



# DANE COUNTY PLANNING & DEVELOPMENT

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**TO: Dane County Board of Supervisors  
County Executive Joe Parisi  
All Other Interested Parties**

**FROM: Majid Allan, Senior Planner**

**DATE: June 2, 2011**

**RE: Staff Analysis of OA 8, 2011-12 (Regarding the  
Requirement that Building Sites be Established by  
Certified Survey Map or Subdivision Plat)**

**CC: Jerry Derr, President, Dane County Towns Association  
Roger Lane, Zoning Administrator  
Todd Violante, Department Director  
Renee Lauber, Planning Consultant, Dane County Towns Association  
Karin Peterson Thurlow, County Board Staff**

*Housing &  
Economic Development*  
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*Zoning*  
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*This memo describes proposed Ordinance Amendment (OA) # 8, 2011-12 (attached, pages 4-5) which would make revisions to Chapter 75 of the Dane County Code of Ordinances (Land Division & Subdivision Regulations). To assist town and county officials in decision making, the Planning Division prepares written descriptions of each proposed amendment to land use and development related ordinances. This memo was distributed to Dane County towns for their information (town action is not required for amendments to Chapter 75). Please direct any questions to 267-2536.*

## **I. SUMMARY**

If adopted, OA # 8 would add and amend several definitions in the Dane County Land Division / Subdivision Ordinance (Chapter 75, Dane County Code) to require that any new residential building site, regardless of parcel size, be created by Certified Survey Map (CSM) or Subdivision Plat. The current ordinance specifies that a CSM or Plat is required when creating new parcels less than 35 acres in size. Under the proposed amendment, owners of parcels over 35 acres in size seeking rezoning approval for a new residence would be required to establish the residentially zoned area on a separate parcel by CSM or Plat. The change would effectively remove the option of "postage stamp" residential rezoning within large parcels over 35 acres.

There are numerous benefits to applying the land division / subdivision ordinance to residential development on large parcels of land. These include treating new residential development proposals in an equitable manner, whether the owner owns 250 acres or 25 acres, while ensuring that property boundaries are accurately defined according to required survey practices. In addition, many lending institutions now provide incentives, such as lower interest rates, or simply require, that new residential development occur on smaller parcels of land. Finally, requiring residential development to occur on separate parcels of land facilitates long term farmland preservation by enabling farmland to be sold / transferred free of improvements.

OA #8 is proposed as an alternative to a similar, previously submitted amendment, that sought to apply the land / subdivision ordinance to residential development on large parcels (OA #2, 2009-10, *Regarding Lots Exempt From the Requirement of a Subdivision Plan or Certified Survey Map*).

**The Zoning & Land Regulation Committee Public Hearing on OA #8 will be June 28, 2011.  
Please note that town action is not required on the amendment.**

## II. BACKGROUND

- A. *Ordinance amended:* If adopted, OA # 8 would affect the text of the Land Division / Subdivision Ordinance (Chapter 75, Dane County Code).
- B. *Action required:* The County Board and County Executive must approve OA # 8 for it to become effective. Because this amendment does not affect the county zoning ordinance, **town board action is not required**. However, as always, town feedback is welcome.
- C. *ZLR public hearing:* The ZLR Committee advises the County Board on proposed land use ordinance amendments. The ZLR Committee public hearing on OA # 8 will be held on June 28, 2011.
- D. *Sponsors:* OA # 8 was submitted by Supervisor Miles on May 19, 2011.

## III. DESCRIPTION

Proposed OA # 8 would make the following changes to Chapter 75, Dane County Code:

- A. Articles 2 and 3 would add and revise several definitions in section 75.06 ("building site", "land division", "subdivision", "lot"), as follows:

### **New definitions in s. 75.06:**

- (1) *Building site.* Any zoning lot *created or modified after [clerk to insert date of adoption of this amendment]* that, under Chapter 10, Dane County Code, allows for one or more residences as a principal, permitted use.
- (6m) *Lot.* Any land area or building site of 35 acres or less, and any other parcel of land required or allowed to be included within the boundaries of a certified survey map, or preliminary or final plat under WIS. STAT. Ch. 236. All area calculations are to be exclusive of any dedications, rights-of-way or public highway easements.
- (18) *Zoning lot.* A parcel of land under single ownership, and in a single zoning district, occupied or intended to be occupied by one main building or principal use. A zoning lot may or may not coincide with a lot of record.

### **Revised definitions in s. 75.06:**

- (6) *Land division.* A division of a parcel of land which is not a subdivision and which creates less than five lots, ~~parcels or building sites of 35 acres each or less in area, regardless of whether the act of division also creates one or more lots, parcels or building sites on 35 acres or more.~~
- (14) *Subdivision.* A division of a parcel of land where the act of division creates either:
  - a) Five or more lots, ~~parcels or building sites of 35 acres each or less in area;~~ or
  - b) Five or more lots, ~~parcels or building sites of 35 acres each or less in area~~ by successive divisions within a period of five years.

#### **IV. ANALYSIS**

- A. OA #8 proposes several relatively simple changes so that new residential development on large parcels of land are subject to the land division / subdivision ordinance. Note that so-called “postage stamp” rezonings for non-residential uses (e.g., e.g., limited commercial or ag business) would still be permitted under the changes proposed by OA #8.
- B. As noted in the summary, above, OA #8 represents an alternative to previous OA #2, 2009-10, which also sought to apply the platting requirements of chapter 75 to residential development on large parcels of land. The staff analysis of previous OA #2 identified a number of concerns and potentially problematic aspects of that amendment. Staff believes that proposed OA #8, by simply defining the term “building site”, will achieve the stated goals of previous OA #2, while maintaining longstanding provisions in chapter 75 which are widely understood and accepted.
- C. The proposed revisions are consistent with Chapter 236, Wis. Stats (Platting Lands statute). The amendment also preserves the acreage standard currently in chapter 75, which requires that any new parcel less than 35 acres be created by CSM or Plat. This standard is widely understood and corresponds conveniently with the minimum lot size of the A-1EX district, which is the base zoning category in 30 of the county’s 34 towns.
- D. The effect of the proposed changes will be to encourage accurate, well-defined property boundaries and descriptions for residentially zoned parcels.
- E. Lots exceeding 35 acres in area not zoned to allow a principal residential use (e.g., A-1EX parcels > 35 acres), lots created pursuant to will or court order, and transfers of land between adjoining owners will remain exempt from land division review.
- F. Many homeowners whose residences were built on large parcels often eventually seek to separate their homes onto smaller parcels in order to refinance a mortgage, sell or transfer the house or land, or to facilitate estate planning. Disallowing residential “postage stamp” rezoning on larger tracts of land will preserve these future options for landowners and promote farmland preservation.

#### **V. Recommendations**

Pending feedback at the June 28<sup>th</sup> ZLR public hearing, staff recommend adoption of OA #8, 2011-12. As offered in the staff review of previous OA #2, staff believe that OA #8 represents a relatively simple solution to accomplish the goal of applying the land division ordinance to large lot residential development

**P E T I T I O N**

The undersigned hereby petitions the County of Dane to amend its zoning ordinances in the manner indicated below.

Dated: \_\_\_\_\_ BY: \_\_\_\_\_

Dated: \_\_\_\_\_ BY: \_\_\_\_\_

Dated: \_\_\_\_\_ BY: \_\_\_\_\_

Dated: \_\_\_\_\_ BY: \_\_\_\_\_

**ORD. AMEND. NO. 8, 2011-2012**

**AMENDING CHAPTER 75 OF THE DANE COUNTY CODE  
OF ORDINANCES, REGARDING THE REQUIREMENT THAT BUILDING SITES BE  
ESTABLISHED BY A CERTIFIED SURVEY MAP OR SUBDIVISION PLAT**

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Subsection (1) of section 75.06 is renumbered to (1m) and subsections (1), (2), (6), (14) and (18) are amended to read as follows:

75.06 DEFINITIONS. For the purpose of this chapter certain words or phrases used herein are defined as follows:

(1) Building site. Any zoning lot created or modified after [clerk to insert date of adoption of this amendment] that, under Chapter 10, Dane County Code, allows for one or more residences as a principal, permitted use.

~~(1)~~(1m) Certified survey map. A map of land division, not a subdivision, prepared in accordance with section 236.34 of the Wis. Stats. and in full compliance with the applicable provision of this chapter. A certified survey map has the same legal force and effect as a subdivision plat.

(2) Committee. The Dane County Zoning and ~~Natural Resources~~Land Regulation Committee.

(6) Land division. A division of a parcel of land which is not a subdivision and which creates less than five lots, ~~parcels or building sites of 35 acres each or less in area, regardless of whether the act of division also creates one or more lots, parcels or building sites on 35 acres or more.~~

(14) Subdivision. A division of a parcel of land where the act of division creates either:  
(a) Five or more lots, ~~parcels or building sites of 35 acres each or less in area~~; or  
(b) Five or more lots, ~~parcels or building sites of 35 acres each or less in area~~ by successive divisions within a period of five years.

~~(c) All area calculations are to be exclusive of any dedications, rights-of-way, easements or reservations.~~

~~(18) Lot. A land area of 35 acres or less. Zoning lot. A parcel of land under single ownership, and in a single zoning district, occupied or intended to be occupied by one main building or principal use. A zoning lot may or may not coincide with a lot of record.~~

ARTICLE 3. Subsection (6m) of section 75.06 is created to read as follows:

(6m) Lot. Any land area or building site of 35 acres or less, and any other parcel of land required or allowed to be included within the boundaries of a certified survey map, or preliminary or final plat under WIS. STAT. Ch. 236. All area calculations are to be exclusive of any dedications, rights-of-way or public highway easements.

*[EXPLANATION: This amendment provides that all building sites, as defined herein, regardless of size, shall be subject to land division review and must be created by either certified survey map or subdivision plat. Lots exceeding 35 acres in area not zoned to allow a principal residential use, lots created pursuant to will or court order, and transfers of land between adjoining owners shall remain exempt from land division review.*

Submitted by Supervisor Miles, May 26, 2011.  
Referred to ZONING & LAND REGULATION.