

whether municipalities should have such authority is a matter for the legislature.

- 
- Specify that municipal comprehensive plans shall control over competing town and county plans in the extraterritorial area. In 2010, as a result of the smart growth legislation, all municipal land use decisions, including zoning approvals, annexations and subdivision approvals, must be consistent with the municipality's comprehensive plan. The smart growth legislation does not address the question of competing comprehensive plans. Specifically, current law does not answer the question of which plan controls when a town, county and municipality have adopted comprehensive plans covering the same area. Section 59.69(3)(e), Stats., provides some guidance. It states that the municipal comprehensive plan controls over the county's development plan within the municipality's extraterritorial jurisdiction. However, similar language should be added to sec. 66.1001, Stats., the comprehensive planning statute, indicating that the municipality's comprehensive plan controls over the town's within the municipality's extraterritorial jurisdiction.

Please give me a call if you have any questions or need additional information about the above suggestions. Also, I'd be happy to meet with you, Rep. Berceau, and City of Madison staff to discuss these or any other ideas for legislation enhancing municipal extraterritorial zoning and plat approval powers.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4349/

MES

km9

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gl

in unincorporated territory

1

AN ACT ...; relating to: the applicability of city and village comprehensive plans

Analysis by the Legislative Reference Bureau

Under current law, a county board may engage in zoning and land use planning by creating a county planning agency or by designating a previously constituted county committee or commission as the county planning agency. If a county board creates or designates such an agency, the agency is required to direct the preparation of a county development plan for the physical development of the towns within the county and for the cities and villages within the county whose governing bodies agree to have their areas included in the county plan.

Handwritten diagram with arrows pointing to the text below.

Also under current law, a city or village, or certain towns that exercise village powers, may create a city, village, or town plan commission to engage in zoning and land use planning. If a city, village, or town creates such a commission, the commission is required to adopt a master plan for the physical development of the city, village, or town, including in some instances, in the case of a city or village, unincorporated areas outside of the city or village which are related to the city's or village's development.

Under current law, if a local governmental unit (city, village, town, county, or regional planning commission) creates a comprehensive plan (a development plan or a master plan) or amends an existing comprehensive plan, the plan must contain certain planning elements. The required planning elements include the following: Δ housing; transportation; utilities and community facilities; agricultural, natural, and \times cultural resources; economic development; and land use.

Beginning on January 1, 2010, any program or action of a local governmental unit that affects land use must be consistent with that local governmental unit's

comprehensive plan. The actions to which this requirement applies include zoning ordinances, municipal incorporation procedures, annexation procedures, agricultural preservation plans, and impact fee ordinances. Also beginning on January 1, 2010, if a local governmental unit engages in any program or action that affects land use, the comprehensive plan must contain at least all of the required planning elements.

Current law authorizes cities and villages to exercise zoning authority within its extraterritorial zoning jurisdiction. This extraterritorial zoning jurisdiction consists of unincorporated areas (town or county territory) within 3 miles of the corporate limits of a first, second, or third class city or within 1 and 1/2 miles of a fourth class city or a village.

Under this bill, beginning on January 1, 2010, a comprehensive plan of a city or village that affects the city's or village's extraterritorial zoning jurisdiction shall control over a town or county comprehensive plan that affects that same area. This provision is similar to a current law provision that states that a city or village master plan and official map controls in the city's or village's extraterritorial zoning jurisdiction over a county development plan that affects that same area.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 66.1001 (5) of the statutes is created to read:
2 66.1001 (5) EXTRATERRITORIAL ZONING JURISDICTION. Beginning on January 1,
3 2010, a city or village comprehensive plan shall control over a town or county
4 comprehensive plan in the city's or village's extraterritorial zoning jurisdiction, as
5 that term is used in s. 62.23 (7a) (a).

6 (END)

Barman, Mike

From: Shovers, Marc
Sent: Thursday, February 07, 2002 4:01 PM
To: Barman, Mike
Subject: FW: LRB 01-4349/1

Please jacket this bill. Thanks.

Marc

-----Original Message-----

From: Powell, Thomas
Sent: Thursday, February 07, 2002 3:06 PM
To: Shovers, Marc
Subject: RE: LRB 01-4349/1

Marc,

We never got a jacketted copy of this bill.
Did you receive our request for one?

Thanks,
Tom P.

-----Original Message-----

From: Shovers, Marc
Sent: Thursday, January 24, 2002 12:08 PM
To: Powell, Thomas
Subject: LRB 01-4349/1

<< File: 01-4349/1 >>

Marc E. Shovers

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