



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**



DETERMINATION OF THE INCORPORATION REVIEW BOARD

August 12, 2011

In Re:

THE INCORPORATION OF A PORTION OF THE TOWN OF BLOOMFIELD,
WALWORTH COUNTY, WISCONSIN AS A VILLAGE

Case No. 10-CV-2053

DOUG MUSHEL, Representative of
the Petitioners

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It is the function of the Incorporation Review Board to prepare findings and to make a determination as to whether the territory petitioned for incorporation meets the applicable standards prescribed in Section 66.0207, Wis. Stats. The Incorporation Review Board ("Board") was created by 2003 Wisconsin Act 171. Board members are appointed by Wisconsin's three municipal associations. Membership of the Board is provided at Appendix B.

This petition is a re-submittal of a previous petition that was found not to meet several of the public interest standards in s. 66.0207 Wis. Stats. The Board dismissed the petition on June 14th, 2010 but recommended that it be re-filed with altered boundaries, because a smaller petitioned territory with the Pell Lake community as its center could possibly meet the public interest statutory standards.

As a result, on December 20th of 2010, petitioners published a notice of intention to circulate a revised incorporation petition. After circulating the petition and gathering signatures, a court hearing was held on February 10th, 2011 and the Walworth County Circuit Court found that the petition once again met the minimal area and population standards required by section 66.0205 Wis. Stats. As a result, the Court forwarded the petition to the Board on February 21st, 2011.

In summary, it is the DETERMINATION OF THE INCORPORATION REVIEW BOARD that when considering the re-submitted petition under Section 66.0207, Wis. Stats.:

- STANDARD 1 (a), Homogeneity and Compactness –Met
- STANDARD 1 (b), Territory Beyond the Core – Previously Met
- STANDARD 2 (a), Tax Revenue – Previously Met
- STANDARD 2 (b), Level of Services – Not applicable
- STANDARD 2 (c), Impact on the Remainder of the Town –Met
- STANDARD 2 (d), Impact on the Metropolitan Community – Not applicable

The facts and analysis supporting these findings are discussed in the body of this determination. The Determination of the Incorporation Review Board to the Circuit Court, as prescribed by s. 66.0203 (9) (e) 3, Wis. Stats., is as follows:

The petition as submitted is granted.

Dated this 19th day of August 2011,

A handwritten signature in blue ink, appearing to read "Dawn Vick". The signature is written in a cursive style and is positioned above a horizontal line.

Dawn Vick
Chair of the Incorporation Review Board

NOTICE OF RIGHT TO APPEAL

Per s. 66.0209 (2), Wis. Stats., decisions of the Board are subject to review under Ch. 227. Per s. 227.53 (1) (a) 2m, Wis. Stats., petitions for review shall be served and filed within 30 days after mailing of the decision by the agency. Petitions for review should be served on the Chairperson of the Board.

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EXECUTIVE SUMMARY

This document constitutes the Findings and Determination of the Incorporation Review Board on the petition that was re-filed by residents of the Town of Bloomfield in Walworth County to incorporate the Pell Lake community and surrounding lands. Various portions of the Town of Bloomfield have been proposed for incorporation at least four times in the past. This current petition is a re-submittal of a previous petition originally filed in 2008. The 2008 petition was dismissed by the Board on June 14th 2010 because it contained excess rural lands, several isolated town islands and peninsulas, and the portion of the town remaining after the proposed incorporation would likely have struggled to maintain a viable government. As a result, the Board dismissed the petition but recommended that it be re-filed with altered boundaries to resolve the above deficiencies.

On December 20th, 2010, Petitioners re-filed their petition, which includes approximately 12 square miles, which is about 6 square miles less than the 2008 petition. This smaller proposed incorporation area is depicted by Map 1 in Appendix A.

The City of Lake Geneva and the Village of Genoa City, which are located northwest and southeast of the petitioned area, respectively, intervened against the petition in 2008 and also attempted to intervene against this re-filed petition. However, Circuit Court Judge John Race denied their intervention, deciding that they did not have an interest.

On June 28th, 2011 the Incorporation Review Board met in Madison to discuss the petition. Petitioners were in attendance, as well as representatives from the Town of Bloomfield, City of Lake Geneva, and Village of Genoa City. A second meeting was held in Madison on August 9th, 2011 for Board members to discuss the draft determination and offer comments and feedback.

Petitioner's wish to incorporate in order to preserve and maintain Bloomfield's civic, social, and economic character, gain greater local control over zoning and development, prevent annexation and loss of territory, utilize TIF districts, and receive certain state aids and shared revenues available to incorporated jurisdictions.

In reviewing and acting upon this re-submitted incorporation petition, the Board has three statutory options for action. According to s. 66.0203(9)(e) Wis. Stats., the Board may determine:

- 1) The petition as submitted is dismissed;
- 2) The petition as submitted is granted, or
- 3) The petition as submitted is dismissed with a recommendation that a new petition be submitted to include more or less territory as specified in the Board's findings and determination.

The Incorporation Review Board hereby determines that the petition as submitted meets the requirements of s. 66.0207 Wis. Stats. and recommends that a referendum vote of the area residents be held.¹

¹ This determination is organized into six sections, a section for each of the Board's six statutory public interest standards found in s. 66.0207, Wis.Stats. Because this re-submitted petition occurs so soon after the original petition, no additional review fee was required and no public hearing was held. FN Also, because the 2008 petition did meet a number of the public interest standards, this determination does not re-examine those standards, but instead focuses on the two standards the Board previously found to be unmet. FN: Interested persons raised issues regarding whether the re-submitted petition complies with recommendations set forth in the Board's original determination. Those arguments are addressed outside of this determination. A copy of a letter setting forth the Board's position on that matter will be forwarded to the Court along with this determination.

1). Compactness & Homogeneity – Met.

The Board found that the previous petition contained too much rural territory, and also contained neighborhoods that did not bear a strong connection to the community center area of Pell Lake. Excluding 6-square miles of rural lands, and the Lake Ivanhoe and Pioneer Park neighborhoods resolves these problems. Drawing the boundaries more tightly around the community center of Pell Lake results in a compact and urban territory. The Bloomfield Wildlife Area is almost entirely contained within the proposed village, defined at its northern edge by Hafs Road and Bloomfield Road, and although this extensive area consists of wetlands, the Board finds its inclusion appropriate because of its connection both environmentally and socially to the Pell Lake community. The continued division of the Nippersink/Powers Lake neighborhood, along the western boundary of this incorporation, is unfortunate, however, Nippersink/Powers Lake is already divided between two counties and three towns. Therefore, incorporation will not worsen the situation, but in fact may help by providing community services such as lake patrol, dam repair, and lake management.

2). Territory Beyond the Core – Previously Met.

3). Tax Revenue – Previously Met.

4). Level of Services – Not applicable, because no neighboring municipality has intervened against the petition and filed a willingness to annex and serve the petitioned territory.

5). Impact on the Remainder of the Town – Met.

This standard requires that the Board consider the impact the proposed incorporation would have on the remaining town. The Board found that the previous petition would have cut the remaining town into four pieces, with numerous town islands and peninsulas, making community identity and service provision more difficult. Also, the previous petition allocated only \$46 million in equalized value, a population of roughly 500, a proposed budget that was unreasonably low, and increased the remaining residents' tax rate. By excluding approximately 6-square miles of rural lands and the Pioneer Park and Lake Ivanhoe neighborhoods, this re-submitted petition more than doubles the remnant town's equalized value, increases its population by 800 people, and a proposes a \$526 thousand dollar budget with a projected decreased tax rate for remnant residents.

6). Impact on the Metropolitan Community – Not applicable, because Bloomfield petitioned as an 'isolated community' rather than a 'metropolitan community' according to section 66.201 Wis. Stats.

The Board would like to commend Petitioners on their perseverance and for all the materials and requested information that greatly facilitated this determination.

SECTION 1(A) HOMOGENEITY AND COMPACTNESS

The standard to be applied is found in §66.0207(1)(a) and is as follows:

The entire territory of the proposed village or city shall be reasonably homogenous and compact, taking into consideration natural boundaries, natural drainage basin, soil conditions, present and potential transportation facilities, previous political boundaries, boundaries of school districts, shopping and social customs.

In addition to the statutory factors cited above, the court in Pleasant Prairie v. Department of Local Affairs & Development² held that the Department may also consider land-use patterns, population density, employment patterns, recreation and health care customs.³

The facts surrounding each incorporation petition are different. However, in each case and for each requirement, the Board must be able to state that, even though the situation presented may not be entirely perfect, *when taken as a whole*, the facts support a finding of homogeneity and compactness.

Physical and Natural Boundaries

Topography

The topography of the proposed village area is flat to gently rolling. The lands along the Des Plaines River and Brighton Creek are lower in elevation.

Drainage Basins

The proposed village lies entirely within the upper Fox River watershed. A number of subwatershed boundaries further divide surface water drainage into portions of the Whitewater, Ivanhoe Creek, and East Branch Nippersink Creek watersheds. The southern block of Town remnant lands is entirely located within the North Branch of Nippersink Creek watershed, which runs along CTH H, the southern boundary of the proposed village. The northern boundary of the proposed village is not as well defined by watersheds, and includes the three separate Whitewater, Ivanhoe Creek, and East Branch Nippersink Creek watersheds.

Perennial streams within the Town are shown by Map 2. Within the proposed village are the East and West branches of Nippersink Creek. East Branch Nippersink Creek is the surface water outlet for Powers, Benedict, Tombeau, and Pell Lakes and flows in a southwesterly direction, ultimately joining North Branch Nippersink Creek just north of Genoa City.

West Branch Nippersink Creek flows in a southeasterly direction through the Town, roughly framing the proposed village's southwestern boundary from the proposed Town Remnant. Ultimately, West Branch Nippersink Creek joins North Branch Nippersink Creek just east of Genoa City.

North Branch Nippersink Creek flows through the southern proposed Town remnant in a generally northeasterly direction adjacent to CTH H, to just north of Genoa City where it abruptly turns south and leaves the Town and eventually the State, draining into the Fox River. Petitioners could have utilized North Branch Nippersink Creek as its southerly boundary, but instead opted to use CTH H and the southern end of Sections 22, 23, and 24, which also corresponds to the southerly boundary of the Pell Lake Sanitary District.

² Pleasant Prairie v. Department of Local Affairs & Development, 108 Wis.2d 465 (Ct.App. 1982), affirmed, 113 Wis.2d 327 (1983).

³ Ibid., page 337.

Wetlands in Bloomfield are shown by Map 2. Wetlands also account for much of the environmental corridors shown by Map 10. These areas are located primarily along the North, West, and East Branches of Nippersink Creek, as well as the drainage areas of Ivanhoe and Pell Lakes. The wetlands and environmental corridor to the north help define the northerly limits of the proposed village.

Map 2 also shows the area’s lakes. Pell Lake and Tombeau Lake lie entirely within the proposed village area, while Benedict, Powers, and Ivanhoe Lakes lie only partially within the area. Powers Lake is the largest at 459 acres, with Pell Lake next at 86-acres Benedict at 78 acres, and Tombeau and Ivanhoe Lakes less than 50 acres. As mentioned previously, Powers, Benedict, and Tombeau Lakes are collectively referred to as the ‘Nippersink Lakes’. Table 1, below, shows the lake management districts and associations that have been created to improve and protect these lakes.

Table 1 – Lake Management Districts and Associations

Name	Created	Type	Activities
Lake Benedict/Tombeau Lake District	1996	Lake Management District	Invasive species control, fish stocking, monitoring, newsletters, ordinances, plans, shoreland restoration
District of Powers Lake	1985	Lake management district	Invasive species control, aquatic plan management, fish stocking, grants, ordinances, monitoring, newsletters, plans
Pell Lake Property Owners Association	1925	Lake management association	Grants, plans, boat racing, invasive species control, land purchase, ordinances
Mudhens	Unknown	Lake management association	Pell Lake weed cutting and removal, maintaining boat launches, beaches, parking areas, playground equipment, and mowing grass and planting flowers

Physical boundaries

As shown by Map 1, the Town of Bloomfield is bordered on the north and west by the Town of Lyons, the Town of Linn, and the City of Lake Geneva—all in Walworth County; on the southeast by the Village of Genoa City in Walworth County; on the east by the Town of Wheatland and the Town of Randall in Kenosha County; and on the south by the Town of Hebron and the Town of Richmond in McHenry County, Illinois. The Village of Twin Lakes in Kenosha County is approximately one mile east of the proposed village area in Kenosha County.

Map 1 shows the area petitioned for incorporation. As mentioned previously, this re-filed petition is 6-square miles smaller in size than the previously submitted petition. Petitioners excluded territory in Sections 1, 2, 3, 4, 5, 11, and 12 in the north and northeast part of the Town, and in Sections 7, 17, 20, and 21 along CTH along the proposed village’s southern boundary.

The proposed village’s eastern boundary is based on the Public Lands Survey and constitutes the boundary between Bloomfield and the Towns of Wheatland and Randall to the east in Kenosha County. This proposed boundary would sever the Nippersink neighborhood roughly in half.

The southern boundary primarily runs along CTH H south of Pell Lake, then along the southern Section lines of Sections 22, 23, and 24, which also roughly follows East Branch Nippersink Creek.

In Section 7, adjacent to the City of Lake Geneva-owned landfill is an industrial park which has been included because it is Bloomfield's only industrial or business park and it would help to diversify the new village's land use and tax base.⁴

Regarding the western boundary, the previously submitted petition touched the boundary with the Town of Linn in Section 7 and resulted in numerous Town areas being cut off and isolated from the main body of the Town remnant to the south. This re-filed petition resolves that problem by excluding a swath of territory along Bloomfield's western boundary so as to provide connection to Town lands adjacent to Lake Geneva. The Pioneer Mobile Home Park is excluded because it is located within Lake Geneva's sewer service area, and served by the City. This had been a concern of the City as well as the Board. Excluding Pioneer Park also improves connectivity between southern and northern Town remnant lands. By excluding this area, it creates the possibility that Lake Geneva may annex down to the City-owned landfill in Sections 7 and 8.

As mentioned above, the proposed village's northern boundary is physically delineated by the northern extent of the Bloomfield Wildlife Area, and also by Bloomfield Road and Hafs Road/CTH U. The previous petition extended further north, reaching all the way to the boundary with the Town of Lyons and including the Lake Ivanhoe neighborhood. This was a concern to the Board because it found Lake Ivanhoe to be physically and socially separate from Pell Lake, and also because of the extensive rural lands in the northeastern corner of the Town. Pulling in the proposed boundaries more tightly around Pell Lake and the Bloomfield Wildlife Area eliminates these concerns.

The Town remnant would consist of 20.86 square miles. As shown by Map 1, the largest portion of remnant territory is located south of CTH H. This territory, along with the remnant lands in the northeast corner of the Town consist almost entirely of agricultural and natural land uses. As mentioned previously, Town remnant lands also occur in the northwest, between the proposed village and Lake Geneva, and in the northeast.

Previous petition: utilized as its northern line Bloomfield's boundary with the Town of Lyons, which was established by the Public Lands Survey in the 1800s.

Re-submitted petition: utilizes the northern reach of the Bloomfield Wildlife Area, more particularly defined along Hafs Road and CTH U and Bloomfield Rd., as a northern boundary. This results in a natural and physical northern boundary, as opposed to the political boundary used previously.

The southern boundary is identical to the previous petition. The resulting buffer area between the proposed village and Genoa City is the boundary line that was agreed to by the communities as part of mediation talks related to the previous petition. Although no formal boundary agreement was reached at that time, Petitioners indicate that they drew this southern boundary to honor what was agreed to informally. A number of annexations have brought Genoa City's boundaries north to the proposed villages southerly boundary. In fact, a notch in Section 25 reflects the recent Kloppstein annexation⁵, which extends north into the proposed village territory along USH 12 and extends southward to Genoa City's boundaries. Unfortunately, the Kloppstein annexation did not resolve a number of Town of Bloomfield islands within the Village of Genoa City. However, incorporation will not affect or worsen these problematic boundaries.

⁴ Testimony by Doug Mushel, Petitioners' representative, at the Incorporation Review Board's June 28th meeting in Madison, from testimony from Petitioners at the March 23rd, 2010 public hearing at the Town of Bloomfield Municipal Building, and also testimony from Petitioners at the May 13th, 2010 Incorporation Review Board meeting in Madison.

⁵ The annexation ordinance for the Kloppstein Farms property was adopted by Genoa City on February 11, 2010. Additional information and a scale map of this annexation is available on the Department's Municipal Data System at <http://municipaldata.wisconsin.gov>

Ideally, all of the islands, peninsulas, town fragments and other irregularities described above would have been resolved through intergovernmental agreements developed prior to, or concurrent with, this incorporation petition. The lack of agreements or any other kind of coordination mechanism raises the possibility that these irregularities may persist and hinder service provision, community identity, and governance by the City, Village, and remaining Town of Bloomfield for many years.

Soils

Soil characteristics can impact the suitability of land for development. For example, some types of soils can significantly limit development of dwellings with or without basements, as well as structures requiring private on-site waste treatment system (POWTS) absorption fields. Development on such soils requires special designs, increased construction costs, increased maintenance, and special landscaping. Also, soils that shrink and swell, soils that are saturated, and soils associated with a high water table and flooding, can cause structures to move and flood and become unstable or otherwise unusable. Although these types of areas are generally difficult or unsuitable for developed land uses, they can nonetheless serve as important locations for wetlands, wildlife habitat, and stormwater retention.

The surface features of the Town of Bloomfield are the result of ground moraine deposits from the Lake Michigan lobe of the latest stage of glaciation. The underlying bedrock is Niagara Dolomite, which is covered by mixed glacial drift materials that range between 100-200 feet thick.⁶ Predominate soil types in the area are Fox-Casco and Houghton-Palms associations. Fox Casco associations are typically well-drained loam/silty clay loam subsoils, overlying sand and gravel formed by glacial stream terraces. The Houghton- Palms association consists of poorly drained organic soils overlying shallow basins and depressions that tend to have moderate or severe limitations for development.⁷ Mucky soils, unsuitable for residential or commercial development, are shown by Map 3. The map shows that concentrations of the mucky soils are intermixed with other soils throughout the proposed village area. However, three large blocks of the mucky soils can specifically be seen, and correspond closely with the wetlands shown by Map 2. One large block is found in the northwest part of the Town between Pell Lake and Lake Geneva, another extends northwards from Pell Lake, and a third large area separates Pell Lake from the Nippersink neighborhood and also from Genoa City. The northern boundaries of the proposed village include essentially the entire block of wet soils extending north out of Pell Lake. The boundaries also include the block of wet soils running between Pell Lake and the Nippersink area.

Transportation

The following paragraphs describe streets and highways, rail, air, transit, and pedestrian and bicycle facilities within the proposed village area.

Streets and Highways

Map 4 shows the major highways and streets serving the proposed village area. The major highway serving the Town of Bloomfield is U.S. Highway (USH) 12, which crosses the Town in a northwest to southeast direction. An interchange exists at Pell Lake Road.

⁶ SEWRPC, *A Regional Land Use Plan for Southeastern Wisconsin – 2010* (1992), p. 111.

⁷ U.S. Department of Agriculture, Soil Conservation Service, *Soil Survey of Walworth County, Wisconsin* (1971), p. 108 (General Soils Map, Walworth County, Wisconsin).

Other major regional arterials in Bloomfield consist of State Trunk Highways (STH) 50 and 120 and County Trunk Highways (CTH) B, H, and U. Local arterial roads in the Town of Bloomfield consist of Bloomfield Road, Hafs Road, Lake Geneva Highway, Pell Lake Drive, Powers Lake Road, and Twin Lakes Road. Traffic Counts on these highways are shown in Table 2.⁸

**Table 2
Bloomfield Traffic Data**

Road	Traffic count
USH 12	13,200
STH 50	12,600
STH 120	4,100
Eastside Road	500
CTH H	3,000-4,900
CTH U	1,200
Bloomfield Road	1,400
Hafs Road	470
Lake Geneva Highway	700
Pell Lake Drive	2,800
Powers Lake Road	930

The 2025 *Smart Growth Plan for the Town of Bloomfield Wisconsin* (2005) incorporates SEWRPC and WisDOT recommendations for two additional interchanges on USH 12 at Bloomfield Road and Twin Lakes Road. The plan also recommends that CTH H be widened to 80 feet and Clover Road be widened to 66 feet, and that the following roads change jurisdiction:

- Westside Road from local to State jurisdiction.
- Bloomfield Road and Hafs Road between CTH H and CTH U from local to County jurisdiction.
- Portions of Lake Geneva Highway, Pell Lake Drive, and Powers Lake Road from local to County jurisdiction.
- Twin Lakes Road between CTH H and CTH B from local to County jurisdiction.⁹

Within the proposed village area, the Pell Lake community has a concentrated network of local roads that provide movement and good connectivity to the various land uses in the community such as the elementary school, churches, parks, and businesses.

Previous petition: included areas that were not well connected. The Lake Ivanhoe neighborhood for example was only accessible via busy county highways, rather than local roads.

Re-submitted petition: excluding Lake Ivanhoe and the rural lands to the northeast results in a proposed village that is more compactly centered around Pell Lake, and more readily accessible via automobile, bicycle, and on foot.

Air and Rail

Bloomfield has no public airports. Instead, air travelers generally use the nearby small local airports in Burlington or East Troy or travel to the major regional airports at O’Hare International in Chicago, or General Mitchell International in Milwaukee. There are four private airstrips in the Town. Bloomfield has no active rail lines.

Transit

No transit service is available in Bloomfield.

Pedestrian and bicycle

There are currently no specifically designated pedestrian or bike paths or routes in Bloomfield. However, the dense network of quieter local roads in Pell Lake tends to disperse traffic so that biking and walking is safe and pleasant. Also, because development is sufficiently dense and

⁸ Based on 2006 Wisconsin DOT annual average daily traffic.
⁹ *Village of Bloomfield Incorporation Report*, August 18, 2009, p. 32

mixed-use in nature, moving throughout the hamlet from one activity to another is easy. For example, moving between the school, a grocery store, various businesses, restaurants, churches, and parks is very easily accomplished on foot or bike.

Regarding the previous petition, the Board found major problems for pedestrians and bicyclists outside of Pell Lake. Namely, pedestrians and bicyclists must utilize the busier highways to move from Pell Lake and Nippersink up to the Lake Ivanhoe and Pioneer Mobile Home Park neighborhoods. The speed, lane width, lack of a shoulder, and level of traffic on these highways is such that pedestrian and bicycle travel was not deemed safe or pleasant. However, this re-submitted petition improves upon the situation by excluding 6 square miles of rural and unconnected lands, such as the Lake Ivanhoe and Pioneer Park neighborhoods. As a result, the petition primarily includes Pell Lake and Nippersink, along with the Bloomfield Wildlife Area.

Political Boundaries

The following paragraphs examine Bloomfield's boundary agreements, as well as its neighborhoods, school district boundaries and sanitary district boundaries to see whether these are consistent with the proposed village's boundaries.

Relationship of proposed village boundaries to other jurisdictions

The Board's previous determination pointed out numerous town remnant areas, and also the fact that the Nippersink neighborhood would be severed by the proposed village. Some lands adjacent to Lake Geneva and Genoa City were not included so as to avoid creating isolated remnant areas, and also to provide a buffer between the new village and its incorporated neighbors. Lake Geneva and Genoa City had testified that they would prefer to see more extensive buffer areas. Genoa City was also concerned that landowners within the buffer area would immediately pursue annexation to the new village. Therefore, Genoa City wanted to have a boundary agreement in place to establish jurisdictional, land use, and service issues within the buffer area prior to Bloomfield's incorporation.

Previous petition: included problematic town remnant islands and isolated areas adjacent to Lake Geneva.

Re-submitted petition: by excluding Lake Ivanhoe, Pioneer Mobile Home Park, and rural lands adjacent to Lake Geneva, the proposed town remnant features better connectivity and a more extensive buffer area between the proposed new village and Lake Geneva.

However, Lake Geneva testified at the Board's meeting in Madison that they continue to be concerned with the re-submitted petition's boundaries, preferring that still more territory be added to the buffer area. Specifically, the City suggested that the current Pell Lake sanitary district boundary be used as the proposed village boundaries. Another alternative acceptable to the City would be defining the northern boundary using Litchfield Road and USH 12.¹⁰

Genoa City has also indicated continued dissatisfaction with the re-submitted petition. At the Board's meeting in Madison, Genoa City testified that not having a boundary agreement in place means that it cannot feel confident about the new village's southern limit. For example, without a boundary agreement in place, Town of Bloomfield remnant residents living in the buffer area might possibly petition for annexation to the new village.¹¹

¹⁰ Testimony by Dan Draper, City of Lake Geneva attorney, at the Incorporation Review Board's June 28th meeting in Madison.

¹¹ Testimony by Linda Grey, Village of Genoa City attorney, at the Incorporation Review Board's June 28th meeting in Madison.

Bloomfield and Genoa City did previously have an agreement, referred to as the *Agreement Regarding Municipal Boundary Common to the Village of Genoa City and the Town of Bloomfield* (1999), however that agreement expired on January 13, 2009, and as a result, normal annexation rules apply.

The recent mediation between Petitioners, Interveners, and the Town of Bloomfield regarding the 2008 incorporation petition could potentially have resulted in a new boundary agreement. In fact, as mentioned previously, the Town and Genoa City did agree upon an expansion area for the new village. However, this verbal understanding was never formalized in a boundary agreement

Bloomfield does not have any boundary agreement in place with Lake Geneva. A boundary agreement would substantially eliminate the uncertainty concerning service and jurisdictional issues related to the buffer lands between the City and proposed new village.

Lake Neighborhoods

The previous petition contained three separate lake neighborhoods – Pell Lake, Nippersink, and Lake Ivanhoe – as well as the Pioneer Mobile Home Park adjacent to Lake Geneva. This re-submitted petition includes only Pell Lake and a portion of Nippersink.

Pell Lake contains over 4000 people, and includes parks, businesses, churches, and other aspects that will be described later in this section.

Along the far eastern edge of the proposed village is the Nippersink neighborhood, at least one-half of which falls across the county line from the Town of Bloomfield in Kenosha County. The proposed incorporation would preserve this division of Nippersink. The Board's determination of the previous petition found dividing Nippersink to be problematic because Nippersink has a distinct identify from the Town of Bloomfield and the Towns of Wheatland and Randall in Kenosha County, as was evident from the two Powers Lake incorporation attempts in 1991 and 1998. Petitioners' in those cases argued that incorporation of the entire Nippersink lakes neighborhood would have created a new village to replace all the existing jurisdictions, save for the two counties, and would have greatly improved the area's ability to manage the lakes. The Department agreed with Petitioners on that point, but denied the petition on other grounds, such as the lack of a community center.

With the previous Bloomfield petition, the Board recommended that the Nippersink neighborhood be excluded and that these residents could instead utilize annexation and boundary agreement mechanisms should they desire in the future to join the new village of Bloomfield. Both the Petitioners and Genoa City have stated that they would be able to serve the Nippersink Lakes neighborhood.

Petitioners opted instead to once again include the Walworth County side of Nippersink in this re-submitted petition. Testimony at the March 23rd hearing in Bloomfield, as well as at the Board's meetings in Madison, have revealed significant physical and social variations between the Walworth County side of Nippersink and the Kenosha County side. For example, Nippersink residents on the Kenosha County side tend not to identify with Bloomfield as much as with Twin Lakes and the Towns of Randall and Wheatland. Also, the fact that separate school districts serve each side of Nippersink further divides social patterns. The Bloomfield side of Nippersink tends to be drawn toward Pell Lake for schools and other social functions, as well as to Genoa City and Lake Geneva, while the Kenosha County side tends to be drawn towards the Village of Twin Lakes and Genoa City. Therefore, using the county line as an eastern boundary, and taking the Walworth County side of Nippersink, may make sense.

Schools

The determination of school district boundaries has become an entirely separate process from municipal governance. This was not the case when the incorporation statute was created in 1959. Therefore, whether or not Bloomfield incorporates will have no effect on school district boundaries. However, as the Department noted in its determination in *Pewaukee*¹², schools nonetheless impact community allegiance through scholastic, social, and recreational activities and influence where people choose to live. For example, as previously mentioned, the different school districts serving the Nippersink neighborhood tends to pull that neighborhood in two different directions.

Table 3 shows the three public school districts serving the proposed village area. The two school districts for Bloomfield elementary-age students divide Bloomfield roughly in half in a southwest-to-northeast direction. However, Lake Geneva Joint School District serves roughly twice as many students as does the Genoa City Joint School district. Star Center Elementary School in Pell Lake serves 440 Bloomfield residents, most of the Town’s elementary-aged children, and is a social anchor for the proposed village area.

Table 3 – Public School Districts

School District & School Name	School Location	Total Enrollment	Town of Bloomfield Enrollment	Proposed Village Enrollment
Lake Geneva-Genoa City Union High School District				
Badger High School	Lake Geneva	1,435	404	384
Lake Geneva Joint School District No. 1				
Lake Geneva Middle School	Lake Geneva	687	219	208
Star Center Elementary School	Pell Lake	440	440	418
Genoa City Joint School District No. 2				
Brookwood Elementary School	Genoa City	328	134	127
Brookwood Middle School	Genoa City	290	119	113

Utility Districts

Map 5 shows the utility districts in the area. The map shows that Pell Lake Sanitary District No. 1 and Lake Geneva are the service providers in Bloomfield.

Pell Lake Sanitary District No. 1 (PLSD) currently provides sewer and water service to just Pell Lake residents. The district encompasses roughly 2.5 square miles between CTH H and USH 12. Wastewater is treated at the PLSD sewage treatment facility, located at N1183 CTH U within Pell Lake. The plant is currently operating at 50% capacity and has a design capacity of 0.46 million gallons per day (mgd), which was based on a year 2010 service area population projection of 3,900 persons. However, it was designed for easy expansion to potentially serve up to 4,600 people, and further expansion to serve 9,200 and serve as a regional facility. With six lift stations and other infrastructure, PLSD could conceivably serve all of the proposed village area. To date, PLSD engineers have completed preliminary studies on the feasibility of serving the Nippersink Lakes area, Lake Ivanhoe, and the Kloppstein Farms area south of Tombeau Lake.¹³

¹² *Pewaukee* (1991).

¹³ *Village of Bloomfield Incorporation Report*, August 18, 2009, at p. 38.

Previous Petition: included Pioneer Mobile Home Park, which is within Lake Geneva’s sewer service area. This was a point of contention with Lake Geneva which felt that no part of its sewer service area should be within the new village’s boundaries.

Re-submitted petition: resolves this problem by excluding Pioneer Mobile Home Park.

The Genoa City sanitary sewer service area does not currently include any Town of Bloomfield or proposed village territory. However, the Kloppstein annexation raises the possibility that Genoa City’s sewer service area will be amended northward into Bloomfield to allow for service to this property. Petitioners indicate that Genoa City wastewater treatment plant is near capacity and has limited expansion potential, which they believe means that Pell Lake Sanitary District will ultimately serve most of these southeast Bloomfield lands.¹⁴

All other existing development in Bloomfield is served by individual private wells.

Lake Management Districts

As mentioned previously in Table 1, the proposed village has two lake management districts and two lake associations. The Powers Lake Management District falls across the Towns of Bloomfield, Randall, and Wheatland and would therefore remain severed if the incorporation were to occur. This issue is discussed further in the ‘determination’ part under this standard.

Shopping and Social Customs

The following paragraphs describe the shopping and social customs available within the proposed village territory, and examine the territory’s businesses, employment patterns, and social opportunities such as clubs, organizations, churches, festivals, and parks. Examining social and economic activity helps establish whether or not the proposed village area has homogeneity with regard to these opportunities, or whether residents turn elsewhere for these.

A reasonable number of employment opportunities exist for residents of the proposed village area, as well as a more limited degree of shopping opportunities. Numerous social and recreational opportunities also exist, and these opportunities bear a clear relationship to the entirety of the proposed area. The paragraphs below provide specifics.

Shopping

A cluster of business activity is found in Pell Lake, with businesses such as a grocery store, bank, thrift store, food pantry, day care, pottery shop, tool and die manufacturer, accountant, and a variety of restaurants, motels, taverns, auto service stations, convenience stores, and building/construction contractors. These businesses employ 78 people.¹⁵

Outside of the Pell Lake area, an additional 42 businesses may be found, including resorts, nursery and tree farms, contractors, farms, a golf course, storage facilities, distributors, gravel extractors, and others. A total of 181 people are employed by these businesses.

Because of the proximity of the area to existing business activity in Lake Geneva, as well as the broader southeast Wisconsin and northeastern Illinois regions, area residents do not shop exclusively within the proposed village area. For example, Lake Geneva is only minutes away via STH 50. Excluding Lake Ivanhoe and Pioneer Mobile Home Park from the re-submitted petition improves the compactness of the territory because residents of those neighborhoods were

¹⁴ Testimony by Doug Mushel, Petitioners’ Representative, at the March 23rd public hearing in Bloomfield, as well as at the Board’s three meetings in Madison.

¹⁵ Ibid, at p 12.

more connected to Lake Geneva in terms of shopping than Pell Lake. The proposed village boundary is compactly drawn around Pell Lake, which does offer a minimal level of shopping options.

Employment

In 2000 there were 670 jobs in the Town of Bloomfield. Centrally located between the Milwaukee metro area, the Madison-Janesville-Beloit-Rockford corridor, and rapidly urbanizing western suburbs of Illinois, Bloomfield is strategically located for future job opportunities. Also, the Pell Lake area has access to municipal sewer and water which most commercial development requires.¹⁶

Median household income in the Town has traditionally lagged behind the county and region. In 1999, median household income was \$42,232 in the Town, compared with \$46,274 for Walworth County, and \$48,059 for the region.¹⁷

Approximately 29 people are employed by the area’s government and non-profit employers, which include the Pell Lake Sanitary District #1, US Post Office, Town of Bloomfield, Bloomfield-Genoa City Fire Department, Star Center School, and the two churches.

Social and recreation opportunities

The proposed village area has an abundance of social activity and recreational opportunities, primarily centered around the Pell Lake community center area.

The paragraphs below describe some specifics regarding social opportunities and connection within the proposed village area itself.

Parks

Table 4, below, shows the parks and open space within the proposed village, both public and private.

Table 4 – Parks and Open Space In Proposed Village

Site Name	Acres	Facilities
Public		
McKay Park	13	Trails
State Wildlife Area (Section 8)	268	Open space
State Wildlife Area (Sections 4, 9)	456	Open space
State Wildlife Area (Sections 3, 10)	382	Open space
Subdivision Park	1	Playground, beach, boat access
Subdivision Park	1	Beach, boat access
Star Center School	4	Playground, basketball hoops, soccer goals
Bloomfield Community Park	2	Horseshoes, volleyball
State Tourist Information Center	29	Information
Subtotal	1,156	
Nonpublic		
Oakland Manor Estates	4	Beach, boat access
Harbor Lite	1	Boat rental and access
Private Boat Launch	1	Boat access
Nippersink Manor Golf Course	138	18-hole golf course
Subtotal	144	
Total	1,300	

¹⁶ Ibid., p. 3-21. The plan estimates 820 jobs by 2020.

¹⁷ 2025 Smart Growth Plan, Town of Bloomfield, Wisconsin (2005), p. 3-5.

With roughly 1,200 acres of parks and open space divided among roughly 5,000 residents, the ratio of open space per resident is very high. Bloomfield’s comprehensive plan recommends still more parks. Specifically the plan recommends the following future parks within the proposed village area:

- Neighborhood Park (25 acres), in the Pell Lake for softball, playground, and playfield, and also a governmental building;
- Neighborhood Park (5 to 10 acres) Northeast quadrant/Bloomfield Road area
- Neighborhood Park (5 to 10 acres), Nippersink Lakes area.¹⁸

In addition to the developed parks there are the four designated natural areas of ‘local significance’ that are collectively referred to as the Bloomfield Wildlife Area, and listed in Table 5. These are areas designated by WisDNR and SEWRPC based on the diversity of plant and animal species, habitats, and the integrity of the environment. Some are available to the public.

Table 5 – Natural Areas

Area Name	Location (Sections)	Ownership	Size (acres)	Comments
Lake Ivanhoe Sedge Meadow	3	DNR and private	71	Wetland
Bloomfield Sedge Meadow and Tamarack Relict	7, 8, 18	DNR, City of Lake Geneva, private	171	Wetland
Pell Lake Railroad Prairie	8, 17	Private	4	Prairie
Swift Lake Wetland	3	Private	10	Black tern habitat
Section Five Marsh and Pond	4, 5	Private	18	Black tern habitat

Social organizations

Table 6¹⁹ lists some of the social organizations within the proposed village area.

As mentioned previously, the Pell Lake Property owners Association and Mudhens are groups that maintain and improve Pell Lake. Both provide residents with social opportunities that bring residents together and tie them to the landscape. The Pell Lake Property Owners Association began in the 1920’s and currently has a membership of over 100 residents. The group utilizes a clubhouse which is listed as a significant historic building on Wisconsin’s State Historical Society’s Architecture and History Inventory.

The Mudhens undertake a wide range of lake-related social activities such as fishing contests, recreational swimming, boating, and fundraisers. In August 2009 the group sponsored outboard boat racing.²⁰

Two churches are located within the proposed village area, both in Pell Lake. They are:

- Trinity Lutheran Church, W775 Geranium Road, and
- Iglesia Pentecostal Church, N1161 Clover Road.²¹

Trinity Lutheran Church was recently expanded and is the site of a food pantry. Iglesia Pentecostal church primarily serves Spanish-speaking parishioners in the region.

¹⁸ 2025 Smart Growth Plan, Town of Bloomfield, Wisconsin (2005), July, 2007 Amendment.

¹⁹ Village of Bloomfield Incorporation Report, August 18, 2009, page 10.

²⁰ Ibid., at p. 7.

²¹ Ibid., p. 6.

Star Center School, located in Pell Lake, also serves as an important meeting place for many community groups and activities, such as youth sports, Cub Scouts, Boy Scouts, Explorer, Girl Scouts, and 4-H Club. Over 90 percent of the Star Center School enrollment is from the area proposed for incorporation, so the school ties area kids together and adults too via such groups as the PTO and various other school-year functions.²²

The Bloomfield/Genoa City Fire and Rescue Department also functions as an important civic and social group because most of its members reside within Pell Lake, despite the fact that the Department merged with Genoa City’s department in 2003. The volunteer firefighters meet regularly for regular duties, training, and fundraising. In addition to the volunteers, the Department has two paid staff, and a 6,000 square foot fire and rescue station located at N113 Clover Road in Pell Lake. It is managed by a joint town-village fire commission and funded by both communities based on proportionate shares of the service area population and equalized valuation, as described in the *Town of Bloomfield & Village of Genoa City Fire Services Agreement* (2002), an intergovernmental agreement developed as part of the merger. Currently this funding ratio is 64% Town and 36% Village. After incorporation, it is anticipated that both the new village and the remaining Town remnant area will continue to participate in the joint department. No changes in operations or services are expected because of incorporation, though the fire services agreement will need to be amended to reflect the changes.²³

Table 6 – Social Organizations

Organizations	Address/Meeting Place
Trinity Lutheran Church	W775 Geranium Road (Pell Lake)
Iglesia Pentecostal	N1243 Clover Road (Pell Lake)
Bloomfield/Genoa City Fire and Rescue Department	N113 Clover Road (Pell Lake)
Pell Lake Property Owner’s Association	PO Box 758, Pell Lake, WI 53157 (Pell Lake)
Veterans of Foreign Wars	PO Box 607, Pell Lake, WI 53157 (Pell Lake)
Cub Scouts/Boy Scouts	Star Center School (Pell Lake)
Explorers	Star Center School (Pell Lake)
Girl Scouts	Star Center School (Pell Lake)
4-H Club	Star Center School (Pell Lake)
Modern Woodman	
Bloomfield Township Cemetery	
Old Bloomfield Pioneer Cemetery	
Line Cemetery	
Moresi Boundary Cemetery	

Population Distribution

Bloomfield’s population growth since 1960 is shown by **Table 7**, below. The table shows that population growth has accelerated since 1990 and continues today.

Table 7 – Town Population

1960	1970	1980	1990	2000	2010
2,154	2,481	3,288	3,723	5,537	6,357

The Department began examining the distribution of population as a result of the Wisconsin Supreme Court’s opinion in Pleasant Prairie²⁴. The court examined the nature and distribution of population, noting that higher population density tends to be indicative of compactness and urban rather than rural characteristics.

²² *Village of Bloomfield Incorporation Report*, August 18, 2009, p. 7.

²³ *Ibid.* at pgs. 7 and 62.

²⁴ Pleasant Prairie v. Department of Local Affairs & Development, 108 Wis.2d 465 (Ct.App. 1982), affirmed, 113 Wis.2d 327 (1983).

Most of the population of the proposed village area dwells in the Pell Lake community, roughly 4,000 individuals. The approximately one-thousand remaining residents of the proposed village tend to reside in Nippersink or isolated rural houses.

Previous petition: Population analysis showed that Pell Lake is dense and urban in character, but beyond that the population is spread out among the Lake Ivanhoe, Pioneer Park, and Nippersink neighborhoods, newer subdivision development west of Lake Ivanhoe, and isolated rural housing.

Re-submitted petition: By excluding Lake Ivanhoe and Pioneer Park, and trimming 6-square miles from the petition, the remaining 5,095 residents of the proposed village of Bloomfield are much more centrally located around the Pell Lake and Nippersink areas. As a result, population distribution is much more compact.

Land Uses

As with population, the Department added analysis of land uses subsequent to the Supreme Court’s decision in Pleasant Prairie. The court examined the nature and distribution of land uses noting that urban land uses (residential, commercial, industrial, institutional) tend to be indicative of compactness, and urban rather than rural characteristics.

Table 8²⁵, below, provides acreage totals for the various land uses within the area to be incorporated. Values for the previous petition are shown in *(italics)*. Also, Maps 6 and 7 shows land uses as they existed in 2000 and an orthographic photo taken in 2008.

Table 8 – Land Uses

Land Use	Existing Town (acres)	Proposed Village (acres)		Remaining Town (acres)	
Urban Development					
Residential	1,295	1,195	<i>(1,210)</i>	100	<i>(85)</i>
Commercial	49	48	<i>(49)</i>	1	<i>(0)</i>
Industrial	15	15	<i>(15)</i>	5	<i>(0)</i>
Transportation, Communications and utilities	1,024	648	<i>(730)</i>	376	<i>(294)</i>
Governmental and Institutional	25	25	<i>(25)</i>	0	<i>(0)</i>
Recreational	144	144	<i>(144)</i>	0	<i>(0)</i>
Under Development Since 2000	897	877	<i>(-)</i>	20	<i>(-)</i>
Urban Subtotal	2,552	2,952	<i>(2,173)</i>	502	<i>(379)</i>
Nonurban					
Agricultural (excluding 100 -year floodplain)	11,185	1,224	<i>(4,353)</i>	8,629	<i>(6,832)</i>
Extractive and Landfill	185	65	<i>(85)</i>	120	<i>(100)</i>
Unused Lands	793	0	<i>(500)</i>	293	<i>(293)</i>
Nonurban Subtotal	12,163	1,289	<i>(4,938)</i>	9,972	<i>(7,225)</i>
Natural Areas					
Woodlands	1,165	290	<i>(290)</i>	875	<i>(875)</i>
Wetlands	3,750	2,136	<i>(2,876)</i>	1,614	<i>(874)</i>
Surface Waters	451	434	<i>(424)</i>	17	<i>(27)</i>
100-Year Floodplain (outside environmental corridor)	1,200	824	<i>(824)</i>	376	<i>(376)</i>
Natural Areas Subtotal	6,566	3,684	<i>(4,414)</i>	2,882	<i>(2,152)</i>
Total Area	21,281	7,925	<i>(11,525)</i>	13,356	<i>(9,756)</i>

²⁵ *Village of Bloomfield Incorporation Report*, February 2011, at page 21.

Residential & Commercial Development

Residential development in Bloomfield has historically centered on the lakes, primarily Pell Lake. Most of these lake dwelling units were originally developed as seasonal and weekend recreational retreats for Chicago and Milwaukee area vacationers. However, the establishment of interstate highways, tele-commuting, and retirements have led many of these units to be converted into year-round residences.

Nearly all residential development in Bloomfield is within the area proposed for incorporation. As shown by Table 8, only 100 acres of residential land use would be located within the Town remainder, while 1,195 acres would be within the proposed village, as well as another 877 acres which is currently ‘under development’, meaning that a preliminary or final plat has been approved. From 2002-07, 222 new lots were created, which is approximately 37 lots per year. Most of these lots were for residential development and almost all are within the proposed village area.

The vast majority of Bloomfield dwelling units are single-family detached housing. Only 3.6% is duplexes or multi-family, and another 10% are mobile homes. Roughly 68% of Bloomfield housing is owner-occupied, while 15% is renter-occupied, and another 11% is seasonal, recreation, or just occasional use. As with economic productivity, Bloomfield housing values are lower than the county or region - \$98,300, compared with \$128,800, and \$106,900 respectively.²⁶

As shown by Table 8, residential land use is the dominant urban land use, ahead of transportation, communications, and utilities infrastructure. Commercial and institutional uses constitute less than 100 total acres, and occur primarily within Pell Lake and the Bloomfield Business Park on CTH H.

Agricultural Lands

Agricultural lands are a large part of the Town of Bloomfield, constituting over one-third of its total acres. The proposed village would contain roughly 1,224 acres of agricultural lands, while the Town remnant would contain 8,629 acres. The largest block of agricultural land is located in the southwest and northeast corners of the Town of Bloomfield, within the proposed Town remnant. According to Petitioners’, residents within this area expect that these areas will remain agricultural.²⁷

Previous petition: the Board found that the proposed village contained too much agricultural lands, roughly 4000 acres.

Re-submitted petition: excluding 6-square miles of primarily rural lands reduces the proposed village’s agricultural land to 1,224 acres, resulting in a petition that is more compact and urban, and a town remnant that is rural. It was also more consistent with Bloomfield’s comprehensive plan, which calls for the southwest and northeast corners of the Town to remain rural and agricultural, while the Pell Lake area will continue to urbanize. This incorporation will better align the type of governance with the type of land use.

Environmental Lands

Maps 2 and 10 show Bloomfield’s environmental or natural lands, which constitute roughly one-third of the Town. These lands include woodlands, wetlands, floodplains, and surface water, all of which are considered by WisDNR, SEWRPC, Walworth County, and the Town to be ‘environmental corridors’ and subject to development restrictions. A little over one-half of these

²⁶ 2025 Smart Growth Plan, Town of Bloomfield, Wisconsin (2005), p. 4-1.

²⁷ Testimony at the March 23rd, 2010 Public Hearing on Bloomfield’s incorporation petition at the Bloomfield Municipal Building.

environmental lands fall within the proposed village area, the largest complex being the Bloomfield Wildlife Area north of Pell Lake.

Previous petition: the previous petition contained twice as many natural lands as the town remnant, 4,414 acres to 2,152 acres,

Re-submitted petition: excluding 6-square miles of primarily rural lands reduces the proposed village's natural lands to 3,684 acres and increases the Town remnant's to 2,882. The Bloomfield Wildlife Area constitutes the majority of the proposed village's natural lands.

Land Use Regulations

In 2009 the Town of Bloomfield chose to drop out of county zoning and instead adopt an interim general zoning code that it administers on its own. Creating a permanent ordinance has been delayed pending this determination. Whether Bloomfield is a village or town affects the nature and specific terms of the ordinance. Shoreland and wetland zoning continues to be administered by Walworth County. Petitioners anticipate that the proposed Village of Bloomfield would adopt the Town's interim code.²⁸ Map 8 shows the various zoning classifications as they apply to Town lands.

The Town currently maintains and administers a code of land division ordinances, which establishes requirements for design of lots, access, streets, drainage, and sewerage and water facilities, among other things, for all land divisions that create five or more parcels, or building sites each of which is 15 acres or less in size. For all subdivisions larger than that size, the ordinance requires preparation of a certified survey map. Most provisions of the ordinance are also applicable to condominium projects. Upon incorporation, the proposed village anticipates adopting this same code.²⁹

Walworth County ordinances that apply to the area include a wellhead protection ordinance, community design standards, telecommunications towers ordinance, private sanitary sewage system ordinance, the construction site erosion control ordinance, sign ordinance, site plan review and standards, and historic preservation codes.³⁰ In the well head protection Overlay District, Walworth county ordinance sets forth regulations to protect the groundwater within the Pell Lake Sanitary District, which applies within 1,200 feet of the municipal well.

Lake Geneva and Genoa City have extraterritorial plat review authority within the Town of Bloomfield. According to Petitioners, Lake Geneva uses its extraterritorial authority to limit development to one dwelling per 35 acres.³¹ Incorporation of a portion of Bloomfield would remove those lands from Lake Geneva and Genoa City's extraterritorial review area.

Planning

The primary plan affecting the proposed village area is the *Town of Bloomfield 2025 Smartgrowth Plan* (2005), amended in July 2007 and February 2008. Map 9 shows the plan's recommended future land uses. Petitioners anticipate that upon incorporation the new village would adopt this plan.

In brief, the plan recommends:

²⁸ *Village of Bloomfield Incorporation Report*, August 18, 2009, at p. 18.

²⁹ *2025 Smart Growth Plan, Town of Bloomfield, Wisconsin* (2005), p. 11-3.

³⁰ *Ibid.* p. 11-8.

³¹ *Ibid.* p. 11-8.

- Increasing medium density residential development (3 to 6 dwelling units per acre) in Pell Lake and also adjacent to Lake Geneva served by public sanitary sewer and water;
- Promoting infill medium density residential development in Pell Lake;
- Expanding commercial development within Pell Lake and along the County Trunk Highway H corridor in Pell Lake, and also adjacent to Lake Geneva, all served by public sanitary sewer and water;
- Increasing low density residential development (1 to 3 dwelling units per acre) in Sections 17, 21, 22, and 27 on both sides of County Trunk Highway H north and south of existing development in the Pell Lake area, and also in the northern part of the Town. Conservation subdivisions are encouraged to preserve rural aspect;
- Preserving existing farmlands west of County Trunk Highway H as long-range agricultural preservation areas;
- Preserving primary and secondary environmental corridors, isolated natural areas and areas within the 100-year floodplain as permanent conservancy lands.³²

Previous petition: the proposed village included territory in the northeast corner of the Town that Bloomfield's comprehensive plan recommends as future agricultural preservation area.

Re-submitted petition: excluding these rural lands means that the urban-type land uses that Bloomfield's comprehensive plan recommends for the Pell Lake area will closely align with the proposed village boundaries.

Community Center

Section 66.016(1)(a), Wis. Stats. requires a reasonably developed community center, including features such as retail stores, churches, post office, telecommunications and similar centers of community activity.

Analysis of past incorporation determinations consistently shows that a minimum amount of shopping opportunities is required that can satisfy the daily needs of residents, despite the close proximity of nearby shopping establishments in neighboring jurisdictions. The critical issue is the existence of retail facilities and services, not necessarily their size. Past determinations have also looked for organizations within the community center that draw residents together and contribute to a social identity for the area. Examples include churches, schools, restaurants, banks, post office, even gasoline service stations.³³

The community center for the proposed village is the Pell Lake neighborhood, which consists of two square miles surrounding Pell Lake. Specifics about this area have already been described previously under Shopping and Social Opportunities. However, to summarize, Pell Lake contains a concentration of houses, businesses, two churches, an elementary school, grocery store, parks, food pantry, public sanitary sewer and water, a police department, fire and rescue, day care center, a bank, restaurants, service stations/convenience store, resorts, and a business/industrial park, the Pell Lake Property Owners Association, and the Mudhens, among others.

³² 2025 Smart Growth Plan, Town of Bloomfield, Wisconsin (2005), plan amendment on 2/4/2008. See also *Village of Bloomfield Incorporation Report*, August 18, 2009, at p. 27.

³³ Oakdale (1986), Potter (1982), Arpin, (1978), Nelson (1978), Crivitz, (1974), Hewitt (1973), Newburg (1973), Rockfield (1964), Fitchburg (1982), Chain O'Lakes (1982).

Although residents no doubt turn to Lake Geneva, Twin Lakes, and communities throughout the region for more major shopping excursions, and for greater selection and lower costs, the fact that Pell Lake neighborhood is able to develop and maintain itself as a shopping area and community center is the important factor.

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DETERMINATION

According to Pleasant Prairie³⁴, the various factors enumerated in section 66.0207(1)(a) Wis. Stats., the *Compact and Homogenous* standard, are to be viewed not as individual determinants, but as considerations to be weighed together along with the other factors. In this way, a petition may be weaker with certain factors or considerations and stronger with others, but a petition must show that on balance it supports a finding of compactness and homogeneity. All of the factors are to be used by the Board to arrive at a final determination.

The Board found that the previous petition contained too much rural territory, and also contained neighborhoods that did bear a strong connection to its community center area of Pell Lake.

Regarding excess rural lands, the Homogeneity and Compactness standard makes incorporating rural territory exceptionally difficult, as seen by previous Department and Board determinations, and by the extensive case law on the subject. For example, the Wisconsin Supreme Court in Sharping v. Johnson³⁵ denied a petition because the area outside the core area was largely rural and sparsely populated rather than urban, and therefore not compact. Similarly, the Court in Pleasant Prairie v. Local Affairs Dept³⁶ held that:

“[An] area petitioned for incorporation should be urban rather than rural... Patterns of development which show that an area has widely scattered areas of residential and industrial development and intervening areas of extensive rural uses indicate that the area is not homogeneous. That is not to say that incorporated areas should not have mixed land uses or that there should not be extensive green belt or wetland reservations, but the various developments should be grouped in rational ways and not be scattered “haphazardly” across undeveloped areas.”³⁷

By excluding 6-square miles of rural lands, this re-submitted petition is much more compact and homogenous. The area is better connected and accessible in terms of transportation, and land uses that tend to be urban rather than rural. This is demonstrated by existing urban development in Pell Lake, and the proposed future residential and commercial development that is proposed by Bloomfield’s comprehensive plan.

Regarding unconnected neighborhoods, the Supreme Court in Sharping v. Johnson said:

[The proposed village] is composed of various isolated communities, scattered haphazardly throughout the territory without any apparent connection with one another, other than the fact that there are part of the same town.³⁸

The previous Bloomfield petition included the Lake Ivanhoe and Pioneer Park neighborhoods which like the situation in Sharping v. Johnson, did not bear a clear social or physical connection to Pell Lake. If anything, Lake Ivanhoe and Pioneer Park were found to be more oriented towards Lake Geneva. In fact, Pioneer Mobile Home Park already receives City municipal services. Eliminating these two neighborhoods from this re-submitted petition resolves this problem.

³⁴ Pleasant Prairie v. Local Affairs Dept., 113 Wis.2d 327, 340 (1983).

³⁵ Sharping v. Johnson, 32 Wis. 2d 383 (1966).

³⁶ Pleasant Prairie v. Department of Local Affairs & Development, 108 Wis.2d 465 (Ct.App. 1982), affirmed, 113 Wis.2d 327 (1983). (insert case site)

³⁷ Ibid., at p. 337.

³⁸ Interveners’ April 2, 2010 letter to the Department.

The Board also pointed out in its determination of the previous petition that including the Nippersink neighborhood is problematic because incorporation would permanently sever the neighborhood. However, governance of Nippersink is already a problem in that the lakes and neighborhood around the lakes are divided across two counties and three towns. As documented in Powers Lake (1991) and Powers Lake (1999), this governance situation makes managing the lakes extremely difficult, and it is what led Nippersink to twice attempt to incorporate.

Bloomfield Petitioner's did look into drawing their proposed village boundary to include the entire Nippersink neighborhood. However, they decided to utilize the Walworth County boundary instead because of the physical and social differences between the Walworth and Kenosha County sides of Nippersink that were described previously. Because Kenosha County-side Nippersink residents are more oriented towards Kenosha County communities and activities, Petitioners were concerned that these residents would not support the incorporation were a referendum vote to occur. In fact, several residents indicated to Petitioners that they preferred not to be included within the petition's boundaries. Also, the added complexity and cost of providing municipal services across two counties played a part in Petitioners' decision.

Because Nippersink is already split among numerous jurisdictions, incorporation will not add to the division. In fact, incorporation will result in the new village replacing the current Town of Bloomfield in terms of serving Nippersink, and will largely supplant Walworth County, thereby essentially reducing the number of jurisdictions from five to four. The Board recognizes that incorporation will permanently change the status quo, whereas excluding Nippersink from the petition would have preserved the status quo. The new village could conceivably annex into the Kenosha side of Nippersink, or perhaps a boundary agreement could be developed between the new village and the Kenosha County-side towns to resolve the division. Notwithstanding these issues, from the standpoint of compactness and homogeneity, the Walworth side of Nippersink does appear to be oriented towards Pell Lake and the proposed village area. In terms of social patterns, services, school districts, provision of utilities, and physical proximity, the Walworth side of Nippersink is closely connected with and homogenous to Pell Lake. Although Nippersink is physically somewhat separated from Pell Lake by a band of wetlands, the Board finds that on balance the Walworth side of Nippersink is homogenous with the proposed village area and the community center of Pell Lake.

Lake Geneva and Genoa City have previously stated that they are not opposed to incorporation, just to the size of the proposed village. Petitioners have reduced the size of the proposed village, drawing the boundaries in more tightly around Pell Lake. In particular, territory adjacent to Lake Geneva was excluded. However, Lake Geneva testified that they are still opposed to the size of the incorporation. The City agrees that the Bloomfield Wildlife Area should be used to delineate the new village's boundaries, however they would prefer that the boundaries be drawn inside of the wetlands rather than including them in their entirety. Petitioners testified that they chose to include the Bloomfield Wildlife Area because of its environmental connection to Pell Lake, the fact that Bloomfield residents consider it to be a community resource, and also because of the difficulty in legally describing wetlands due to their ever-changing location. Using Hafs Road, Bloomfield Road and CTH U as the northern boundary is a clear and obvious physical boundary.

Genoa City appears to support the proposed village boundaries, but would like to see a boundary agreement in place to preserve the new village's southern boundary well into the future. The Board recognizes that developing a boundary agreement could establish permanent boundaries, lead to certainty and predictability, resolve the town islands that were created by the Kloppstein annexation, and could provide for future service provision.

The Board finds that the re-submitted petition does meet the Compact and Homogenous standard in s. 66.0207(1)(a), Wis. Stats. for all of the reasons described above.

SECTION 1(B), TERRITORY BEYOND THE CORE

The standard to be applied for isolated communities is found in §66.0207(1)(b), Wis.Stats, and reads as follows:

The territory beyond the most densely populated one-half square mile specified in s. 66.0205(1)... shall have an average of more than 30 housing units per quarter section or an assessed value, as defined in s. 66.0217(1)(a) for real estate tax purposes, more than 25% of which is attributable to existing or potential mercantile, manufacturing or public utility uses.

The Incorporation Review Board previously found this standard to have been met in its June 14th, 2010 determination. Specifically, the average household density of the territory beyond the core area was found to be 44.7 housing units per quarter section, well above the standard. No material facts have changed or arisen that should cause the Board to re-examine this standard. In fact, by pulling in the proposed village boundaries more tightly around the Pell Lake community center, and excluding 6-square miles of rural lands, the housing density increases to 62.3 housing units per quarter section.³⁹

³⁹ *Village of Bloomfield Incorporation Report, Revised Boundary*, February 28, 2011.

SECTION 2(A) TAX REVENUE

The standard to be applied is found in §66.0207(2)(a), Wis. Stats., and provides as follows:

"The present and potential sources of tax revenue appear sufficient to defray the anticipated cost of governmental services at a local tax rate which compares favorably with the tax rate in a similar area for the same level of services."

In its June 14th, 2010 determination, the Incorporation Review Board found this standard to be met. The Board found that petitioners had proposed a realistic budget that adequately accounted for revenues and expenditures. No material facts have changed or arisen that should cause the Board to re-examine this standard. Excluding the excess rural lands that were part of the previous petition does not significantly impact the proposed village's ability to raise sufficient revenue to provide village level services at a reasonable tax rate.

SECTION 2(B) LEVEL OF SERVICES

The standard to be applied is found in §66.0207(2)(b), Wis. Stats., and provides as follows:

The level of governmental services desired or needed by the residents of the territory compared to the level of services offered by the proposed village or city and the level available from a contiguous municipality which files a certified copy of a resolution as provided in §66.0203(6), Wis. Stats.

Because no intervenors filed a certified copy of a resolution to annex the entire petitioned territory with the Walworth County circuit court, this standard is not applicable.

SECTION 2(C) IMPACT ON THE REMAINDER OF THE TOWN

The standard to be applied is found in §66.0207 (2) (c), Wis. Stats., and provides as follows:

“The impact, financial and otherwise, upon the remainder of the town from which the territory is to be incorporated.”

This standard is meant to insure the well-being of the proposed town remnant and its residents. Incorporation should not have a detrimental effect and leave behind a town remnant too small or fragmented to efficiently govern itself, and with too few assets and revenue sources with which to provide municipal services.

The Board determined that the previous petition would have created two major problems for the remaining town and its residents. First, the proposed village boundaries created town islands and isolated areas that would have physically divided the remaining Town of Bloomfield, making service provision and community identity difficult. Second, the equalized value of the town remnant was minimal, resulting in a stark and bare-bones budget that substantially cut services for town residents while increasing their tax rate.

Physical Layout of Town Remnant

Previous petition: included eleven identifiable town remnant islands, some of them thousands of acres in size, that were physically isolated from the primary block of town remnant area to the southwest.

Re-submitted petition: resolves the town islands adjacent to Lake Geneva by excluding territory in Sections 1, 2, 3, 4, 5, and 7 so as to provide connection between almost all town remnant lands. Smaller pieces in Lake Geneva and Genoa City created by incremental annexations will need to be dealt with via boundary agreements.

Financial Impact on Town Remnant

Examining equalized value data, the proposed budgets for the new village and town remnant, as well as proposed tax rates, the Town remnant will clearly remain viable after incorporation and separation of the Pell Lake and Nippersink neighborhoods, as well as the Bloomfield Wildlife Area.

With the previous petition, roughly 90% of the Town of Bloomfield’s equalized value would have fallen to the new village, leaving only \$46,914,127 to the remnant town. Population-wise, of the Town of Bloomfield’s 5,814 residents, only 543 would have remained in the remnant.

Petitioners originally proposed a \$120,000 budget for the remnant, later increasing it to \$175,000 after concerns were expressed by Board members, staff, and Intervenors about the budget being unrealistically low. Examining 85 similarly-sized towns across Wisconsin, staff found that only seven towns had expenditures less than \$175,000, and that the average expenditure was \$309,400. From the standpoint of remnant residents, they would have lost their municipal buildings, municipal equipment, and would have received minimal spending for police and fire protection, and nothing for recreation, culture, health and human Services, conservation and environment.

However, this re-submitted petition substantially improves upon this situation. By excluding the 6-square miles of rural lands, and the Lake Ivanhoe and Pioneer Park neighborhoods, the remnant’s equalized value more than doubles to \$120 million, and goes from being 10% of Bloomfield’s total value to 21%. Expanding the equalized value enables Petitioners to increase

the proposed budget categories to much more healthy levels. **Table 9** provides Petitioners' proposed budget and shows the specific category increases. For example, public safety expenditures increase from \$17,500 to \$196,220, and public works increases from \$103,146 to \$257,865.

Meanwhile, regarding the impact to the proposed village, the equalized value for the proposed village decreases with the re-submitted petition, going from \$505,016,774 (91.50% of the total Town of Bloomfield) to \$431,700,000 (78.22% of the total Town). Therefore, the re-submitted boundaries took a sizeable portion of Bloomfield's value, primarily from the Lake Ivanhoe neighborhood, and gave it back to the Town remainder. However, the proposed village still has more than sufficient equalized value to provide village services, as can be seen by the budget amounts in Table 9.

Table 9: Proposed Village and Town Remnant Budget

REVENUES	Existing Town	Proposed Village		Remaining Town	
Taxes	\$1,270,503	\$1,010,895	(\$1290,026)	\$264,975	(\$108,031)
Special Assessments	\$13,071	\$10,496	(\$0)	\$2,575	(\$0)
Intergovernmental Revenues	\$303,313	\$227,485	(\$272,982)	\$75,828	(\$30,331)
Licenses and Permits	\$226,694	\$182,035	(\$215,558)	\$44,659	(\$14,335)
Fines, Forfeitures, and Penalties	\$240,474	\$193,101	(\$240,474)	\$47,373	(\$0)
Public Charges for Services	\$390,025	\$313,190	(\$370,566)	\$76,835	(\$19,502)
Intergovernmental Charges	\$0	\$0	(\$0)	\$0	(\$0)
Miscellaneous Revenues	\$71,416	\$57,347	(\$65,569)	\$14,069	(\$3,447)
Other Financing Sources	\$0	\$0	(\$0)	\$0	(\$0)
TOTAL REVENUES	\$2,515,496	\$1,994,549	(\$2,455,175)	\$526,314	(\$175,646)
EXPENDITURES	Existing Town	Proposed Village		Remaining Town	
General Government	\$349,195	\$330,404	(\$385,761)	\$50,000	(\$42,000)
Public Safety	\$996,040	\$799,820	(\$998,100)	\$196,220	(\$17,500)
Public Works	\$1,031,460	\$773,595	(\$980,375)	\$257,865	(\$103,146)
Health and Human Resources	\$1,625	\$1,305	(\$1,625)	\$320	(\$0)
Culture, Recreation, and Education	\$34,282	\$27,528	(\$34,300)	\$6,754	(\$0)
Conservation and Development	\$150	\$120	(\$24,000)	\$0	(\$0)
Capital Outlay	\$58,999	\$47,376	(\$83,075)	\$11,623	(\$13,000)
Debt Services	\$17,933	\$14,400	(\$0)	\$3,533	(\$0)
Other Financing Uses	\$0	\$0	(\$0)	\$0	\$0
TOTAL EXPENDITURES	\$2,489,684	\$1,994,549	(\$2,507,236)	\$526,314	(\$175,646)

The tax rate situation is also improved for town remnant residents. As shown by Table 10, the remnant town's tax rate with the previous petition would have *increased* from .00226 to .00230, despite receiving decreased services. However, this re-submitted petition is anticipated to result in a *decreased* tax rate from .0026 to .0020. In fact, this rate could be even lower if the remnant opts for county sheriff coverage rather than contracting with the new village for police protection.

Table 10: Tax Rate

	Existing Town	Proposed Village		Remaining Town	
Full Value Tax Base	\$551,930,900	\$431,700,000	(\$505,016,774)	\$120,230,900	(\$46,914,127)
General Property Tax	\$1,247,367	\$1,010,895	(\$1,263,132)	\$264,975	(\$108,031)
Local Tax Rate	.00226	.00234	(.00250)	.00220	(.00230)

DETERMINATION

The foregoing analysis of the improved shape and contiguity of the territory, along with financial aspects such as equalized value, proposed town remnant budget, and tax rate suggests that the remainder of the Town of Bloomfield will not be unduly disadvantaged by the incorporation of the proposed village of Bloomfield.

For all of the preceding reasons, the Board determines that this re-submitted petition meets the Impact on the Remainder of the Town standard set forth in §66.0207 (2) (c), Wis.Stats.

SECTION 2(D), IMPACT UPON THE METROPOLITAN COMMUNITY

The standard to be applied is found in s. 66.0207(2)(d) Wis. Stats. and is as follows:

The effect upon the future rendering of governmental services both inside the territory proposed for incorporation and elsewhere within the metropolitan community. There shall be an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

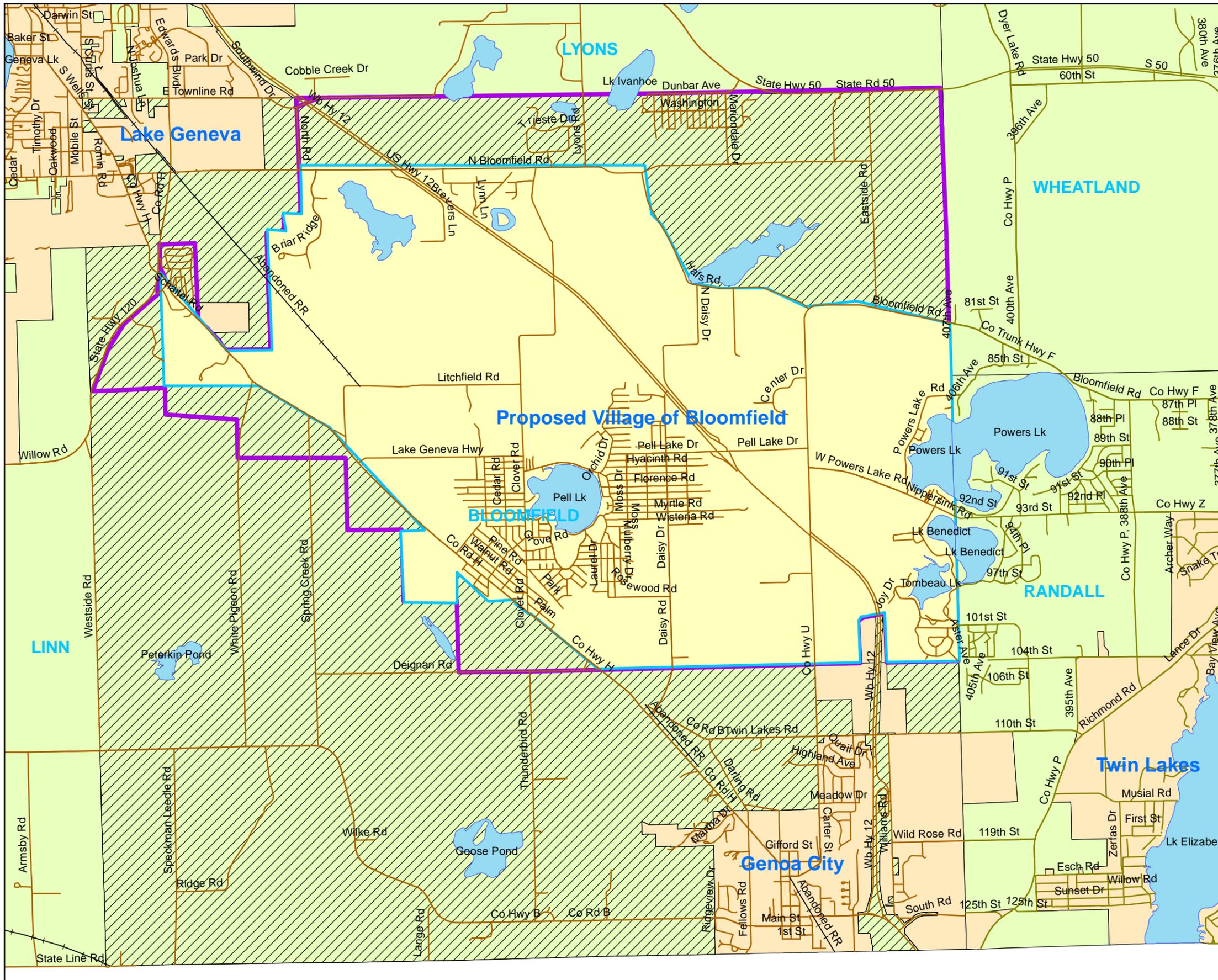
This standard is inapplicable because Bloomfield is an ‘isolated community’ rather than a ‘metropolitan community’, and was found by Walworth County Circuit Court Judge John Race to meet the standards for an isolated community.

APPENDIX A: Maps

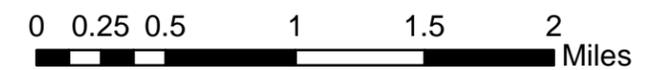
Map 1	Proposed Village of Bloomfield
Map 2	Bloomfield Watershed & Surface Water
Map 3	Bloomfield Soil Characteristics
Map 4	Bloomfield Transportation Facilities
Map 5	Sewer Service Areas
Map 6	Current Land Uses
Map 7	Bloomfield Orthographic Map
Map 8	Bloomfield Zoning
Map 9	Bloomfield Planned Land Uses
Map 10	Bloomfield Environmental Corridors

Proposed Village of Bloomfield

MAP 1

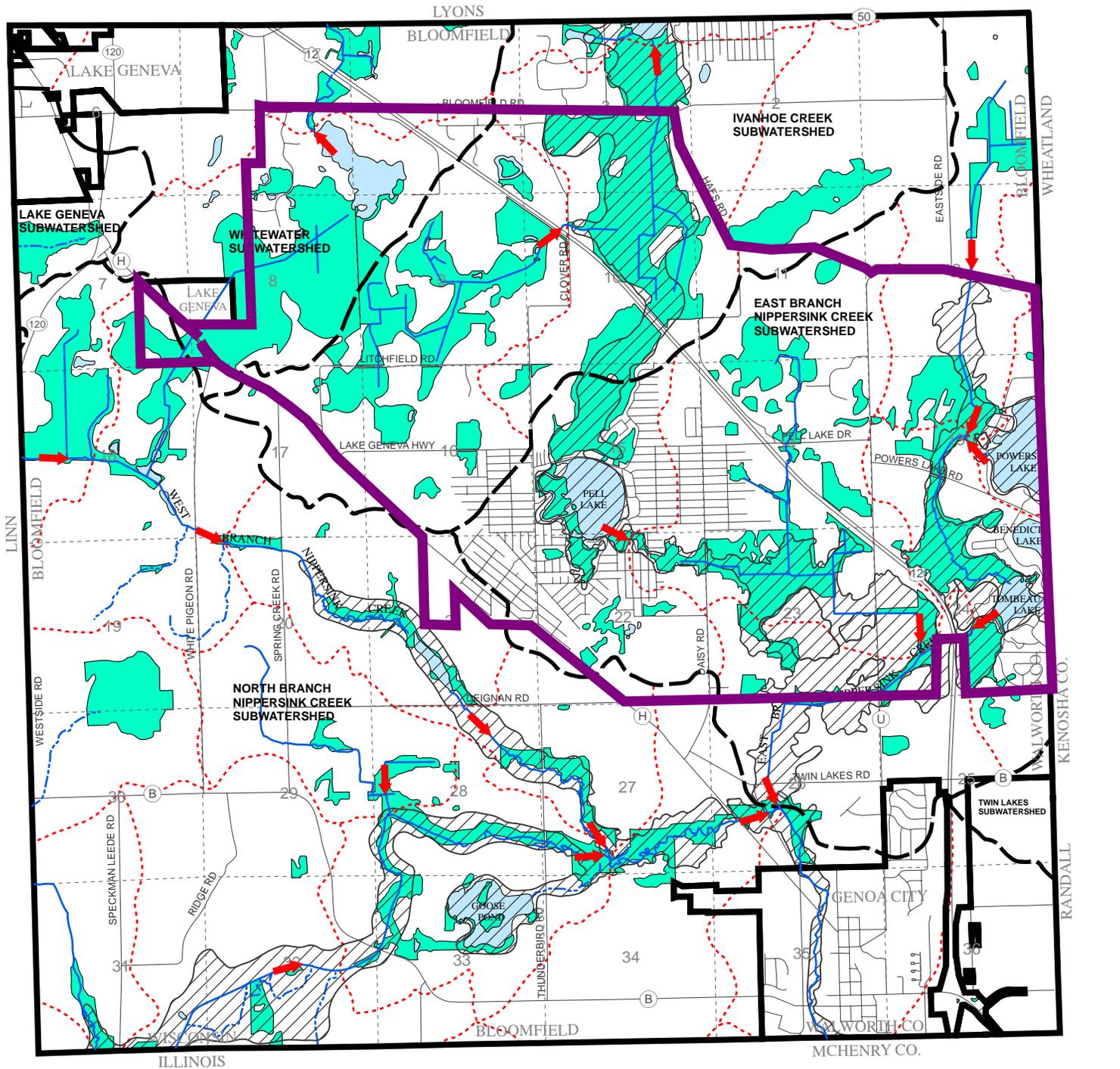


	Proposed Village Boundary
	October 2009 Boundary
	Town Bloomfield Remnant
Area Municipalities	
	City or Village
	Town

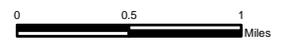


MAP 2

SURFACE WATER RESOURCES IN THE TOWN OF BLOOMFIELD: 2000



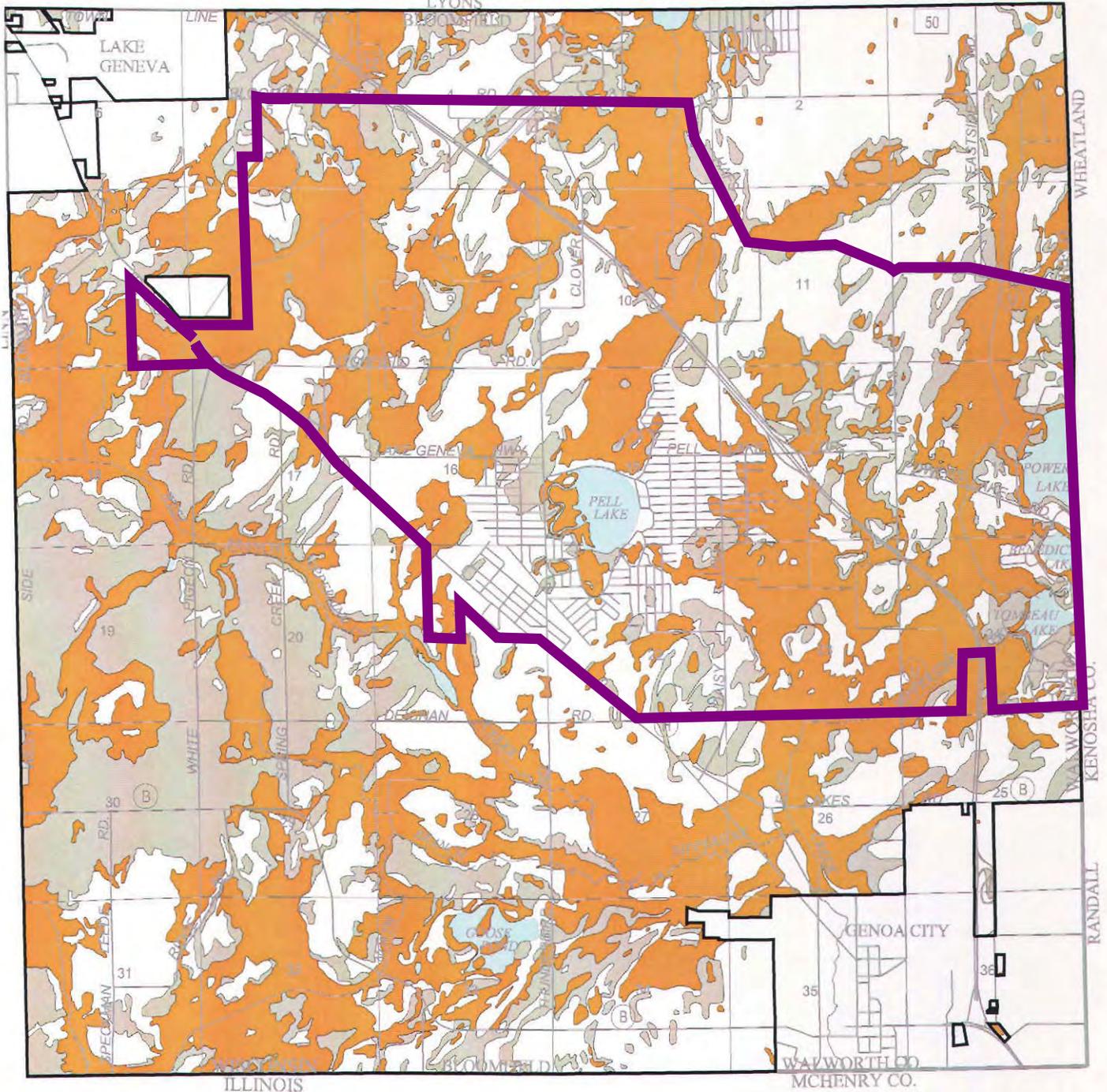
- Subwatershed Boundary
- - - Subbasin Boundary
- Perennial Stream
- - - Intermittent Stream
- Proposed Village Boundaries
- ▨ 100-Year Floodplain
- Wetlands
- Surface Water
- ➔ Direction of Flow



Source: SEWRPC and Walworth County

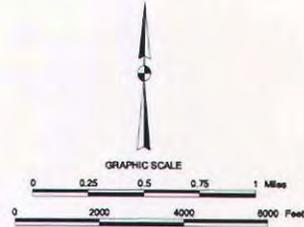
Map 3

SUITABILITY OF SOILS FOR RESIDENTIAL DEVELOPMENT WITH PUBLIC SANITARY SEWER SERVICE IN THE TOWN OF BLOOMFIELD



- AREAS COVERED BY SOILS HAVING SEVERE LIMITATIONS FOR RESIDENTIAL DEVELOPMENT WITH PUBLIC SANITARY SEWER SERVICE
- AREAS COVERED BY SOILS HAVING MODERATE LIMITATIONS FOR RESIDENTIAL DEVELOPMENT WITH PUBLIC SANITARY SEWER SERVICE
- AREAS COVERED BY SOILS HAVING SLIGHT LIMITATIONS FOR RESIDENTIAL DEVELOPMENT WITH PUBLIC SANITARY SEWER SERVICE
- OTHER: AREAS CONSISTING FOR THE MOST PART OF DISTURBED LAND FOR WHICH NO INTERPRETIVE DATA ARE AVAILABLE

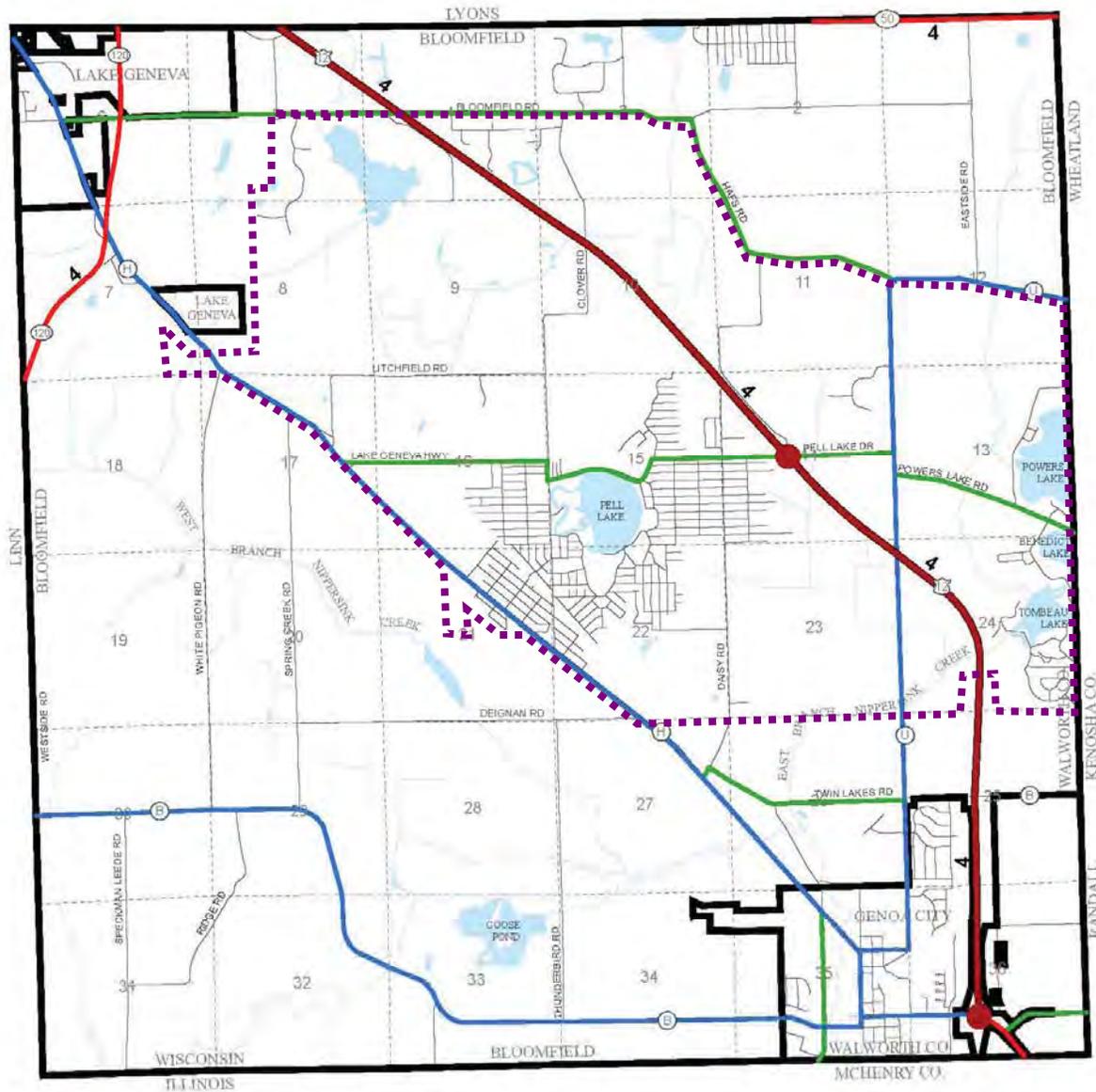
Proposed Village Boundaries



Source: U.S. Natural Resource Conservation Service and SEWRPC.

Map 4

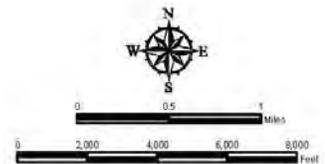
Existing Functional and Jurisdictional Roadway System



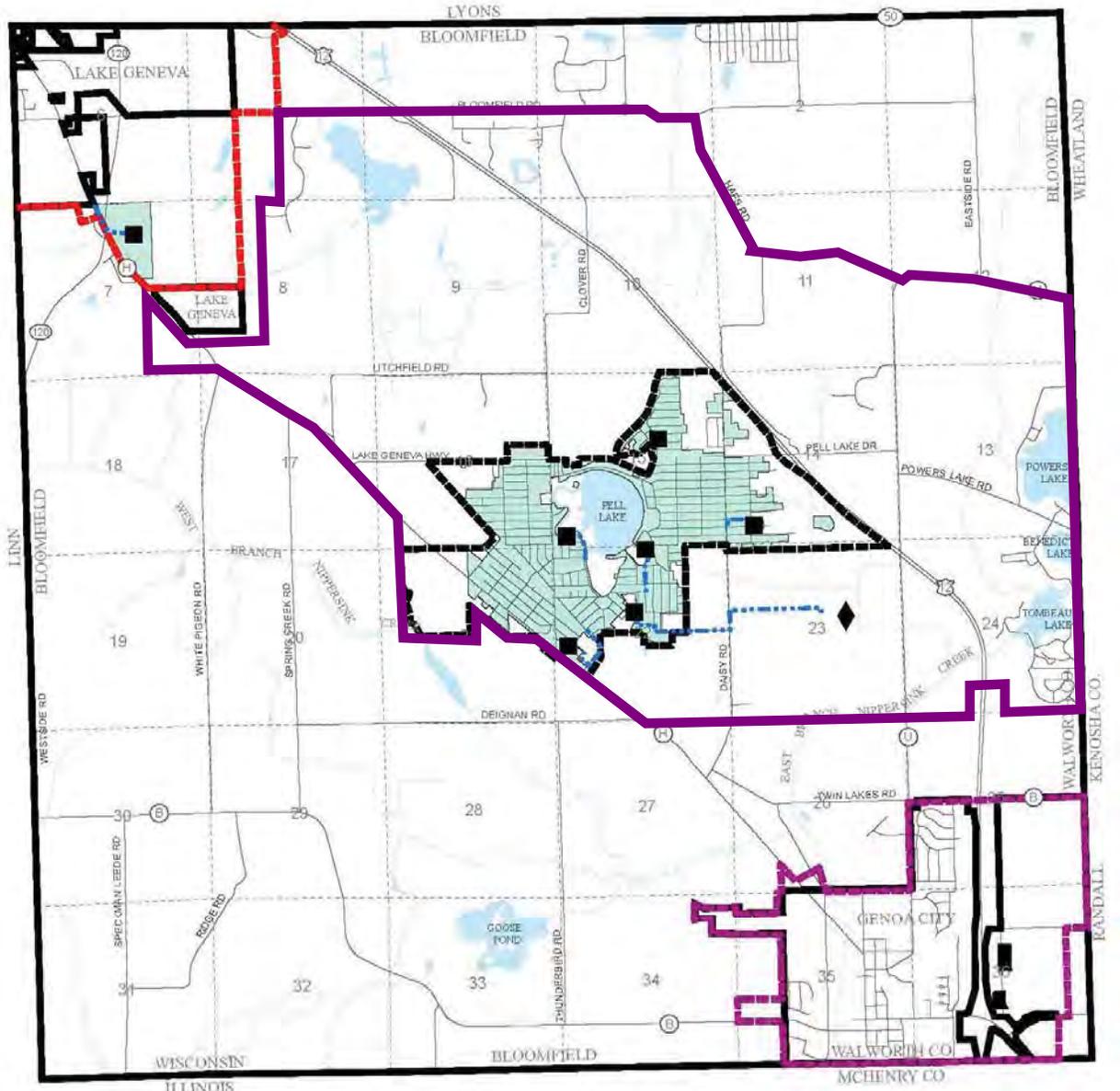
- Freeway-State Trunk Highway
- Freeway-Nonfreeway Interchange
- State Trunk Highway
- County Trunk Highway
- Local Trunk Highway
- 4** Number of Traffic Lanes
(2 where unnumbered)

- - - Proposed Village Boundaries

Source: SEWRPC and Walworth County

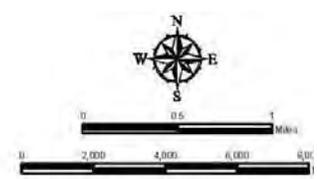


Map 5 Sewer Service Areas



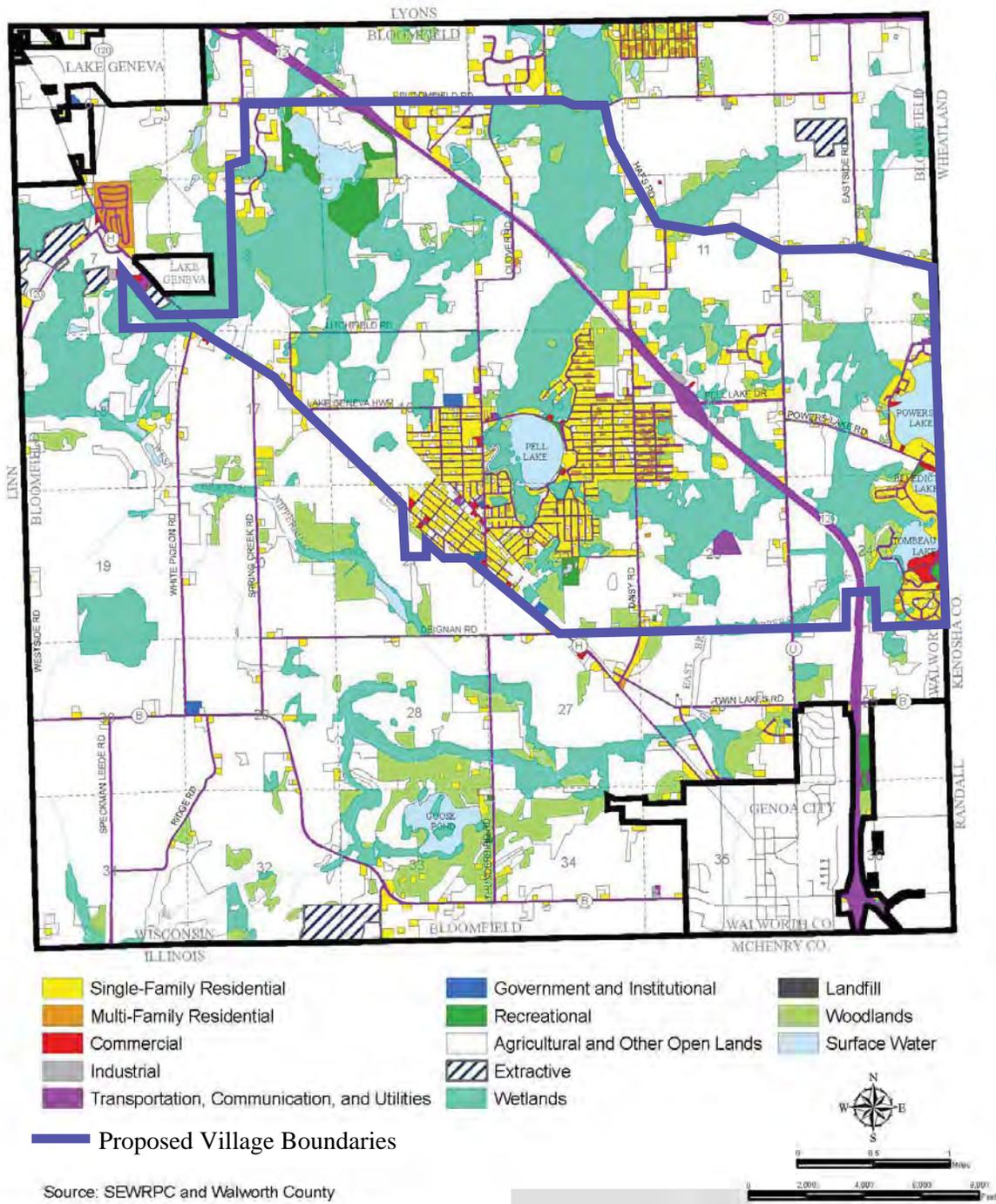
- Urban Development Served By Public Sewer Within the Town of Bloomfield (2000)
- Existing Public Sewage Treatment Facility
- Existing Lift Station or Pumping Station
- Pell Lake Sanitary Sewer Service Area Boundary
- Genoa City Sanitary Sewer Service Area Boundary
- Lake Geneva Sanitary Sewer Service Area Boundary
- Existing Force Main

Source: SEWRPC and Walworth County



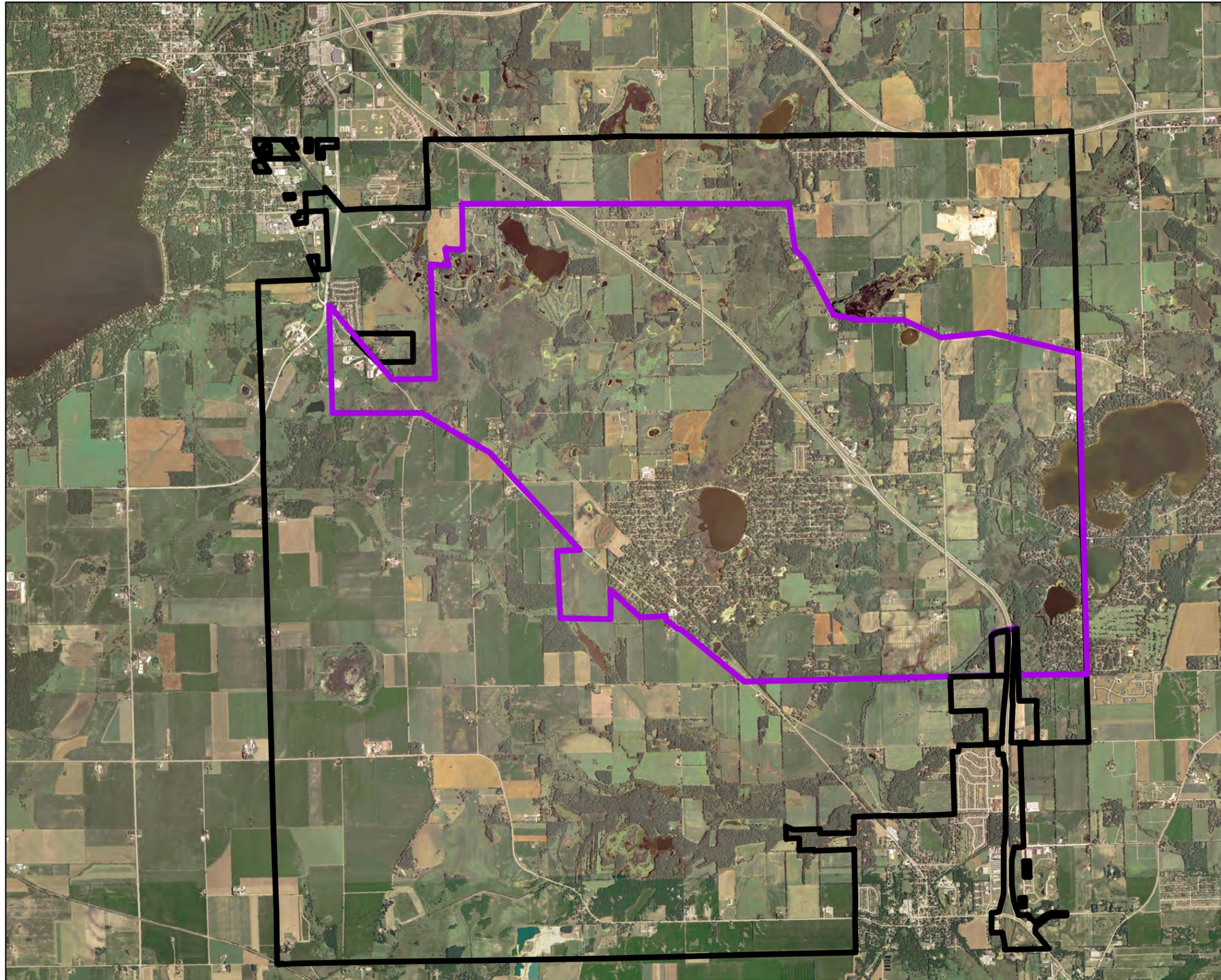
Proposed Village Boundaries

Map 6 Existing Land Uses

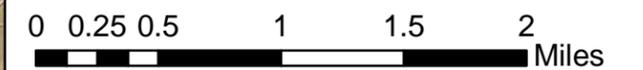
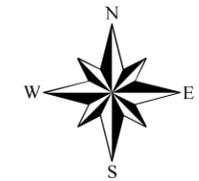


Proposed Village of Bloomfield

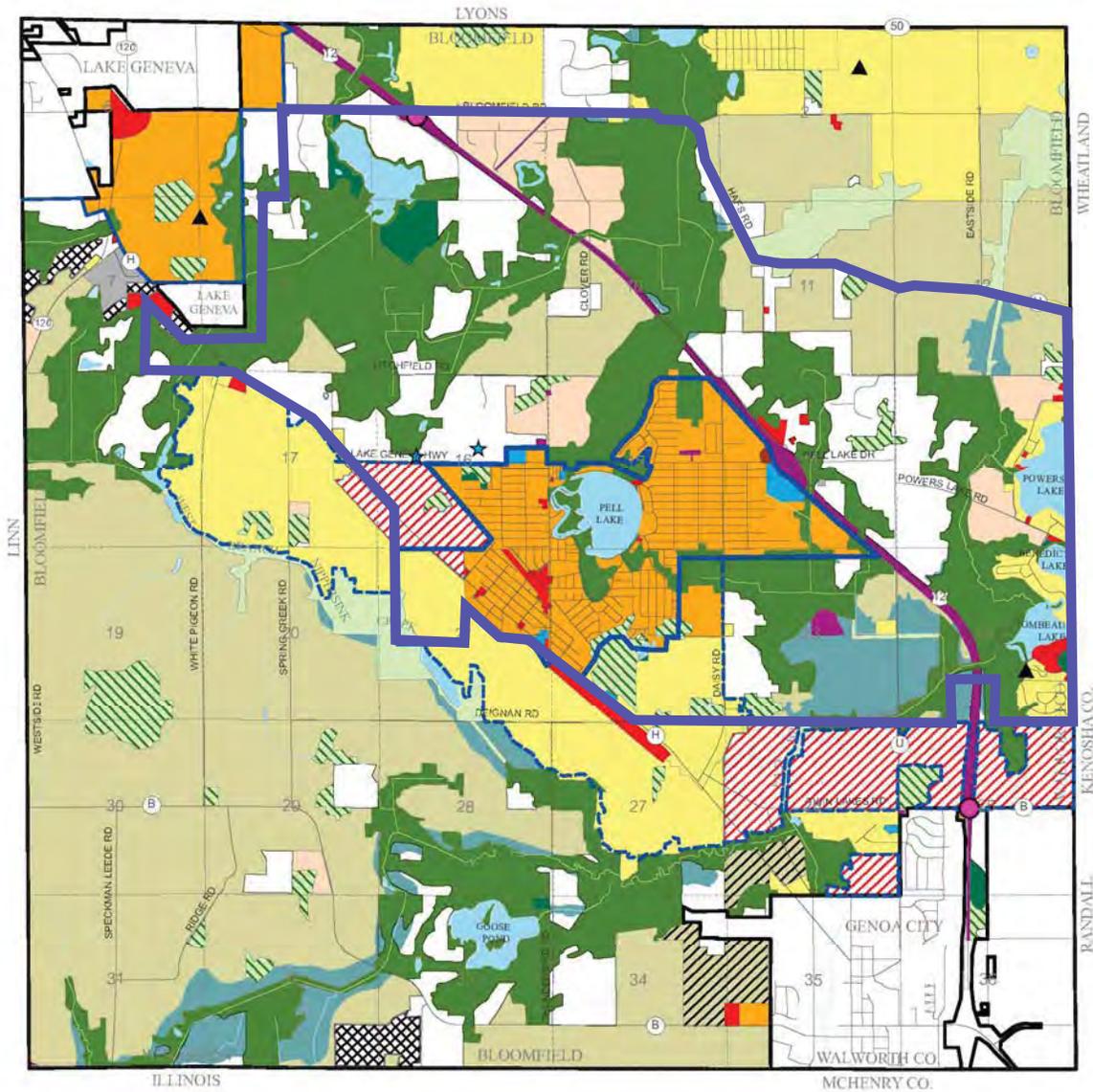
MAP 7



-  Proposed Village Boundary
-  Town of Bloomfield



Map 9 Planned Land Uses



- Existing Medium Density Residential (6,200 to 14,999 square feet/dwelling unit)
- Future Medium Density Residential (7,500 to 14,999 square feet/dwelling unit)
- Low Density Residential (15,000 to 62,300 square feet/dwelling unit)
- Suburban Density Residential (62,300 square feet to 4.9 acres/dwelling unit)
- Commercial
- Industrial
- Governmental and Institutional
- Transportation, Communication, and Utility
- Urban Reserve

Proposed Village Boundaries

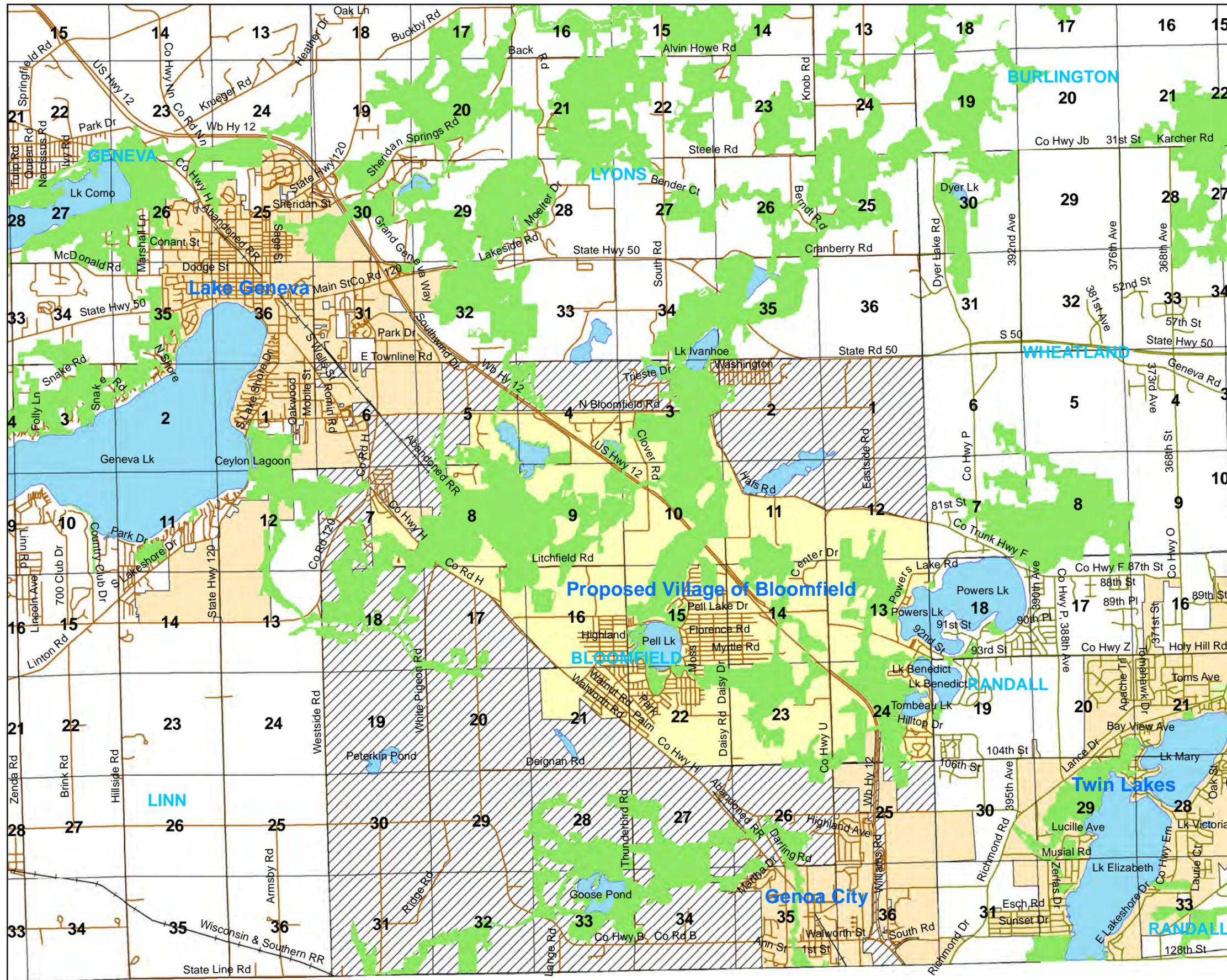
- Recreational
- Urban Land Holding Area
- Farmland Preservation Area
- Other Agricultural, Rural Residential, and Open Land
- Extractive
- Primary Environmental Corridor
- Secondary Environmental Corridor
- Isolated Natural Resource Area
- Surface Water
- Proposed Sewer Service Area Addition
- Planned Sewer Service Area

- Proposed Government Facility and Park
- Proposed Highway Interchange
- Proposed Park

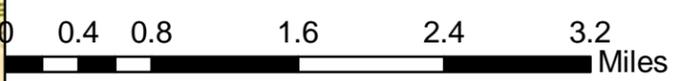


Proposed Village of Bloomfield Primary Environmental Corridors

Map 10



-  2005 Primary Environmental Corridors
-  Proposed Village Boundary
-  Town of Bloomfield Remnant
-  City or Village
-  Town



Appendix B: Incorporation Review Board

The Incorporation Review Board was created by 2003 Wisconsin Act 171. It is charged with reviewing incorporation petitions forwarded by the circuit court in order to ensure that these petitions meet the public interest standards in s. 66.0207 Wis.Stats. The board advises the circuit court on whether incorporation petitions should be granted, dismissed, or resubmitted with new boundaries. The Board is also authorized to set and collect an incorporation review fee to pay for the costs of reviewing the petition. The Board has currently set the fee at \$25000.

Members

Department of Administration Member and Chair

Dawn Vick

Division of Intergovernmental Relations

Wisconsin Towns Association Member #1

Terry J. McMahon, Supervisor

Town of Yorkville (Racine County)

Wisconsin Towns Association Member #2

Lonnie Muller, Clerk

Town of Stark (Vernon County)

Wisconsin League of Municipalities Member

Paul Fisk, Alderman

City of Lodi

Wisconsin Alliance of Cities Member

Rich Eggleston

Wisconsin Alliance of Cities

Staff

Renee Powers

Erich Schmidtke

Phil Wells