



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2007 Assembly Bill 423

Assembly Amendment 1

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Current law requires that all subdivision plats be approved before they can be recorded. Plats located within the extraterritorial plat approval jurisdiction of a municipality (within three miles of a first, second, or third class city, or 1-1/2 miles of a fourth class city or a village) require approval by the town board, the county planning agency, and the governing body of the municipality or its planning committee or commission. Approval of any plat is also conditioned on compliance with any subdivision ordinance enacted by the appropriate municipality, town, or county, and a comprehensive, master, or development plan.

In *Wood v. City of Madison*, 260 Wis. 2d 71 (2003), the Wisconsin Supreme Court held that a municipality may reject a preliminary plat located within its extraterritorial plat approval jurisdiction based upon a subdivision ordinance that considers the plat's proposed use. The *Wood* case overruled *Boucher Lincoln Mercury v. Madison Plan Comm'n.*, 178 Wis. 2d 74 (Ct. App. 1993), which held that the City of Madison could not use its extraterritorial plat approval jurisdiction to regulate land use and thus, in effect, engage in extraterritorial zoning. The *Boucher* case noted that the extraterritorial zoning statute, s. 62.23 (7a), Stats., requires extraterritorial zoning to be a cooperative effort between the municipality and the town in which the zoning ordinance is in effect.

Assembly Bill 423 specifies that a municipality may not deny approval of a plat on the basis of the proposed use of land within the extraterritorial plat approval jurisdiction of the municipality, unless the denial is based on a plan or regulations adopted by a municipality under s. 62.23 (7a) (c), Stats. This statute specifies that a city or village may only adopt a zoning ordinance in its extraterritorial jurisdiction that has been recommended by a majority vote of an joint extraterritorial zoning committee, which consists of three members from the city or village and three town members. The provisions of the bill would first apply to preliminary plats or final plats that are submitted for approval on the effective date of the bill.

Assembly Amendment 1 applies the provisions of the bill to certified survey maps, in addition to plats and final plats.

Legislative History

Assembly Amendment 1 was offered by Representative Albers. On December 11, 2007, the Assembly Committee on Rural Affairs recommended adoption of Assembly Amendment 1 on a vote of Ayes, 8; Noes, 0, and recommended passage of the bill, as amended, by the same vote.

REL:jb;ksm