

Re: Consideration of Resolution CARPC No. 2009-8 amending the *Dane County Land Use and Transportation Plan* and the *Dane County Water Quality Plan* by revising the Mazomanie Urban Service Area boundary and Environmental Corridors in the Village and Town of Mazomanie

Decision Items:

1. Consideration of Resolution CARPC No. 2009-8

Synopsis

The Village of Mazomanie has submitted a revised proposal addressing many of the issues and concerns that were raised by the CARPC at a 2008 hearing concerning the addition of the same area to the Mazomanie Urban Service Area. The revised proposal includes revised stormwater standards that seek to minimize the adverse impacts of the proposed development on the receiving waters. It also includes measures to ensure proper implementation and performance of mitigation practices by proposing development agreements and financial surety requirements to allow the Village to enforce the standards or implement the practices if necessary. Staff analysis of the feasibility of achieving desired stormwater performance levels shows that current runoff volumes and peak flows can be improved with proper design and construction of stormwater management measures. Modeling used a pre-development target equivalent to a meadow, and with conservative assumptions found post-development flow volumes to be lower by 30% or more in portions of the amendment area that flow to Wendt Creek and Halfway Prairie Creek. Modeling also established that the south (commercial) area of the amendment requires additional infiltration practices to ensure a similar level of performance in this area.

The proposal appears to support some of the goals and objectives of the Commission. These include creating a self-contained community with a mix of services and housing types, higher densities, and establishing a system of environmental corridors. The proposal is weak with regards to some of the Commission's other goals, including farmland loss mitigation, contiguity to infrastructure and to the current USA (due to the presence of wide corridor of none developable land surrounding the confluence of Halfway Prairie Creek and Black Earth Creek), and intergovernmental agreement.

The analysis of the proposed amendment has resulted in a few unresolved issues related to water quality.

No mitigation measures are proposed for maintaining pre-development runoff volumes during the potentially long construction period (when at least 90% of lots and built). The importance of maintaining pre-development volumes as well as peak rates is based on the store of fine sediment in Wendt Creek and potentially unstable banks, and based on the risk this sediment load poses on Black Earth Creek, downstream, if it is transported by higher durations and

volumes of runoff. The Village is asked to provide details of its proposed approach to maintaining pre-development volumes of runoff during the construction phase so CARPC staff can evaluate the proposed practices for feasibility and effectiveness.

Another outstanding issue concerns the availability of wastewater treatment. CARPC staff analysis, analysis by the village engineer, and a statement from the WDNR engineer in charge of the Dane-Iowa treatment plant indicate that there is adequate capacity to serve the proposed development. However, the Dane-Iowa Joint Commission has not provided a statement regarding their ability and willingness to serve the development. A multi-municipal agreement governs the Joint Commission's affairs and the manner operation cost and available treatment capacity are allocated. The availability of wastewater treatment service is an important element of water quality planning. In order to ensure that complications regarding the provision of service will not arise later, it is necessary for the CARPC to be assured of the availability of wastewater service. This can be achieved through a statement from the Joint Sanitary Commission about its ability and willingness to provide service, or through a statement indicating the Dane-Iowa Commission's agreement with the Village interpretation of the first-come-first-served manner in which treatment capacity is allocated.

A final element requiring discussion by the Commission is related to the proposed comprehensive stream ecosystem study for Black Earth Creek in the reach within the Town and Village of Mazomanie (proposed language appears in conditions of approval below). The purpose of this study is to assess the impact of development in the study area on the stream ecosystem, and to develop and implement a conservation plan for the watershed to ensure the protection of Black Earth Creek as a viable, high quality, aquatic ecosystem. This study and the resulting plan would try to define the potential and nature of cumulative impacts from development on the stream ecosystem before these occur. It is proposed that future amendments to the Mazomanie Urban Service Area only be considered based on the findings of this comprehensive study and the conservation plan for the area. However, it also recognizes that development in the Town also has adverse impacts on the stream ecosystem, and is meant to bring all the stakeholders and actors to the table so the plan will be inclusive and broadly implemented. This participation is not guaranteed, and the availability of the necessary funding for such a study is not assured. The WDNR is initiating a 4-year monitoring study in the Black Earth Creek in 2010, and the data from this study will provide the first elements of the proposed stream ecosystem study.

Staff recommends that this clause be an additional condition of approval. However, because of concerns voiced by the Village regarding the uncertainties associated with participation and funding, it was left as a recommendation with the intent of moving it to a condition. However, before it can become a condition, the Commission needs to consider the following issues and revise the language as necessary or to provide staff with guidance so alternative language can be proposed for the Commission's consideration:

1. The Village has the greatest interest and incentive to see such a study completed. The results of such a study will provide valuable information that can assist the Village in planning its future growth with information regarding stream ecosystem requirements, and certainty concerning appropriate urban design and mitigation approaches to improve the health of the aquatic habitat in this reach. However, such an undertaking is likely beyond the capability of a small village. The language should maintain the urgency of this undertaking, but not penalize the Village of Mazomanie for lack of interest by other actors and stakeholders.

2. Development in the Town can have similar impacts to urban expansion by the Village. Development in the Town is regulated by the Town and the County. Therefore, it is important for the Town and the County to share this sense of urgency as well.
3. A 30-acre area on the west side of the Village of Mazomanie immediately north of the cemetery is a likely candidate for a future USA expansion request for the business park. The Village would like this parcel to be excepted from the condition. Although the addition of a 30-acres parcel is unlikely to have a large impact on the current health of the stream, the purpose of the study is to create conditions where development is proposed in the context of improving and promoting the health of the stream habitat. Such an exception would appear to counter this purpose.

Alternative Actions

Staff can identify three alternative actions:

1. The Commission could approve the request with conditions recommended by staff, and added conditions as follows:
 - a. The Village to provide details of mitigation practices to maintain pre-development volumes of runoff during the construction for CARPC staff evaluation (in consultation with WDNR and DCL&WRD staff) as to their feasibility and effectiveness.
 - b. No development can occur in the amendment area until practices are found that can effectively mitigate the impacts of development during all phases including the construction phase (i.e. less than 90% of lots built upon within a sub-basin).
 - c. The Village to provide a statement from the Dane-Iowa Joint Commission indicating the Joint Commission's ability and willingness to provide wastewater treatment for the proposed development in the amendment area. Alternatively, the Village to provide a statement from the Dane-Iowa Joint Commission indicating the Joint Commission's agreement with the Village interpretation of the first-come-first-served manner in which treatment capacity is allocated.

This option would allow WDNR to review the amendment and its impacts, and provide additional guidance. WDNR may also find the amendment premature due to these outstanding issues, and refer it back to the Commission for further analysis and consideration. This option may also result in a situation where an area is within the USA but cannot be developed because the required mitigation practices are not practicable or because there is an ongoing conflict concerning wastewater service.
2. The Commission could defer action on the amendment until construction phase mitigation practices and an analysis of their effectiveness are available, and until assurances regarding the availability of wastewater treatment service have been issued. Staff might have additional recommendations regarding the proposed amendment when these details have been made available. The evaluation of the effectiveness of the proposed practices will be done in consultation with WDNR and DCL&WRD staff.

This option would provide the Village the opportunity to address the issues raised in the staff analysis in a thorough manner prior to action on the amendment. It would

allow the Commission to make an informed decision with a better grasp of its ramifications. It would also give the Commission the opportunity to make its approval based on a fuller understanding of the risks, concerns, and likely outcomes. It is a practice of the Commission to delay action when there are significant questions concerning the proposed amendment.

3. The Commission could decide to take a vote on the amendment and fail to approve the request based on the currently available information.

This option would not provide the Village of Mazomanie the opportunity to address the issues raised in the staff analysis. It could result in WDNR referring the amendment back to the Commission again for further analysis, or the DNR may complete the analysis internally and take action on the amendment independent of the Commission. This approach could be construed as not providing due process for the request.

Staff Recommendation: Staff recommends Alternative #2. Should the Commission choose to take action on the proposal, CARPC staff recommends that the Village of Mazomanie satisfy the following conditions to protect water quality consistent with applicable Commission policies (additional conditions may need to be added as noted under Alternative #1 above and by promoting recommendation #1 related to a comprehensive stream ecosystem study and plan to a condition):

1. Submit a detailed stormwater management plan for the amendment area to CARPC and DCL&WRD staff for review and approval prior to land disturbing activities. The stormwater management plan should include SLAMM modeling of the final design of the stormwater management practices for the amendment area, and the following water quality and quantity measures:
 - a. Maintain pre-development rates of runoff for all storms up to and including the 100-year event to maintain the hydrologic regime of receiving streams and their associated wetlands. Design stormwater management facilities to protect against increased downstream flooding.
 - b. Provide protection against erosion and channelization in discharge areas. Establish stable outlets and stormwater conveyance channels to receiving waters, and make a good faith effort, with assistance from CARPC staff, to secure easements or agreements with pertinent land- owners.
 - c. Provide stormwater quality (wet) ponds for all developed areas within the amendment area and prior to discharge to creeks and wetlands. Ponds to be designed to capture 80% of the sediment load for 1-year and 2-year storm events.
 - d. Install stormwater ponds prior to other land disturbing activities and reduce the extent of land disturbance at any one time by phasing the construction process.
 - e. Provide stormwater infiltration to maintain pre-development runoff volumes for the amendment area based on a 5-year continuous SLAMM modeling and using pre-development annual recharge rates for the area mapped by WGNHS for the county. Include rear-lot swales, block-end rain-gardens, active infiltration measures for clean rooftop runoff, pervious pavements or

parking lot bio-infiltration areas, and other approaches to maintain the pre-development runoff volume from the amendment area.

- f. Restore prior converted wetlands as part of the stormwater treatment train, and designate these restored wetlands as environmental corridors. In portion of the amendment area bordering Wendt Creek, include stream bank and meander restoration in the wetland restoration project to prevent bank erosion and destabilization.
 - g. Stormwater facilities to be publicly owned other than the facilities in the commercial area which are to be publicly managed. Public management to include inclusion of facilities in stormwater easements allowing Village access, and a perpetual, enforceable maintenance agreement with the Village of Mazomanie. Infiltration facilities should include detailed inspection, maintenance, reconstruction, and replacement schedule.
 - h. Designate all stormwater ponds and block-end and regional infiltration areas as environmental corridors.
 - i. Conduct wet season soil borings to determine areas of seasonal and groundwater-induced flooding, and include these areas in environmental corridors.
 - j. Strict and aggressive enforcement of construction erosion control practices should be performed by the Village engineer and building inspector. Use polymers on construction areas to provide additional construction erosion control.
 - k. Include mitigation measures for thermal impacts to meet WDNR Cold Water standards.
2. Conduct a threatened and endangered resources ecological survey for the amendment area in consultation with WDNR prior to land disturbing activities, and get confirmation from WDNR that proposed development will not adversely impact resources in the area or nearby. Implement necessary habitat protection measures recommended by the WDNR.
 3. Delineate environmental corridors to meet the guidelines of the *Dane County Water Quality Plan* (in addition to condition #1f).

It is also recommended that the Village pursue the following:

1. In collaboration with WDNR, USGS, CARPC, Dane County, the Town of Mazomanie, and the Black Earth Creek Watershed Association, initiate a comprehensive study of the portion of the Black Earth Creek watershed that is within the Town and Village of Mazomanie. The purpose of this study is to assess the impact of development in the study area on the stream ecosystem, and to develop and implement a conservation plan for the watershed to ensure the protection of Black Earth Creek as a viable, high quality, aquatic ecosystem. Future amendments to the Mazomanie Urban Service Area would only be considered based on the findings of this comprehensive study and the conservation plan for the area. Because there is some urgency for this ecosystem study due to the development pressure in the watershed, collaboration of stakeholders is important. This requirement is based on the availability of funding

and willingness of participants, but every effort should be exerted by the Village to support and facilitate the completion of this study and plan. *(The Commission may wish to discuss changing this from a recommendation to a condition of approval.)*

2. Require a set portion of the housing units to be starter homes in the \$140,000 to \$160,000 range, as well as the number of senior units to be built.
3. Work with the developer and WisDOT to revise the neighborhood street layout to provide another access point onto STH 78 connecting to Carter Road. This will provide for better inter-neighborhood circulation in the future when the area east of STH 78 develops.
4. Some additional minor street layout revisions should be considered to improve intra-neighborhood traffic and pedestrian circulation. It is suggested that a street connection be made through the area planned for mid-size single-family housing as those two blocks are extremely long. In addition, it is suggested that a street connection be provided between the future residential area and the grocery store.
5. Sidewalk with some connections to the neighborhood should be provided along STH 78 as well as on both sides of the internal street system. In addition, a pedestrian path or sidewalk connection should be provided from the senior living area to the grocery store.
6. An easement should be secured for the path connection in between residential lots to the street system at the time of plat approval. In addition, an 8-foot wide sidewalk should be constructed on the south side of Hudson Road between the rail crossing and Voss Road to provide a safe bicycle connection between the path and the street providing the main entrance to the neighborhood.
7. Require that a qualified archaeologist to conduct an on-the-ground archaeological survey and submit two copies of the survey to the CARPC.

Materials Presented with Item:

1. Staff Analysis dated June 3, 2009
2. State Historical Society letter of comment dated June 5, 2008
3. WDNR letter dated March 18, 2009
4. Draft Resolution CARPC No. 2009-8
5. Comments received through June 4, 2009

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