

2013 DRAFTING REQUEST

Senate Amendment (SA-SB502)

Received: 1/27/2014 Received By: pkahler
Wanted: Today Same as LRB:
For: Frank Lasee (608) 266-3512 By/Representing: Rob Kovach
May Contact: Drafter: pkahler
Subject: Real Estate - plats Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Lasee@legis.wisconsin.gov
Carbon copy (CC) to: Fern.Knepp@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Limits on CSMs that may create more than 4 parcels

Instructions:

See attached

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> |
|--------------|----------------------|----------------------|----------------------|----------------|--------------------|--------------------|-----------------|
| /? | pkahler 1/27/2014 | scalvin 1/27/2014 | | _____ | | | |
| /P1 | pkahler 1/28/2014 | | jmurphy 1/27/2014 | _____ | srose 1/27/2014 | | |
| /1 | | scalvin 1/28/2014 | jmurphy 1/28/2014 | _____ | srose 1/28/2014 | srose 1/28/2014 | |

FE Sent For:

<END>

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|--------------|----------------------|----------------------|----------------------|----------------------|--------------------|-----------------|-----------------|
| /? | pkahler 1/27/2014 | scalvin 1/27/2014 | | _____ | | | |
| /P1 | | | jmurphy 1/27/2014 | _____ | srose 1/27/2014 | | |
| FE Sent For: | | 11 sac 01/28/2014 | 11 sac 01/28/2014 | <i>jm</i> 1/28/14 | | | |

<END>

*Call Rob Kovach
to pick up
266-3512*

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 Wanted: Soon Same as LRB:
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Pre Topic:

No specific pre topic given

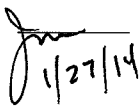
Topic:

Limits on CSM's that may create more than 4 parcels ✓

Instructions:

See attached

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|--------------|----------------|-----------------------|-----------------------|--|------------------|-----------------|-----------------|
| 1/27 | pkahler | /PI SAC 01/27/2014 | /PI SAC 01/27/2014 |  1/27/14 | | | |

FE Sent For:

<END>

Kahler, Pam

From: Kahler, Pam
Sent: Monday, January 27, 2014 1:17 PM
To: 'Larson, Tom'
Cc: Kovach, Robert
Subject: RE: [GRAYMAIL] RE: CSM/Subdivision bill

I think it has to be – but the exclusion would be limited to a division by a CSM authorized by an ordinance or resolution under (1) (ar) 1. Otherwise there would be a direct conflict between the definition of subdivision and a division of land into 5 or more parcels by one of those specially authorized CSM's.

From: Larson, Tom [mailto:tlarson@wra.org]
Sent: Monday, January 27, 2014 1:03 PM
To: Kahler, Pam
Subject: RE: [GRAYMAIL] RE: CSM/Subdivision bill

We are really trying to avoid tinkering with the definition of "subdivision," if possible. However, if you feel this is the only way to make it clear what we are trying to do under 1(ar)1, then we will defer to you. Thank you.

Thomas D. Larson - Vice President of Legal and Public Affairs

Wisconsin REALTORS Association

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From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Monday, January 27, 2014 12:42 PM
To: Larson, Tom; Kovach, Robert
Subject: [GRAYMAIL] RE: CSM/Subdivision bill

I think you would still need to exclude from the definition of subdivision a division by CSM under (1) (ar) 1.

From: Larson, Tom [mailto:tlarson@wra.org]
Sent: Monday, January 27, 2014 12:25 PM
To: Kovach, Robert

Cc: Kahler, Pam
Subject: RE: CSM/Subdivision bill

Rob and Pam,

As to the first issue, "IS" zoned is fine.

As to the second issue related Section 9, paragraph (bm), lines 10-11, we are recommending that we keep current law in subsection (1) for those communities that do not want to adopt a resolution or ordinance under par. (ar)1, and add subsection (2) for those communities that do want to adopt a resolution or ordinance under par. (ar)1.

Any other questions or concerns?

Thank you.

Tom

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From: Kovach, Robert [<mailto:Robert.Kovach@legis.wisconsin.gov>]

Sent: Monday, January 27, 2014 12:19 PM

To: Larson, Tom

Cc: Kahler, Pam

Subject: FW: CSM/Subdivision bill

Rob Kovach

Policy Advisor/Committee Clerk

Office of Senator Frank Lasee

(608) 266-3512

From: Kahler, Pam
Sent: Monday, January 27, 2014 12:05 PM
To: Kovach, Robert
Subject: RE: CSM/Subdivision bill

Rob:

There are problems with this language (*will be* zoned commercial, industrial, or mixed use or *is* zoned commercial, industrial, or mixed use? How can you be sure it *will be* zoned that way?) and I'm not sure it even fixes the problem. Does it make sense to say that a CSM that creates a subdivision and violates a local subdivision regulation may be recorded? I can either just draft this language and let the chips fall where they may or work it through, but it might not be ready in time then.

From: Kovach, Robert
Sent: Monday, January 27, 2014 11:29 AM
To: Kahler, Pam
Cc: Pratt, Phillip
Subject: RE: CSM/Subdivision bill

Dear Pam,

Could you please draft an amendment for SB 502 that follows the instructions below?

Senator Lasee intends to have a hearing & exec on this bill on Thursday at 9am. In order to meet the scheduling deadline, I would need to introduce the amendment before 9am on Wednesday. Is that possible?

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Larson, Tom [mailto:tlarson@wra.org]
Sent: Sunday, January 26, 2014 6:12 PM
To: Kovach, Robert; Pratt, Phillip
Subject: FW: [GRAYMAIL] RE: CSM/Subdivision bill
Importance: High

Rob and Phil,

As we discussed, we need to amend our CSM/Subdivision bill (LRB 3536) so that it doesn't affect the definition of "subdivision" under Wis. Stat. s. 236.02(12). If we touch this definition, we are going to trigger concerns from the state agencies (DOA, DOT, DNR, etc.) which will generate concerns from other legislators. Moreover, I think we should limit the bill to only commercial, industrial and mixed-use lots. This will eliminate the concern that someone could create a 100-lot residential subdivision by calling it a "certified survey map" and thus avoid state review. We don't have time to fight that fight. These changes would address the concerns raised by DOA Plat Review. (See below.)

Accordingly, I would make the following changes to the bill draft (LRB 3536/2):

+ Delete Sections 1 through 7.

+ Section 9, paragraph (bm), lines 10-11 – after the word “reconfiguration” create two subsections that state “(1) does not result in a subdivision or violate a local subdivision regulation, or (2) is consistent with any ordinance or resolution adopted under par. (ar)1.”

+Section 11, line 8 – after the number “4” add “if such parcels will be zoned for commercial, industrial or mixed use development.”

Let me know if you have questions. Thank you.

Tom

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From: Powers, Renee M - DOA [<mailto:Renee.Powers@wisconsin.gov>]

Sent: Tuesday, January 21, 2014 3:05 PM

To: Larson, Tom

Cc: witynski@lwm-info.org

Subject: [GRAYMAIL] RE: CSM/Subdivision bill

Tom,

Here are my thoughts and suggestions on the concept of expanding the use of certified survey maps.

+ Limit the scope to commercial, industrial and mixed use

This was what we discussed when meeting with the City of Milwaukee.

+ Allow lot lines to be adjusted in a timely and cost effective manner (i.e., shouldn't have to go to court to get the lines adjusted)

The statute currently allows lot lines to be adjusted by certified survey maps (CSMs) provided not more than four parcels, 1.5 acres or less in size, on contiguous land, are affected. Very few circumstances involve a court action.

I think we can modify s. 236.34, Wis. Stats to allow local units of government to pass an ordinance or resolution (most likely a resolution) allowing CSMs to reconfigure/create additional parcels by CSM if the situation warrants it without triggering the subdivision plat process. I believe this can be done by modifying s. 236.34 without changing the definition of subdivision in s. 236.02 (12), Wis. Stats.

+ Anything that constitutes a "subdivision" should be reviewed and approved by DOA, but subsequent changes to lots the plat (once reviewed and approved by DOA) should not have to be resubmitted to DOA for review and approval.

Developments that constitute a "subdivision" by the statutory definition or local definition would be reviewed and certified by DOA. If a local unit of government wishes to allow more than four parcels to be reconfigured/created by CSM instead of by subdivision plat.....those CSMs would be reviewed locally (or by DOA, not DOT, as we discussed and Curt questioned??)

+ Allow local communities to limit their own review of a plat to CSM standards and process (i.e., they don't need to perform a Ch. 236 review or approval)

CSMs ---- when used traditionally (current law) or used in an expanded fashion at the option of the local unit of government must comply with s. 236.34, Wis. Stats (which is limited to CSMs) and local ordinance requirements for CSMs.

Also, what is the current time limit for DOA review and approval? I believe that this was addressed a few years ago and 90 days is the number that comes to mind, but someone asked me the question today and I couldn't recall for sure. Finally, can the local review and state review occur concurrently?

DOA reviews CSMs in 20 days or less with a review fee of \$100/map. Local units of government have 90 days to complete their review. Yes, reviews can happen concurrently and many do – it works best that way. The local review process per their ordinance determines this.

I hope this helps. I appreciate being able to work with you and Curt on this. I will be back in the office next Monday, but will be checking email. Let me know if you have additional questions.

Thanks again,

Renee

From: Larson, Tom [mailto:tlarson@wra.org]
Sent: Tuesday, January 21, 2014 2:12 PM
To: Powers, Renee M - DOA
Cc: witynski@lwm-info.org
Subject: CSM/Subdivision bill

Hi Renee.

Here are the concepts for an amendment to the CSM/Subdivision bill that we discussed. We would greatly appreciate your review and any suggested changes. Thanks.

+ Limit the scope to commercial, industrial and mixed use

+ Allow lot lines to adjusted in a timely and cost effective manner (i.e., shouldn't have to go to court to get the lines adjusted)

+ Anything that constitutes a "subdivision" should be reviewed and approved by DOA, but subsequent changes to lots the plat (once reviewed and approved by DOA) should not have to be resubmitted to DOA for review and approval.

+ Allow local communities to limit their own review of a plat to CSM standards and process (i.e., they don't need to perform a Ch. 236 review or approval)

Also, what is the current time limit for DOA review and approval? I believe that this was addressed a few years ago and 90 days is the number that comes to mind, but someone asked me the question today and I couldn't recall for sure. Finally, can the local review and state review occur concurrently?

Thank you.

Tom

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State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa1535/2

PJK:.....

SUC

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT ,
TO SENATE BILL 502

today
"Now!"

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 7: delete lines 7 to 10 and substitute:

3 "236.02 (12) (bm) "Subdivision" does not include a division of land into 5 or
4 more parcels or building sites by a certified survey map in accordance with an
5 ordinance enacted or ^a/_k resolution adopted under s. 236.34 (1) (ar) 1."

6 **2.** Page 4, line 8: delete lines 8 to 11 and substitute:

7 "(bm) A certified survey map may be used to change the boundaries of lots and
8 outlots within a recorded plat, recorded assessor's plat under s. 70.27, or recorded,
9 certified survey map if the reconfiguration does not result in a subdivision or violate
10 a local ~~subdivision-regulation~~ ordinance or resolution."

***NOTE: I reinstated "does not result in a subdivision" because that will apply to both types of municipalities. If the municipality has not adopted an ordinance or resolution, the division must be 4 parcels or fewer. If the municipality has adopted an ordinance or resolution, a division into more than 4 parcels will not be a subdivision under the exclusion to the definition.

1 **3.** Page 5, line 4: delete lines 4 to 8 and substitute:

2 “236.34 (1) (ar) 1. Notwithstanding s. 236.45 (2) (ac) and (am), a municipality,
3 town, or county that has established a planning agency may enact an ordinance or
4 adopt a resolution that specifies a maximum number of parcels that is greater than
5 4 into which land that is situated in the municipality, town, or county and that is
6 zoned for commercial, industrial, or mixed-use development may be divided by
7 certified survey map.”

8 ~~“236.34 (1) (ar) 1. Notwithstanding s. 236.45 (2) (ac) and (am), a municipality,
9 town, or county that has established a planning agency may enact an ordinance or
10 adopt a resolution that specifies a maximum number of parcels into which land that
11 is situated in the municipality, town, or county and that is zoned for commercial,
12 industrial, or mixed-use development may be divided by certified survey map that
13 is greater than 4.”~~

14

(END)

Kahler, Pam

From: Kovach, Robert
Sent: Tuesday, January 28, 2014 4:19 PM
To: Larson, Tom; Kahler, Pam
Subject: RE: [GRAYMAIL] RE: RE: RE: CSM/Subdivision bill

Dear Pam,

If Tom is happy with the amendment as it is, let's stripe it right away.

Do you think I can have it in the next 30 minutes so I can introduce it more than 24 hours before the hearing/exec?

I would need to introduce it before 5pm

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Larson, Tom [mailto:tlarson@wra.org]
Sent: Tuesday, January 28, 2014 4:16 PM
To: Kahler, Pam
Cc: Kovach, Robert
Subject: RE: [GRAYMAIL] RE: RE: RE: CSM/Subdivision bill

Pam,

Thanks for the feedback. Given that time is short, I think your approach is the better approach, as it will reduce possible confusion between the definition of "subdivision" and the exception we are trying to create under 236.34. Moreover, I have not yet heard a convincing argument as to why your approach does NOT accomplish our intent. Rather, the only argument against your approach is that it would be more politically feasible not to touch the definition of 236.02(12).

Based upon our exchange, I am comfortable explaining our intent and why the amendment is drafted in the manner you suggested.

Thanks again.

Tom

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From: Kahler, Pam [<mailto:Pam.Kahler@legis.wisconsin.gov>]
Sent: Tuesday, January 28, 2014 3:58 PM
To: Larson, Tom
Cc: Kovach, Robert
Subject: [GRAYMAIL] RE: RE: RE: CSM/Subdivision bill

Hi, Tom:

Sorry, but I don't know what this accomplishes. It says that "notwithstanding the definition of a subdivision, a certified survey map that divides land into 5 or more parcels may be recorded." If simply recording a CSM had some definite, known consequence, it might do something. It doesn't change the definition of "plat" or "subdivision," so everywhere the word subdivision appears, that would apply to the division of land by CSM into 5 or more parcels. Since a plat is a map of a subdivision, a CSM that divides land into 5 or more parcels is a plat. There is still a conflict with the definitions. However, since time is short, if this works for you and you feel that DOA will act in conformity with what you and DOA think this does, then I can draft this. I don't think it does anything, though. What you would have to do if you don't want to change the definition of "subdivision" is look at every section in the chapter that refers to "subdivision" or "plat" and, if you decide you don't want it to apply to a CSM under (1) (ar) 1., add that it doesn't apply.

Pam

From: Larson, Tom [<mailto:tlarson@wra.org>]
Sent: Tuesday, January 28, 2014 3:31 PM
To: Kahler, Pam
Cc: Kovach, Robert
Subject: FW: [GRAYMAIL] RE: RE: CSM/Subdivision bill

Hi Pam.

As a follow up to our conversation yesterday regarding a way to draft our amendment so as to not affect the definition of "subdivision" under Wis. Stat. 236.02(12), here is an excellent suggestion from DOA's Plat Review Dept. Please let me know your thoughts on this approach.

Thanks.

Tom

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From: Powers, Renee M - DOA [<mailto:Renee.Powers@wisconsin.gov>]
Sent: Tuesday, January 28, 2014 3:25 PM
To: Larson, Tom
Subject: [GRAYMAIL] RE: RE: CSM/Subdivision bill

Thanks Tom.

I was thinking we could leave the definition of subdivision alone and modify the proposed change to s. 236.34, Wis. Stats. as follows:

236.34 (1) (title) DESCRIPTION AND USES.

SB502,9 2SECTION 9. 236.34 (1) (intro.) of the statutes is renumbered 236.34 (1) (am) and 3 amended to read:

SB502,4,74 236.34 (1) (am) *Notwithstanding s. 236.02 (12), a certified survey map of not more than 4 parcels of land, or 5 such greater maximum number specified by an ordinance enacted or resolution 6 adopted under par. (ar) 1., consisting of lots or outlots may be recorded in the office 7 of the register of deeds of the county in which the land is situated.*

SB502,4,11 8(bm) A certified survey map may be used to change the boundaries of lots and 9 outlots within a recorded plat, recorded assessor's plat under s. 70.27, or recorded, 10 certified survey map if the reconfiguration does not result in a subdivision or violate 11 a local subdivision regulation ordinance.

SB502,4,14 12(cm) A certified survey map may not alter areas previously dedicated to the 13 public or a restriction placed on the platted land by covenant, by grant of an 14 easement, or by any other manner.

SB502,4,23 15(dm) A certified survey map that crosses the exterior boundary of a recorded 16 plat or assessor's plat shall apply to the reconfiguration of ~~fewer than 5 parcels~~ not 17 more than 4 parcels, or such greater maximum number specified by an ordinance 18 enacted or resolution adopted under par. (ar) 1., by a single owner, or if no additional 19 parcels are created. Such a certified survey map must be approved in the same 20 manner as a final plat of a subdivision must be approved under s. 236.10, must be 21 monumented in accordance with s. 236.15 (1), and shall contain owners' and 22 mortgagees' certificates that are in substantially the same form as required under 23 s. 236.21 (2) (a).

From: Larson, Tom [mailto:tlarson@wra.org]
Sent: Tuesday, January 28, 2014 3:15 PM
To: paulina.dehaan@milwaukee.gov; witynski@lwm-info.org; Powers, Renee M - DOA
Subject: FW: [GRAYMAIL] RE: CSM/Subdivision bill

FYI – We have not yet seen an amendment to SB 502, but here is the exchange I had with the drafter yesterday regarding our desired changes. Hopefully, we will see an amendment soon.

Please let me know if you have questions.

Thomas D. Larson - Vice President of Legal and Public Affairs

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From: Larson, Tom
Sent: Monday, January 27, 2014 1:03 PM
To: 'Kahler, Pam'
Subject: RE: [GRAYMAIL] RE: CSM/Subdivision bill

We are really trying to avoid tinkering with the definition of "subdivision," if possible. However, if you feel this is the only way to make it clear what we are trying to do under 1(ar)1, then we will defer to you. Thank you.

Thomas D. Larson - Vice President of Legal and Public Affairs

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT ,
TO SENATE BILL 502

Now

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 7: delete lines 7 to 10 and substitute:

3 "236.02 (12) (bm) "Subdivision" does not include a division of land into 5 or
4 more parcels or building sites by a certified survey map in accordance with an
5 ordinance enacted or a resolution adopted under s. 236.34 (1) (ar) 1."

6 **2.** Page 4, line 8: delete lines 8 to 11 and substitute:

7 "(bm) A certified survey map may be used to change the boundaries of lots and
8 outlots within a recorded plat, recorded assessor's plat under s. 70.27, or recorded,
9 certified survey map if the reconfiguration does not result in a subdivision or violate
10 a local ~~subdivision regulation~~ ordinance or resolution."

***NOTE: I reinstated "does not result in a subdivision" because that will apply to both types of municipalities. If the municipality has not adopted an ordinance or resolution, the division must be 4 parcels or fewer. If the municipality has adopted an ordinance or resolution, a division into more than 4 parcels will not be a subdivision under the exclusion to the definition.

1 **3.** Page 5, line 4: delete lines 4 to 8 and substitute:

2 “236.34 (1) (ar) 1. Notwithstanding s. 236.45 (2) (ac) and (am), a municipality,
3 town, or county that has established a planning agency may enact an ordinance or
4 adopt a resolution that specifies a maximum number of parcels that is greater than
5 4 into which land that is situated in the municipality, town, or county and zoned for
6 commercial, industrial, or mixed-use development may be divided by certified
7 survey map.”

8

(END)