



WISCONSIN DEPARTMENT OF  
ADMINISTRATION



DETERMINATION OF THE INCORPORATION REVIEW BOARD

December 10, 2012

In Re:

THE INCORPORATION OF A PORTION OF THE TOWNS OF HARRISON  
AND BUCHANAN, CALUMET AND OUTAGAMIE COUNTIES, WISCONSIN  
AS A VILLAGE

Case No. 12-CV-28

Celine Romenesko, Representative of the Petitioners

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**WISCONSIN DEPARTMENT OF  
ADMINISTRATION**

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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 municipal associations. Membership of the Board is provided on Appendix B.

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

- STANDARD 1 (a), Homogeneity and Compactness – Met
- STANDARD 1 (b), Territory Beyond the Core – Met
- STANDARD 2 (a), Tax Revenue - 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 - Met

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 10<sup>th</sup> day of December 2012.  
By the Incorporation Review Board:

Ed Eberle

Chair of the Incorporation Review Board and  
Administrator, Division of Intergovernmental Relations

## NOTICE OF RIGHT TO APPEAL

This Notice sets forth the requirements and procedures for obtaining review for those persons who wish to obtain review of the attached decision of the Board. Per s. 66.0209 (2), Wis. Stats., decisions of the Board are subject to judicial review under s. 227.52. Per s. 227.53 any person aggrieved by a decision of the Board is entitled to review. Per s. 227.53 (1) (a) 1., proceedings for review are instituted by serving a petition therefor upon the agency, either personally or by certified mail, and by filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Per s. 227.53 (1) (a) 2m., an appeal must be filed within 30 days after mailing of the decision by the agency. Per s. 227.53 (1) (b), the petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. Any petition for judicial review shall name the Incorporation Review Board as the Respondent. Petitions for review should be served on the Chairperson of the Board. The address for service is:

c/o Municipal Boundary Review  
101 East Wilson Street, 9th Floor  
PO Box 1645  
Madison, WI 53701

Persons desiring to file for judicial review are advised to closely examine all provisions of Wis. Stat. sec.s 227.52, 227.53 and 227.57 to ensure strict compliance with all requirements. The summary of appeal rights in this notice shall not be relied upon as a substitute for the careful review of all applicable statutes, nor shall it be relied upon as a substitute for obtaining the assistance of legal counsel.

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## **EXECUTIVE SUMMARY**

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This document constitutes the Findings and Determination of the Incorporation Review Board on the petition filed by residents of the Town of Harrison in Calumet County to incorporate a portion of the town, a rural hamlet area that has existed as a unique social and economic community for over 100 years. The petition also includes a portion of road right-of-way from the Town of Buchanan in Outagamie County.

Harrison's incorporation process began with a newspaper notice on September 1, 2011 indicating Petitioners' intent to circulate an incorporation petition. After circulating the petition and gathering sufficient signatures, the petition was filed in Calumet County Circuit Court on January 12, 2012. A court hearing was held on the petition on February 27, 2012. Judge Gary Sharpe found the petition met the minimum area and population standards required by section 66.0205 Wis. Stats. The court forwarded the petition to the Board for its review of the standards in section 66.0207 Wis. Stats. On June 13<sup>th</sup>, 2012 Petitioners submitted their review fee and supporting materials, which commenced the Board's 180-day review period. As part of its review, the Incorporation Review Board held a public hearing in the Town of Harrison on July 31, 2012 to hear from Petitioners, Intervenors and local residents. The Board also held two meetings in Madison on September 12 and December 4, 2012 to discuss the petition and analyze its consistency with the statutory standards.

The Town of Harrison is located in the northwestern portion of Calumet County. Harrison shares a common boundary with the Cities of Appleton and Menasha, and the Towns of Menasha and Buchanan. Other municipal neighbors are the City of Kaukauna, Village of Kimberly, and Village of Sherwood. **Map 1** shows Harrison's location within the Fox Valley region.

The petitioned area includes 7,373 people and roughly 5 square miles. The specific area proposed to become the new village is shown on **Map 1**. Petitioners included road right-of-way in the Town of Buchanan to enable residents of the Town of Buchanan to eventually join the new village should local residents choose to.

Petitioners desire to incorporate this portion of the Town because the area is distinct and essentially unrelated to the rural character of the remaining Town of Harrison. The proposed village is densely populated, urban in character, and distinct socially from the rural areas of the Town, and has much higher service needs and demands. Petitioners are also interested in protecting their boundaries from annexations by Appleton, Menasha, Kaukauna, Kimberly, and Sherwood, which have negatively affected the proposed village area in terms of lost territory, tax revenues, and community identity. This area of the Town already provides village-level services, and functions like a village. Becoming a village would enable the community to utilize the regulations, economic development tools, governance structure, and other benefits that it cannot currently realize as a town government.

The Town of Buchanan, City of Menasha, and the City of Kaukauna were recognized by Judge Sharpe as being parties of interest. However, Buchanan indicated early on that it is supporting the incorporation petition, after the Town of Harrison entered into a boundary agreement with Buchanan limiting future annexations. The City of Menasha initially intervened against the incorporation, and passed a resolution indicating a willingness to annex the entire petitioned territory and provide services to this area. However, Judge Sharpe later invalidated this resolution because it violated the boundary agreement Menasha has with Harrison, and ordered the Incorporation Review Board to disregard it. Menasha ultimately dropped its opposition to the

incorporation petition. Only the City of Kaukauna is intervening against the incorporation, and continues to oppose it.

When reviewing incorporation petitions, the Board has three 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; and
- 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.

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.

1) Compactness & Homogeneity – Met. This standard requires the petitioned territory to be sufficiently compact and uniform to function as a city or village. Factors include existing natural boundaries such as rivers and topography, existing political boundaries, the current and potential transportation network, employment, business, social, and recreational opportunities. A petition may be weaker with certain factors or considerations and stronger with others, but it must show that, on balance, it supports a finding of compactness and homogeneity.

The proposed village relates favorably to all of the compact and homogenous factors enumerated in the statute and case law. In particular, the proposed village has:

- Boundaries that follow readily understood physical features such as streets, highways and a power-line and bicycle path;
- Boundaries that align closely with those of the Garners Creek Watershed, the Darboy Sanitary District, and the Kimberly School District boundaries;
- A transportation system that contains a dense network of highways, local roads, bicycle and pedestrian paths, and public transit opportunities;
- A high population density, higher than many of the surrounding cities and villages in the area;
- Numerous economic and business opportunities for local residents;
- A strong sense of community, as shown by many community events, clubs, meeting places, history, and
- Land uses that tend to be urban in nature such as residential, commercial, institutional, and recreational land uses.

2) Territory Beyond the Core - **Met.** This standard requires that the territory beyond the most densely populated square mile shall:

“Have the potential for residential or other land use development on a substantial scale within the next three years. The Board may waive these requirements to the extent that water, terrain or geography prevents such development.”

Petitioners included only 887 acres of vacant, developable lands within their petition. By including a reasonable amount of vacant and developable land, along with a history of strong past and recent development activity and population growth trends, and with sewer and water services immediately available, these among other factors demonstrate the 887 acres clearly have the potential to be developed within the next three years.

3) Tax Revenue – **Met.** This standard ensures that the territory petitioned for incorporation has the capacity to raise sufficient tax revenue to function as a city or village without unduly burdening residents.

Petitioners’ proposed budget appears to be frugal but nonetheless reasonable, especially considering that the Town already provides village-level services and that the proposed budget is substantially similar to the Town of Harrison’s existing budget. This means that a host of new services, staff, and equipment will not be required. Also, the fact that the Town of Harrison has a high equalized value, low tax rate, low debt level, and a high debt capacity are also strong indicators that the new village would be starting off on solid financial footing.

4) Level of Services – Not applicable

5) Impact on the Remainder of the Town – **Met.** This standard requires that the Board consider the impact that incorporation would have upon the remainder of the town. The Board examines whether incorporation would negatively impact the remaining residents by making continued governance of the town difficult.

The remaining Town of Harrison, has a sufficient value and population to enable the town government to continue to provide the services desired by residents. The remnant would have more population and property value than any other town in Calumet County, and more than most of the existing cities and villages in the county. In addition, the shape of the remnant Town is generally compact and rational, which helps promote community identity and makes providing services more efficient.

The Town of Harrison remnant might actually benefit from the proposed village area incorporating. Currently Harrison must plan for two distinct areas, one very urban and one very rural, each with specific and unique needs, service demands, costs, expectations, etc. Incorporation of the proposed village area would result in the remaining Town being more homogenous.

For the Town of Buchanan residents, there will likely be no change at all since this incorporation petition only includes a small section of road right-of-way along CTH KK.

6) Impact on the Metropolitan Community – **Met.** This standard reviews how incorporation would impact the larger metropolitan area and region, and in particular how

incorporation would impact the larger metropolitan area's ability to resolve regional issues such as stormwater, transportation, groundwater, housing, and economic development, among other regional issues. The Board must be able to make an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

The existing Town of Harrison has shown itself to be a responsible regional citizen, and a regional leader with regard to managing stormwater, and in developing bike and pedestrian trails utilized by residents throughout the Fox Valley. The Town of Harrison has developed intergovernmental boundary agreements with most of its municipal neighbors, and participates in regional planning efforts with the East Central Wisconsin Regional Planning Commission.

Petitioners anticipate that the new village would continue these cooperative activities, and likely expand upon them. The proposed Village of Harrison could benefit the metropolitan community because its expanded powers and authority as a village would enable it to play a more significant role in community development. For example, expanded economic development powers such as Tax Incremental Financing (TIF) would help the new village grow the commercial and industrial base of the region, as well as finance projects to improve regional stormwater management, transportation projects, and recreational and cultural opportunities.

Having met all of the Incorporation Review Board's statutory standards in s. 66.0207 Wis. Stats., the Board finds that the petition should be granted.

The Board thanks Petitioners and Town of Harrison staff for all the materials, presentations and requested information, which greatly facilitated the Board's review.

## **SECTION 1(A) HOMOGENEITY AND COMPACTNESS**

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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 & Development<sup>1</sup> held that the Board may also consider land-use patterns, population density, employment patterns, recreation and health care customs.<sup>2</sup>

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 perfect, *when taken as a whole*, the facts support a finding of homogeneity and compactness.

### **Physical and Natural Boundaries**

#### ***Topography and Geology***

The Town of Harrison's topography can be characterized as rolling with well-defined drainage ways. The surface of the bedrock underlying the town gently dips to the southwest towards Lake Winnebago. Most of the topographic and geologic features in the town are the result of glacial activity. The thickness of the glacial deposits is quite variable in the town and immediate area ranging from zero to 150 feet.

The land varies in elevation from 700 to 730 feet above sea level in the northeast corner of the Town to 1,000 feet along the Niagara Escarpment directly south of Sherwood.

The Niagara Escarpment is the most significant geologic feature in Harrison due to its local prominence visually, and also to its significance nationally. Consisting of hard limestone rock which resisted erosion more than the softer sedimentary rocks around it, the escarpment extends in a long arc from eastern New York State through Canada, Michigan, Eastern Wisconsin, and into Illinois. In Harrison the Escarpment is evident in and around High Cliff State Park, where the formation towers as much as 220 feet above the eastern shore of Lake Winnebago. Although the Escarpment is protected within the boundaries of the state park, areas outside of the park boundaries may be subject to development such as mineral extraction, residential and commercial development, installation of wind generators, cellular communications towers, and broadcast towers.

#### ***Surface Water & Drainage Basins***

The Town of Harrison includes 150 acres of surface waters, of which 26 are attributable to the proposed village area. Lake Winnebago is the largest lake in the area, located just south of the proposed village area. The proposed village contains numerous small intermittent streams as well as stormwater management detention basins.

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<sup>1</sup> Pleasant Prairie v. Department of Local Affairs & Development, 108 Wis.2d 465 (Ct.App. 1982), affirmed, 113 Wis.2d 327 (1983).

<sup>2</sup> Ibid., page 337.

Almost all of the Town of Harrison drains to the Fox River, located north of the Town. On a sub-watershed level, Harrison is broken into five sub-basins, shown on **Map 2**. Lands within the proposed village area are drained by the North Shore Lake Winnebago sub-watershed and also the Garners Creek sub-watershed. Manitowoc Road constitutes a proximate dividing line between the two sub-watersheds. The Garners Creek sub-watershed is north of Manitowoc Road. The North Shore Lake Winnebago sub-watershed is south of Manitowoc Road. Both eventually discharge into the Fox River, as does the Kankapot River sub-watershed basin which is located in the Town remnant. The other two Town of Harrison sub-watershed basins – Lake Winnebago East and Killsnake River – both drain to the Manitowoc River and eventually into Lake Michigan.<sup>3</sup>

The Garner’s Creek Stormwater Utility was created in 1998 by the Towns of Harrison and Buchanan and the Village of Combined Locks to best manage stormwater within the urbanized parts of these communities, which are subject to state and federal mandates to manage stormwater. **Map 3** shows the extent of the Garner’s Creek Stormwater Utility. The majority of the Town of Harrison’s portion of the Garner’s Creek Stormwater Utility is located within the proposed village boundaries. Each building within the utility district pays a stormwater utility fee which is used to implement stormwater and erosion control methods and facilities to protect the Garner’s Creek watershed, such as building and maintaining retention ponds. The Utility has two members each from the Town of Harrison, Town of Buchanan, and Village of Combined Locks. The watershed area is approximately 9 square miles.

Petitioners believe that incorporation would benefit the watershed because having permanent municipal boundaries would keep the Garners Creek utility intact. The utility is unique in that its boundaries are based on the watershed rather than on political boundaries. Petitioners indicate that the utility has asked surrounding municipalities that have territory within the Garner’s Creek watershed to participate in the utility, however most have their own stormwater utilities based on political boundaries. Petitioners’ fear that without incorporation, lands within the utility may be annexed into surrounding municipalities such as Kaukauna and Appleton. This would reduce the fees collected by the Garners Creek Utility and instead redirect any stormwater fees to projects outside the watershed, or to projects that directly conflict with the Garners Creek watershed. For example, Petitioners cite the example of the City of Kaukauna’s utility discharging portions of their stormwater into the Garner’s Creek Watershed which negatively affects Harrison, Buchanan, and Combined Locks who must manage the stormwater as it moves downstream. However, the City of Kaukauna is not paying to mitigate the stormwater in the watershed because their utility is a city-wide utility district whose boundaries do not include the entire watershed that it is discharging into.<sup>4</sup>

### ***Wetlands and Environmental Corridors***

The Town of Harrison has 2,521 acres of wetlands, roughly 12% of the total Town acreage. Essentially all of these are located outside of the proposed village area. Only 161 acres of wetlands are found within the proposed village area, and most of these are located south of Manitowoc Road.

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<sup>3</sup> Town of Harrison Comprehensive Plan, page 65. See also Petitioners’ Submittal, page 32.

<sup>4</sup> Petitioners’ Submittal, page 92.

## **Transportation**

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

### ***Streets and Highways***

**Map 1** shows the network of streets and highways for the Town of Harrison and its immediate municipal neighbors. The proposed village area is part of the Fox Cities Urbanized Area Metropolitan Planning Organization, which is overseen by East Central Wisconsin Regional Planning Commission (ECWRPC). Being in an urbanized area, the proposed village includes a dense network of interconnected local roads. While the Town of Harrison as a whole has 89 miles of local roads, roughly half of these (36.5 miles) are located within the proposed village area, even though the proposed village comprises less than 1/5 of the whole Town of Harrison.

The busier arterial and collector roads, State Highway (STH) 114 and US Highway 10, are major east- west arterials for the Fox Valley, together forming the proposed village's southern boundary, with STH 114 branching off in a southeasterly direction towards the Village of Sherwood, while USH 10 and the proposed village boundary veer up in a northeast direction. Forming the territory's northern boundary is County Highway (CTH) KK.

Running east-west through the center of the proposed village is Manitowoc Road, which constitutes a significant dividing line in a number of respects. First, it separates the densely developed northern two-thirds of the proposed village from the lesser developed southern one-third. Manitowoc Road also divides the Darboy and Waverly sanitary sewerage districts, and roughly separates the Garner Creek and North Shore Winnebago sub-watersheds.

Finally, running north-south through the center of the proposed village is County Highway (CTH) N.

**Table 1** shows the daily traffic counts for these busier arterial and collector roads.

**Table 1: Proposed Village Traffic Counts<sup>5</sup>**

<b>Highway</b>	<b>Average Daily Traffic</b>
CTH KK	8,100
STH 114/USH 10	13,300
USH 10	2,900
CTH N	6,500
Manitowoc Road <sup>7</sup>	1,300

### ***Rail***

No rail facilities are located within the proposed village area. However, a rail line owned by the Canadian National Railroad extends along the north shore of Lake Winnebago, running through the Town of Harrison before entering the Village of Sherwood and continuing further east to the City of Manitowoc where an Anheuser Busch brewing facility is located. Several freight trains use this line daily, however no freight service is provided or available to Town of Harrison businesses, nor is any passenger rail service.<sup>6</sup>

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<sup>5</sup> Petitioners' Submittal, page 82.

<sup>6</sup> Town of Harrison Comprehensive Plan, page 30.

## ***Air***

Town of Harrison residents may utilize the Outagamie County Regional Airport located roughly ten miles northwest of Harrison. The airport is served by five commercial airlines, providing 66 flights daily. Air freight, chartered flights, car rentals, and airplane maintenance and technical services are also provided at the airport.<sup>7</sup>

## ***Transit***

The proposed village area is part of the Fox Valley Transit service's Call-A-Ride program. This means that Harrison residents may call and schedule a ride to the Appleton Valley Transit Center in Appleton where they can transfer to other bus routes throughout the Fox Valley metropolitan area, as well as to longer bus routes to Green Bay, Milwaukee, Madison, Chicago, and other Midwest locations. The Call-A-Ride program costs \$2.50 one-way. Transfer to an Appleton Transit bus is free.<sup>8</sup>

Transportation services specifically for the elderly and handicapped in Harrison are provided through Calumet County Social Services, which contracts with Fox Valley Transit.<sup>9</sup>

## ***Pedestrian and bicycle***

**Map 4** shows the pedestrian and bicycle facilities in the Town of Harrison, both current and proposed. Within the proposed village are the following:

- Sidewalks - the Town does not have sidewalks within the proposed village area, however there is a county-owned sidewalk located along CTH KK in the far northern edge of the area;
- Highline Trail – traveling east-west through the center of the proposed village, this trail currently stretches 1 mile, beginning at State Park Road and ending at Handel Drive. When completed, trail will connect with the Noe Road Trail and also connect with the City of Appleton. It will also connect the Darboy Community Park with Clover Ridge Park. Roughly  $\frac{3}{4}$  of a mile remain before the trail connects with the Noe Road Trail.
- Noe Road Trail – traveling north-west through the center of the proposed village, this trail currently stretches roughly 1-mile and connects the dense residential neighborhood south of Sunrise Elementary School to both the school and Darboy Community Park. The Noe Road Trail was completed in 2010;
- Friendship Trail – this trail is a joint venture between the Wisconsin DNR, Town of Harrison, and Calumet County, running from Appleton and Menasha, through Harrison, to the Village of Sherwood, and will extend to High Cliff State Park. The Friendship Trail will eventually link Stevens Point with Manitowoc. It also connects with the Wiouwash Trail that runs through Winnebago, Outagamie, Waupaca, and Shawano Counties. In Harrison, the Friendship Trail runs along the southern boundary of the proposed village, along STH 114/STH 10. Ultimately, the Friendship Trail will connect with the Highline Trail via the Noe Road Trail and a multimodal corridor along Eisenhower Drive.

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<sup>7</sup> Town of Harrison Comprehensive Plan, page 30.

<sup>8</sup> Petitioners' submittal page 81.

<sup>9</sup> Town of Harrison Comprehensive Plan, page 29

To further facilitate trail development, the Town revised its subdivision ordinances in 2010 to require that any new subdivisions must construct sidewalks and/or trails to facilitate movement.<sup>10</sup>

In addition to the above trails, Harrison also plans to create a series of ‘multimodal corridors’, which will be roads that may include sidewalks, marked crosswalks, curb ramps, bike lanes, paved shoulders, and separated bike paths. Potential multi-model corridors traveling north to south are:

- County Road LP
- Eisenhower Drive
- County Road N
- Noe Road
- State Park Road
- Harwood Road

Potential multi-model corridors traveling east to west are:

- Power Line Corridor (High Line Trail)
- Schaefer Road
- Old Highway Road
- Manitowoc Road<sup>11</sup>

Petitioners point out that many of the area’s local roads are so well interconnected and have such low traffic volumes that they currently function as multi-modal corridors because pedestrians and bicyclists can safely and pleasantly utilize them to travel throughout the community. It is anticipated that once the planned bicycle and pedestrian facilities are fully implemented, some of the current bike and pedestrian traffic using local streets will move onto the trail system.<sup>12</sup>

The Town of Harrison has worked with the Kimberly School District on their Safe Routes to School Plan which is a plan to provide children with convenient and safe paths to school as an alternative to busing.<sup>13</sup>

### ***Anticipated Transportation Improvements***

Being a part of the Fox Cities Urbanized Area, the Town of Harrison has participated in long range transportation and land use planning, which is led by the East Central Regional Planning Commission. The most recent plan for the urbanized area was completed in 2005 and with regard to improvements within the proposed village area recommends that Eisenhower Drive be extended to the south to connect CTH KK with STH 114/STH 10. This project is the top ranked project in the Fox Cities urbanized Area. Funds have been set aside for extending Eisenhower Drive, which is estimated to begin construction in 2015-2016.<sup>14</sup> Furthermore, the Town requires dedication of a 110 foot-wide right-of-way for all subdivisions of land within the future roadbed of the extended Eisenhower Drive, and this corridor also appears on the Town’s official map.<sup>15</sup> As mentioned previously, Eisenhower Drive is one of the roads that are expected to become a

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<sup>10</sup> Land division ordinance (Sec. 115-66). In fact, a new subdivision (Papermaker Ridge) is being constructed this year and will meet the new sidewalk/trail requirements.

<sup>11</sup> Town of Harrison Comprehensive Open Space Plan, page 37.

<sup>12</sup> Email correspondence from Town of Harrison administrator Travis Parish, July 23, 2012.

<sup>13</sup> Town of Harrison Comprehensive Plan, page 30.

<sup>14</sup> Petitioners’ Submittal, page 81.

<sup>15</sup> Town of Harrison Comprehensive Plan, page 27.

multimodal corridor, so the new road will likely include sidewalks, bike lanes, separated bike paths, or other pedestrian and bicycle features.

## **Political Boundaries**

The following paragraphs discuss the current and historical political boundaries of the Town of Harrison and the proposed new village.

### ***Jurisdictional Context***

**Map 1** shows the area petitioned for incorporation within the Town of Harrison, as well as Harrison's municipal neighbors. To the north of Harrison are the Town of Buchanan, and Villages of Kimberly and Kaukauna, all in Outagamie County, the cities of Menasha and Appleton to the west, the Village of Sherwood to the southeast, the Town of Woodville to the east, and Town of Stockbridge to the south, all in Calumet County. Lake Winnebago comprises Harrison's southwest boundary. Harrison is a member of the East Central Wisconsin Regional Planning Commission (ECWRPC).

### ***Historical Context***

Originally the Town of Harrison was called the Town of Lima. Lima was formed in 1853, from a portion of the Town of Stockbridge which covered almost the entire area of present-day Calumet County. The Town of Lima changed its name to the Town of Harrison in 1858. Harrison contained two unincorporated hamlet areas known as Sherwood and Darboy. Each contained stores, shops, churches, post-offices, cheese factories, saloons, blacksmith's shops, single-family homes, rooming houses, grain mills, railroad stations, and schools, among other things. Sherwood incorporated as a Village in 1968 with a population of 365. Currently its population is 2,725. The hamlet of Darboy formed at the border of Calumet and Outagamie counties around the Holy Spirit Church. This building still stands today and is known as the Silver Spur Saloon.

### ***Proposed village***

In 1984, the Darboy Sanitary District was created to provide sewer and water for the urbanization that was occurring in the area. This incorporation petition would incorporate the part of the historical hamlet of Darboy south of CTH KK. The historical Darboy hamlet also extends to the north across CTH KK. This can clearly be seen in **Map 1**, which shows dense urban development directly across CTH KK. Incorporation Review Board members and staff also noticed this during their site visit to the area prior to the July 31<sup>st</sup> hearing as they drove through the area. The developed land uses south of CTH KK in the Town of Harrison, and within the territory petitioned for incorporation, is visually identical to the developed land uses north of CTH KK in the Town of Buchanan.

The proposed village area also includes additional rural lands south of Manitowoc Road.

The petition primarily uses roads to physically delineate the proposed boundaries. CTH KK defines the northern boundary, Coop Road defines a portion of the western boundary, before the boundary line jogs out further westward along Manitowoc Road and continues further south along Lake Park Road. The southern extent of the proposed village is delineated by STH 114 and STH 10, before STH 114 veers south, at which point STH 10 continues eastward to define the southern extent. Turning north, the proposed village boundary follows CTH N roughly one mile before turning east along Schmidt Road for approximately one mile. The boundary line then turns north along State Park Road for one-half mile before turning east. At this point the boundary line does not utilize roadway as a delineating feature, instead being marked for one-half

mile by an east-west running power line which is also the route for the Highline bicycle and pedestrian trail. Even here, the boundary is marked by a physical feature. The boundary then turns north and runs along Prosperity Drive before connecting back with CTH KK which marks the proposed village's northern boundary line.

### ***Impact of Annexations***

The original Town of Harrison stretched as far west as South Oneida Street, which as depicted on **Map 1**, is located well inside the current extent of the Cities of Appleton and Menasha. The Town has lost nearly 2,200-acres of territory due to annexations by the Cities of Appleton and Menasha, as well as the Village of Sherwood. These annexations caused lost population, lost equalized value, and fragmented boundaries for the Town of Harrison. This fragmented area can be seen on **Map 1**, which shows numerous Town islands and peninsulas between the Cities of Appleton and Menasha. Pursuant to boundary agreements<sup>16</sup>, these island and peninsula areas will ultimately transfer from Harrison to the Cities of Appleton and Menasha as part of these cities' designated 'Growth Areas'. Therefore, they are not expected to be a long term problem. Petitioners drew the boundaries to exclude these areas in deference to the boundary agreements.<sup>17</sup> The proposed village will result in more rational and squared-off boundary lines along this western side. Until the island and peninsula areas transition into Appleton and Menasha, they will remain part of the Town remnant and continue to be serviced by the town.

A long peninsula of Town land along Lake Winnebago bordered by STH 114, is not included in these boundary agreements, and instead is anticipated to become a part of the Town remnant. Petitioners excluded this long peninsula area to make their petition more compact in shape.<sup>18</sup>

A final point regarding annexation is that the proposed village includes road right-of-way along CTH KK that is located within the Town of Buchanan in Outagamie County. This means that the proposed village would be located in both Outagamie and Calumet Counties, and able to annex territory from both the Town of Buchanan and the Town of Harrison remnant. The Petitioners did consider adding additional territory from the Town of Buchanan, because as mentioned, the historic Darboy hamlet extends north of CTH KK as well. However, after discussions with staff and elected officials for Buchanan, it was determined to be in the best interest of the both parties to just include the CTH KK road right-of-way portion of Buchanan, because Buchanan was not ready to consider incorporation. By including the road right-of-way, the possibility of future annexations from the Town of Buchanan remains a possibility. To facilitate the possibility of future annexations, the Towns of Buchanan and Harrison created a general boundary agreement under s. 66.0301 Wis. Stats. Under this agreement, the new village shall not annex any Town of Buchanan land without the consent of the Town of Buchanan Board. The Town of Buchanan agrees to support Harrison's incorporation petition provided that Harrison includes this agreement as part of its submission to the Incorporation Review Board, and also that Harrison will take steps to ensure that this agreement will be binding on the new village.

### ***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 Harrison incorporates will have no effect on school district boundaries.

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<sup>16</sup> *Intergovernmental Agreement* (1999) [between the City of Menasha and Town of Harrison], and *Intergovernmental Agreement* (1999) [between the City of Appleton and Town of Harrison].

<sup>17</sup> Petitioners' testimony at the July 31, 2012 public hearing at the Darboy Club in the Town of Harrison.

<sup>18</sup> Petitioners' testimony at the July 31, 2012 public hearing at the Darboy Club in the Town of Harrison.

However, as the Department noted in its determination in *Pewaukee*<sup>19</sup>, schools do impact community allegiance through scholastic, social, and recreational activities and influence where people choose to live.

The Petitioners testified that they took school district boundaries into account when drawing the boundary lines for the proposed village. While the Town of Harrison as a whole is served by five different school districts, the proposed village is primarily served by one: the Kimberly School District. **Map 5** shows the school districts in the area. Nearly 90% of all students within the proposed village area attend schools in the Kimberly Area School District. Two Kimberly Area School District schools are located within the proposed village area: Sunrise School and Woodland School.

- Sunrise Elementary School - a 2-story, 71,000-square foot building situated on a 20-acre site adjacent to Darboy Community Park, serving grades 4K through 4th grade. The school was constructed in 1995-96 to accommodate the increasing number of elementary age children moving into the district and into the area. The Town of Harrison utilizes one of the multi-purpose rooms at the school during the Presidential and Gubernatorial elections, and also hosts a variety of public meetings.
- Woodland Elementary/Intermediate School - serves grades 4K through 4th at the Elementary side of the school, and grades 5th & 6th at the Intermediate side. Built in 2006 to accommodate substantial residential growth occurring in proposed village area, Woodland School is a 1-story, 137,285-square foot building with a gymnasium in the middle and a school on either side, and sits on approximately 19-acres. The school provides play equipment, open play fields, and ball fields. As with Sunrise school, the Town of Harrison holds various town meetings at Woodland school. For example, a neighborhood meeting regarding this proposed incorporation was held at the school.<sup>20</sup>

The only portion of the proposed village not in the Kimberly School District is an area of several hundred acres in the far eastern side which lies within the Kaukauna Area School District. However, many families in this area opt for open enrollment into Kimberly Area School District schools which are only 1-2 miles away as opposed to Kaukauna schools which are 3-4 miles away.<sup>21</sup>

Mount Calvary Lutheran School, a private school, is also located within the proposed village area along STH 10/114.

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<sup>19</sup> *Pewaukee* (1991).

<sup>20</sup> Petitioners' Submittal, page 49.

<sup>21</sup> *Ibid.*, page 49.

**Table 2: School Districts, Schools, and Enrollment Serving the Proposed Village Area<sup>22</sup>**

School District	School	School Type	Total Enrollment	Proposed Village Enrollment
<b>Kimberly Area School District</b>			4,641	1,758
	Sunrise Elementary*	Elementary	549	465
	Janssen Elementary	Elementary	436	11
	Gerritts Middle School	Middle School	661	235
	Kimberly High	High School	1,303	413
	Westside Elementary	Elementary	435	10
	Woodland School*	Elementary	883	584
	Mapleview Intermediate School	Elementary	355	32
	CORE Charter	High School	19	8
<b>Kaukauna Area School District</b>	Kaukauna High	High School	1,184	30
	Dr HB Tanner Elementary	Elementary	625	43
	Park Elementary	Elementary	209	0
	Qunney Elementary	Elementary	618	53
	Haen Elementary	Elementary	283	0
	River View School	Elementary	1040	0
Private	Mount Calvary Lutheran School	Elementary & Middle	110	7
<b>Total</b>			8600	1920

### ***Sanitary and Utility Districts***

Two sanitary districts provide service to the proposed village area: the Darboy Sanitary Sewer District and the Waverly Sanitary Sewer District. **Map 3** shows the location of these districts and their territory. Each district has its own staff, equipment, board, and budget independent of the Town of Harrison.

- Darboy Sanitary District

It encompasses the northern portion of the proposed village area, from Manitowoc Road to CTH KK. It also includes a portion of the City of Appleton, and lands beyond the proposed village in the Town of Harrison remnant. The Darboy Sanitary District was formed in 1984 to deal with the problems of malfunctioning septic systems and problems with individual wells that were occurring during the late 1970s. The district transports waste to the Heart of the Valley Metropolitan Sewerage District treatment plant. The Darboy district anticipates extending into the Town of Harrison remnant as development occurs and those areas annex to the new village. The water system for the Darboy Sanitary District was also put into operation in 1984. The water supply system consists of three wells, a 300,000 gallon elevated storage tank, a 500,000 gallon reservoir, and a water distribution system. This system will support the District's gradual expansion into the Town of Harrison remnant. The Darboy Sanitary District has the potential to service an additional 1,000 acres before additional equipment and infrastructure are needed. The Darboy Sanitary District and the proposed village have agreed that any new development would need to annex to the village before it would be served by sewer and water.<sup>23</sup>

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<sup>22</sup> Ibid., page 53.

<sup>23</sup> Petitioners' submittal page 89.

- Waverly Sanitary District  
It encompasses the southern portion of the proposed village, south of Manitowoc Road. It also includes the long peninsula of proposed Town remnant along Lake Winnebago as well as the town islands and peninsulas that are within the City of Appleton and City of Menasha growth areas and that will ultimately transfer to those cities pursuant to the boundary agreements described previously. The district also serves the entire portion of the City of Menasha that is located in Calumet County, as well as a City of Appleton island area. The Waverly Sanitary District, created in 1972, discharges waste to the Neenah-Menasha Sewerage Commission Treatment Plant.<sup>24</sup>

Petitioners do not expect that incorporation will negatively impact the Waverly or Darboy Sanitary Districts. Both districts currently operate independently from the existing town. Petitioners anticipate that the proposed village will enter into agreements with both sanitary districts to continue to provide sewer and water service. Incorporation will not affect any of the current service arrangements, nor would the new village and town remnant need to divide the assets and liabilities of these districts since each already operates independently from the Town.<sup>25</sup>

## **Shopping and Social Customs**

The following paragraphs describe the shopping and social customs available within the proposed village territory, and examine businesses, employment patterns, and social opportunities such as clubs organizations, churches, festivals, and parks. 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.

### ***Shopping and employment***

The economic center of the proposed village area is located about ¾ of a mile northeast of Sunrise Elementary School and Darboy Community Park. This is the area generally located at the intersection of CTH KK and CTH N. It is comprised of the Darboy Plaza, Propsera Plaza, and Darboy Supper Club. Darboy Plaza includes health clinics such as dentists and chiropractors, banks, a convenience store, gas station, a restaurant, a dance studio and many retail stores. The Darboy Supper Club has long been a staple and landmark in the historic Darboy hamlet. The restaurant and banquet hall host many community events.

Beyond Harrison's core economic center, the proposed village also includes two health care facilities and numerous businesses which are shown in **Table 3**.

Harrison formerly had more business and commercial activity, as well as potential economic activity, such as the Wal-Mart store, Culvers restaurant, Kwik Trip gas station, KK Plaza, and a Japanese restaurant. However, annexations have since placed these developments in the City of Appleton.<sup>26</sup>

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<sup>24</sup> Ibid., at page 90

<sup>25</sup> Ibid., at page 140

<sup>26</sup> Petitioners' submittal, page 45.

**Table 3: Businesses in the Proposed Village<sup>27</sup>**

<b>Business Name</b>	<b>Type of Business</b>	<b>Full-time Employees</b>	<b>Part-Time Employees</b>
Thecla Care Physicians	Health Care	8	13
Uitenbroek Construction	Construction/Builder	1	0
ATA Black Belt Academy	Martial Arts Instruction	1	0
Ellipse Fitness	Fitness & Nutrition Center	1	14
GearUp2Go	Online Retailer	7	2
Stiehl Communications	Cell Phone Sales & Service	3	1
The Pool Team		4	4
Sprangers Electric			
Kidzland 2, LLC	Child Care	20	5
Crossroads Veterinary Clinic	Veterinary Care/Surgery	11	2
Mohnen's Family Restaurant	Restaurant	15	20
Edward Jones	Financial Planning	2	0
Home & Business Computer Services Inc	Computer Repair & Sales	2	0
Huber Law Offices	Legal services		
John Van Hoff Dentistry	General Dentistry	1	0
Kim Jansen School of Dance			
Darboy Chiropractic			
Silver Spur Saloon	Tavern	0	7
Ken Uitenbroek Repair	Automobile Repair	1	0
Community First Credit Union	Financial Institution	9	3
Affinity Medical Group			
Sallazzo Salon	Beauty Salon	2	6
Wagner Family Chiropractic	Chiropractic and Rehabilitation	3	0
Futures So Brite			
KK Sew and VAC 2	Retail	1	0
Prospera Credit Union	Financial	5	3
Darboy Corner Store	Convenience Store & Gas Station	3	7
Darboy Club	Banquet Hall & Restaurant	6	100
Sunrise Elementary School	School	48	5
Danielson Creative	Photography	1	0
Van Offeren Electric	Electrical Contractor	1	0
Darboy Living Center	Community Living Arrangement	13	0
P & J Kampo Electric	Electrical Contractor	7	0
Campbell Co			
Oly Design LLC			
Cleaning Solution Services	Janitorial	18	5
Valley Kustoms	Custom Painting	2	0
Kelderman Plumbing	Plumbing	2	0
Hittle Home Solutions	Home Improvement	1	0
Ambrosius Auto	Automobile Sales	1	0
Honest Guy's Auto	Automobile Repair	1	0
DC Automotive Repair	Automobile Repair	2	0
Custom fabricating Specialists	Welding & Fabricating	2	1
Christ the Rock Community Church	Church	26	14
Harrison Fire Rescue – Station 70	Fire Station	0	25
Waverly Sanitary District	Water/Sewer District	5	2
Lake Park Pub	Bar/Restaurant	6	20
Skid and Pallet	Pallet Repair & Recycling/Landscape Mulch	12	1
Kempke's Auto Repair	Automobile Service	1	1
Woodland Elementary/Intermediate School	School	83	33
Mount Calvary Church and School	Church and school	7	3
Ken Mader Construction	Construction/Builder	4	1
Rovers Resort	Dog Care	1	6

<sup>27</sup> Ibid., page 45.

The extensive businesses and shopping opportunities in **Table 3** clearly shows that residents are able to meet basic needs within the proposed village.

### ***Social and recreation opportunities***

As mentioned previously, the proposed village has an extensive history as a community and recognized social and economic center, dating back to at least the mid-1800s.

However, this petition only includes that part of the historic Darboy community south of CTH KK. Incorporation Review Board members pointed out that from the standpoint of social patterns and customs, the petition could include the entire historic Darboy community. Residents, regardless of whether they live north or south of CTH KK and the county line, consider themselves to be part of a community. In fact, a large water tower in the area bears the name ‘Darboy USA’.

Nonetheless, the proposed village does have an identity separate from that of neighboring municipalities such as the Cities of Appleton, Menasha, and Kaukauna, and the Village of Sherwood. The dense network of streets, collection of businesses, churches, parks, schools, and houses suggest to travelers that they have arrived at someplace, a nucleus of social and economic activity.

In the Darboy Community Park alone are many social activities such as:

- Ice Cream Social - summer kick-off event, chance to meet town representatives, and of course lots of free ice cream;
- Touch-A-Truck - get up close and personal with dump trucks, snow plows, fire engines, police cars and other municipal trucks;
- Halloween in the Park - trick-or-treat through the park woods;
- Movie in the Park;
- Soccer leagues and tournaments;
- Tom Pease in the Park – children’s performer;
- Chickenfest – a large festival to honor the community’s historic past, including the Darboy banquet hall which was famous for its chicken dinners. The festival includes a parade down Noe Road, as well as concerts by nationally-known entertainers;
- Sunrise School events – because Sunrise School is adjacent to Darboy Community Park, school events and gatherings frequently spill over onto the park.

To implement all of these activities, Harrison has a summer park program coordinator, sharing the cost with the Town of Buchanan.<sup>28</sup>

Numerous civic and social organizations are also located in and around the proposed village, including:

- Christian Women’s Society
- Lutheran Women’s Mission Society
- Lutheran Boy and Girl Pioneers
- Choir groups
- Youth groups

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<sup>28</sup> Petitioners’ Submittal page 27.

- Optimist Club
- Harrison Hilltoppers 4-H
- Darboy Ever Alerts 4-H
- Boy Scouts
- Girl Scouts
- Harrison Athletic Association
- Harrison Little League and Babe Ruth Baseball
- Kimberly Area Soccer Association

**Table 4** shows the park and open space facilities serving Harrison residents.

**Table 4: Harrison Parks & Open Spaces<sup>29</sup>**

Facility	Acres	Ownership	Description
Harrison Athletic Association Park	16.50	Town of Harrison	Pavilion, ball diamonds, concessions, press box, scoreboard, playground equipment, sand box, sand volleyball court, picnic area, restrooms
Darboy Community Park*	17.50	Towns of Harrison & Buchanan	Basketball courts, softball diamonds, soccer fields, shelter, playground equipment, picnic area, hiking trail.
Clover Ridge Park	6.00	Town of Harrison	Playground equipment, picnic area
Ledgewood Acres Public Access	0.70	Town of Harrison	Boat Landing
State Park Road Boat Landing	0.50	Town of Harrison	Boat Landing
Firelane 8 Boat Landing	.21	Town of Harrison	Boat Landing
Firelane 12 Boat Landing	.29	Town of Harrison	Boat Landing
Firelane 13 Boat Landing	.26	Town of Harrison	Boat Landing
Faro Spring Road Access	.15	Town of Harrison	Boat Landing
Sunrise Elementary School	20.00	Kimberly Area School District	Playground equipment, basketball courts, ball diamonds, football fields, soccer fields, picnic areas
Woodland Elementary/Intermediate School	19.00	Kimberly Area School District	Playground equipment, basketball courts, ball diamonds, football fields, soccer fields, picnic areas
High Cliff State Park	1,140.00	State of Wisconsin	Observation tower, marina, beach, bathhouse, shelters, campsites, trails
North Shore Golf Club	164.50	Private	Golf
<b>Total Recreation Land</b>	<b>1384.70</b>		

\*Joint Park with Town of Buchanan

Regarding future parks, Harrison's *Parks and Open Space Plan* indicates that the Town currently has 6.8 acres of parkland per 1000 residents, just over the national minimum standard of six acres per 1000 residents. Harrison's municipal neighbors average close to 20 acres per 1000 residents. To meet the needs of Harrison's growing population, and perhaps to come more into alignment with its municipal neighbors, the Town's Parks and Open Space Plan recommends developing additional parks. For example, two future parks are recommended within the proposed village area, and two parks are recommended just west of the proposed village, adjacent to the Cities of Appleton and Menasha. The plan suggests that these parks may be jointly owned between Harrison, Appleton, and Menasha. Harrison would also like to acquire a 25-acre parcel just north of the Darboy Community Park in order to expand the park, including additional wooded hiking trails, smaller picnic shelters, additional soccer fields, tennis courts, another pavilion, and a nature

<sup>29</sup> *Town of Harrison Park and Open Space Plan* (2007), page 34.

area with a detention pond for storm water runoff. Regarding Clover Ridge Park, planned improvements include a restroom pavilion, additional playground equipment, and a picnic area.<sup>30</sup>

### *Churches*

The proposed village area contains two churches:

- Christ the Rock Community Church - located along USH 10/114, it is one of the largest churches in the Fox Cities with over 6,000 members;
- Mount Cavalry Lutheran church – located along South Coop Road, it serves over 500 members and also contains a private school.

### *Commissions, Committees, and Boards*

The Town of Harrison has various commissions, committees, and boards that residents may access to become active with local government, activities, and functions, including the following:

- Plan Commission - created in 2001, consists of seven members; two town board members and five citizen members. The plan commission advises the town board on all manner of land use activity, including zoning, platting, and comprehensive planning;
- Park Committee - created in 2007, it consists of five members; one town board member and four citizen members. The park committee implements and updates Harrison's Park & Outdoor Recreation Plan and oversees any park and recreation related issues.
- Zoning Board of Appeals - created in 2010 when Harrison broke from Calumet County's zoning ordinance and adopted an ordinance of its own, this board consists of five citizen members and two alternate members. The board is responsible for hearing and deciding zoning appeals and variance requests.<sup>31</sup>

## **Population Distribution**

The Department initially began examining the distribution of population as a result of the Wisconsin Supreme Court's opinion in Pleasant Prairie<sup>32</sup>. The court in that case examined the nature and distribution of population, noting that higher population density tends to be indicative of compactness, and urban rather than rural characteristics. The population in the Town of Harrison grew from 2,818 people in 1950 to 10,839 in 2010, representing a 285% increase. During that same time period, Calumet County's population grew by 160% and the state by 66%. The majority of the Town's growth has been within the proposed village area. In fact, the majority of population growth in Calumet County over the past ten years - 8,340 persons - can be attributed to the growth in the proposed village area.<sup>33</sup>

The most concentrated area of population is found in sections 2, 3, and 10, that area bordered by CTH KK, Manitowoc Road, Chadbury Lane, and Coop Road. These sections each contain population in excess of 1,000 residents, with Section 2 being the most dense at 2,052 residents. The area directly south of Manitowoc Road contains less population. However, this area has

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<sup>30</sup> Petitioners' Submittal, page 41.

<sup>31</sup> Petitioners' Submittal, page 63.

<sup>32</sup> Pleasant Prairie v. Department of Local Affairs & Development, 108 Wis. 2d 465 (Ct. App. 1982), affirmed, 113 Wis. 2d 327 (1983).

<sup>33</sup> Petitioners' Submittal, page 20.

been identified as future growth area for the village. **Map 6** shows the population density distribution and clearly supports the assertion that the area is very compact.<sup>34</sup>

Petitioners compared the population density of their petition with previously approved incorporation petitions. **Table 5** shows that the proposed village of Harrison is significantly denser than recently approved incorporations, between four to seven times more dense.

**Table 5: Population Density Comparison (Previous Incorporations)<sup>35</sup>**

	<b>Bloomfield</b>	<b>Bristol</b>	<b>Summit</b>	<b>Richfield</b>	<b>Harrison</b>
Land Area	12	10	25	36	4.69
Population	5,095	2,547	5,177	11,385	7,373
<b>Pop. Density</b>	424.5 (sq. mi.)	254.7 (sq. mi.)	207 (sq. mi.)	316 (sq. mi.)	<b>1,572 (sq. mi.)</b>

**Table 6** compares the proposed village’s population density with the densities of some cities and villages in Calumet County. The table shows that the proposed village area would have a greater population density than all of the current incorporated municipalities in Calumet County except for the portion of Appleton located in Calumet County.

**Table 6: Population Density Comparison (Calumet County Cities & Villages)<sup>36</sup>**

<b>Municipality</b>	<b>Land Area</b>	<b>Population</b>	<b>Pop. Density</b>
Appleton (C)*	3.23	11,088	3,432 per sq. mi.
<b>Harrison</b>	<b>4.69</b>	<b>7,373</b>	<b>1,572 per sq. mi.</b>
Menasha (C)*	1.58	2,209	1,398 per sq. mi.
New Holstein (C)	2.51	3,236	1,289 per sq. mi.
Chilton (C)	4.02	3,933	978 per sq. mi.
Sherwood (V)	3.51	2,713	772 per sq. mi.

\*Portion located in Calumet County

## **Land Uses**

As with population, the Department began to analyze land uses as a result of the Wisconsin Supreme Court’s decision in Pleasant Prairie. The court in that case examined the nature and distribution of land uses, noting that urban land uses such as residential, commercial, industrial, and institutional, tend to be indicative of compactness and urban form rather than rural characteristics.

The Town of Harrison has experienced, and continues to experience, considerable urban development. This is due in part to its close proximity to the Fox Cities and Green Bay. Almost all this development has occurred within the proposed village area. Despite significant annexation activity from Appleton, Menasha, and Sherwood, Harrison’s population and equalized value have increased substantially since 1990.<sup>37</sup> **Table 7** shows the current land uses for the existing town, proposed village, and remnant town.

<sup>34</sup> Ibid., page 21.

<sup>35</sup> Petitioners’ Submittal, page 22.

<sup>36</sup> Ibid., page 22.

<sup>37</sup> Ibid., page 54.

**Table 7: Land Uses in the Town of Harrison**

Land Use Category	Existing Town		Proposed Village		Remnant Town	
	Acres	%	Acres	%	Acres	%
Urban Development						
Residential	2,163	10.57%	1,075	35.81%	1,088	6.23%
Commercial	103	.50%	55	1.85%	47	0.27%
Industrial	75	.37%	17	0.56%	58	0.33%
Transportation	1,240	6.06%	397	13.24%	843	4.82%
Utilities	9	.04%	6	0.21%	2	0.01%
Public/Institutional	175	.85%	164	5.47%	11	0.06%
Recreational	1,093	5.34%	26	0.85%	1,067	6.11%
Subtotal	4,857	23.73%	1,742	57.99%	3,116	17.84%
Non-Urban Development						
Agricultural	11,836	57.82%	980	32.64%	10,856	62.15%
Landfill & Quarries	59	.29%	0	0.00%	59	0.34%
Vacant/Open Space	1,048	5.12%	94	3.13%	954	5.46%
Subtotal	12,943	63.22%	1,074	35.77%	11,868	67.94%
Natural Areas						
Woodlands & Wetlands <sup>38</sup>	2,521	12.32%	161	5.36%	2,360	13.51%
Surface Waters	150	.73%	26	0.87%	124	0.71%
Subtotal	2,671	13.05%	187	6.23%	2,484	14.22%
<b>Total Areas</b>	<b>20,471</b>	<b>100.00%</b>	<b>3,003</b>	<b>100.00%</b>	<b>17,468</b>	<b>100.00%</b>

### ***Agriculture***

The Town of Harrison contains 17,998-acres of prime farmland, roughly 88% of the Town, making it the dominant land use in the Town. Approximately 12% of the Town has soil conditions that are classified as not prime for farmland and these are located adjacent to Lake Winnebago also near the Niagara Escarpment on the south end of the Town. The largest blocks of contiguous agricultural land are located east and south of the proposed village area and are not included in the proposed incorporation.<sup>39</sup> The proposed village area includes only 980 acres of lands classified as being in agricultural land use.

### ***Natural Resources***

The Town contains 150-acres of surface waters in the form of small creeks and ponds. Lake Winnebago is the most significant natural feature in the Fox Valley region, measuring approximately 30-miles long by 10-miles wide. The Town of Harrison has over 8-miles of shoreline along Lake Winnebago, all proposed to remain in the Town remnant. The nearest portion of the proposed village to the lake is the southwest corner along STH 114, which is less than a quarter-mile from the lake.

Another important natural feature in the Town of Harrison is the Niagara Escarpment, which as described previously, is an elevated layer of limestone that extends from Wisconsin through Canada to New York. The escarpment contains a number of underground caves, springs and

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<sup>38</sup> Wetlands and woodlands are combined in this land use table, which was developed by the Town of Harrison, because many of the wetlands identified in the DNR wetland inventory map are located in areas that are identified as woodlands on the land use map. Wetlands are considered undevelopable, and because many of the woodlands also contain areas that may be wetlands, it is uncertain if they are developable. Therefore, the Town considers woodlands undevelopable until there is a wetland determination or other information to indicate that they are developable. Email Correspondence from Town of Harrison Administrator Travis Parish, November 9, 2012.

<sup>39</sup> Petitioners' Submittal, page 31.

water pools, and is home to a variety of unique and rare plant species. The Niagara Escarpment is located in the southern portion of the Town, south of Sherwood, in the Town remnant.

The proposed village area is relatively flat and has only a few scattered wetlands. The Town as a whole has 2,521-acres of wetlands and woodlands, with only 161 of these located within the proposed village.<sup>40</sup>

### ***Residential***

The Town of Harrison has 2,163 acres devoted to residential land uses, roughly 10% of the total Town. Roughly half of the Town's residential acreage is within the proposed village area. This makes residential the most dominant land use within the proposed village, at roughly 36%. Most housing within the proposed village is dense and urban, and contained within platted subdivisions. **Map 7** shows the existing subdivisions in the Town of Harrison, and shows that each one is located within the proposed village area. The town remnant contains no subdivisions.

### ***Land Use Regulations***

In 1990, the Town of Harrison adopted village powers in order to exercise certain land use planning powers such as adopting and implementing local plans, rules, and ordinances to guide development.<sup>41</sup>

In 2009 Calumet County completed a comprehensive revision of its zoning ordinance and Harrison chose not to adopt this revision, and instead developed a zoning ordinance of its own to better address the urban portion of the Town. Because the proposed village area has much different urban-type needs than the rural parts of the Town, the county's zoning ordinance had for many years been problematic for the Town. For example, the proposed village needs an ordinance suitable for handling sewered urban development, as well as provisions to regulate signage, parking and loading, landscaping, fences, site plan review, and architectural design guidelines. The rural parts of the Town do not have these kinds of demands or needs. To have flexibility to deal with both its rural and urban areas, Harrison adopted its own zoning ordinance in 2010. The Town also hired a full time planning and zoning staff person, and created a Zoning Board of Appeals to hear variances and appeals.

Upon incorporation, the Village of Harrison intends to adopt the current Harrison Zoning Ordinance and Zoning Map. Many of the zoning districts are planned to accommodate the urban area in the proposed village due to the availability of public sewer and water facilities. Petitioners believe that the ordinance provisions that apply to the proposed village and the Town remnant are clear.<sup>42</sup> Village status would also give the new village extraterritorial jurisdictional powers over adjacent unincorporated areas, as well as the opportunity to take over county shoreland and wetland zoning from Calumet County.

### ***Subdivision Control Ordinance/Land Division Ordinance***

The Town of Harrison adopted a *Subdivision Control Ordinance* in April of 2001 in order to better manage the significant residential growth that had been occurring since the mid-1990s. The Town desired to limit the number of cul-de-sacs being created and better guide the overall physical planning of the community. Prior to 2001, Harrison had been relying on Calumet County to review subdivision plats.

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<sup>40</sup> Petitioners' Submittal, page 33.

<sup>41</sup> Ibid., page 54.

<sup>42</sup> Ibid., page 64.

In 2010, Harrison revised the Subdivision Control Ordinance and renamed it the *Land Division Control Ordinance* to better address all land divisions, not just large residential subdivisions. The revised ordinance requires sidewalks for all new subdivisions, as well as curb and gutter, sewer and water provisions, connection to adjacent bicycle and pedestrian trails etc. Upon incorporation, the proposed village intends to adopt the current subdivision ordinance.

***Official Map***

Harrison established an official map in April of 2000 in order to promote orderly development and conserve natural features for future parkland. For example, the anticipated extension of Eisenhower Drive mentioned previously is shown on the map.<sup>43</sup>

***Comprehensive Plan***

The Town of Harrison has a comprehensive plan in place, originally developed in 2004 and updated in 2010, to guide all planning goals, objectives, policies, programs, and activities.

***Post-Construction Storm Water Management Ordinance***

Harrison approved a Construction Storm Water Management Ordinance in December 2007. The purpose of the ordinance is to provide a set of guidelines to control runoff quality and quantity from areas of new development and redevelopment after construction is completed.<sup>44</sup>

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<sup>43</sup> Petitioners' Submittal, page 71.

<sup>44</sup> Ibid., page 72.

## **DETERMINATION**

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According to Pleasant Prairie<sup>45</sup>, 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 proposed village relates favorably to all of the compact and homogenous factors enumerated in the statute and case law. In particular, the proposed village has:

- Boundaries that follow readily understood physical features such as streets, highways and a power-line and bicycle path;
- Boundaries that align closely with those of the Garners Creek Watershed, the Darboy Sanitary District, and the Kimberly School District boundaries;
- A transportation system that contains a dense network of highways, local roads, bicycle and pedestrian paths, and public transit opportunities;
- A high population density, higher than many of the surrounding cities and villages in the area;
- Numerous economic and business opportunities for local residents;
- A strong sense of community, as shown by the many community events, clubs, meeting places, and history, and
- Land uses that tend to be urban in nature such as residential, commercial, institutional, and recreational land uses.

The petition does contain some undeveloped territory south of Manitowoc Road. However, as will be discussed in the following section, this rural and developable territory was included to provide the new village with room to expand, and does not compromise the petition's compactness and homogeneity.

The Incorporation Review Board questioned whether this petition will sever the historic Darboy community because it only includes the half of the historic Darboy that is south of CTH KK. The fact that the petition includes road right-of-way in the Town of Buchanan in Outagamie County does provide the possibility that the northern portion of the historic Darboy community could eventually join the proposed village via annexation consistent with their boundary agreement.

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

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<sup>45</sup> Pleasant Prairie v. Local Affairs Dept., 113 Wis.2d 327, 340 (1983).

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## **SECTION 1(B), TERRITORY BEYOND THE CORE**

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

*The territory beyond the most densely populated square mile as specified in s. 66.0205 (3) or (4) shall have the potential for residential or other land use development on a substantial scale within the next three years. The Board may waive these requirements to the extent that water, terrain or geography prevents such development.*

### **Most Densely Populated Square Mile**

As can be seen on **Map 6**, the most densely populated square mile within the proposed village is Section 3. This is the area south of CTH KK and bounded by CTH N and Coop Road that includes Sunset Elementary School, Darboy Community Park, the Darboy Club, the Highline and Noe Road bicycle and pedestrian trails, and most of the area’s economic and shopping options.

### **Lands Subject to Waiver**

The statute permits the Board to waive certain lands from the ‘substantial development within three years’ standard to the “extent that water, terrain or geography prevents such development.” The types of lands which the Board has found in the past to be appropriate for waiver include wetlands, lakes, streams, or other surface water, and steep slopes.

The proposed village has few acres that might be appropriate for waiver. Only 161 acres of wetlands are found within the territory, and just 26 acres of surface waters.

### **Lands Subject to Standard**

**Table 8** shows that of the petition’s 3,003 acres, 1,074 of these acres are considered to be developable. This is reduced to 887 acres after subtracting 161 acres of wetlands and 26 acres of surface water.

**Table 8: Lands Subject to Standard<sup>46</sup>**

<b>Developable Lands</b>	<b>Acres</b>
Agricultural	980
Vacant/Open Space	94
<b>Total Developable Acres</b>	<b>1074</b>
<b>Undevelopable Lands</b>	
Wetlands/Woodlands	161
Surface Water	26
<b>Total Undevelopable Acres</b>	<b>187</b>
<b>Total Acres Subject to Standard</b>	<b>887</b>

### **Future Growth**

The paragraphs below examine Harrison’s future growth potential, and whether this potential rises to the level of ‘substantial development within 3 years’. Population trends are examined as

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<sup>46</sup> Petitioners’ Submittal, page 120.

well as data regarding building permits, subdivision platting, and rezonings. Recommendations made by planning documents are also discussed.

**Population**

Harrison experienced significant population growth during the 1990’s and early 2000’s growing from 3,195 in 1990 to 10,844 in 2010, an increase of 239%. During this same time period, Calumet County’s population grew by 160% and the state grew by 66%.

**Table 9: Harrison Population Growth<sup>47</sup>**

1950	1970	1980	1990	2000	2005	2010	2012	2025 Projection
2,818	3,260	3,541	3,195	5,756	8,375	10,839	10,912	16,074

The majority of the Town’s growth has been within the proposed village area. In 2000 the population within this area was estimated to be 2,740, and by 2010 had expanded to 7,373, an increase of 4,633 persons from 2000-2010 within the proposed village area. During this same time, the entire Town of Harrison grew by 5,088 persons. Over 90% of the Town of Harrison’s population growth between 2000 and 2010 occurred within the proposed village area. The majority of population growth in Calumet County between 2000 and 2010 - 8,340 persons - can be attributed to the growth within the proposed village area.<sup>48</sup>

Harrison’s strong growth in recent years can also be seen in household data. Between 1990 and 2010, the number of households in the Town increased from 1,059 to 3,644, or 244%. During this same time period, the number of households in Calumet County increased by only 58%. As with the population growth, the vast majority of the household growth occurred in the proposed village area.<sup>49</sup>

**Table 10** shows that the Town of Harrison has the largest population among unincorporated towns in Calumet County, and is only slightly below the portion of the City of Appleton in Calumet County. The proposed Town remnant would be larger than almost all Calumet County municipalities. Harrison presently has the fourth highest population of all towns in the state.<sup>50</sup>

**Table 10: Population Comparison<sup>51</sup>**

Place Name	Population
C. Appleton*	11,095
<b>T. Harrison</b>	<b>10,885</b>
<b>V. Harrison (proposed)</b>	<b>7,373</b>
C. Chilton	3,933
<b>T. Harrison (remnant)</b>	<b>3,471</b>
C. New Holstein	3,238
C. Brillion	3,172
V. Sherwood	2,725
C. Menasha*	2,246
T. New Holstein	1,507
T. Brillion	1,488
T. Stockbridge	1,459

<sup>47</sup> Petitioners’ Submittal at page 20.

<sup>48</sup> Ibid., page 20.

<sup>49</sup> Ibid., page 20.

<sup>50</sup> Ibid., page 113.

<sup>51</sup> Ibid., page 113.

T. Brothertown	1,328
T. Chilton	1,142
V. Hilbert	1,132
T. Woodville	981
T. Rantoul	797
T. Charlestown	778
V. Stockbridge	635
C. Kiel	313
V. Potter	253

**Re-zonings**

Rezoning of land from a less intense land use zoning classification to a more intense use is often the first step in the development process. Data on recent re-zonings can give an indication of current and future building activity. **Table 11** shows that re-zonings have been fairly steady since 1995, averaging four per year. Rezoning activity remained steady even during the recession which started in 2005. The rezones were from a less intense land use such as farming, to a more intense use such single family homes.<sup>52</sup>

<b>Table 11: Parcel Rezones/Variiances/Conditional Use Permits/CSMs/Plats<sup>53</sup></b>					
<b>Year</b>	<b>Rezones</b>	<b>Variiances</b>	<b>CUP</b>	<b>CSM</b>	<b>Plat</b>
2011	4	2	5	6	1
2010	1	0	1	4	0
2009	2	1	3	17	2
2008	2	3	6	7	0
2007	1	6	8	15	0
2006	4	5	6	14	2
2005	5	7	4	6	2
2004	3	11	12	29*	2
2003	3	13	5	29*	3
2002	5	16	6	30*	5
2001	6	16	10	16*	7
2000	9	20	7	29*	5
1999	3	19	6	25*	4
1998	5	8	10	13*	5
1997	3	14	7	16*	1
1996	7	12	5	19*	4
1995	5	9	5	13*	6
<b>AVG</b>	<b>4</b>	<b>8</b>	<b>6</b>	<b>17</b>	<b>3</b>

\*Number of Lots created by CSM. Number of CSMs reviewed prior to 2005 is not readily available.

**Variiances**

Variiances in zoning classifications can also give an indication of development activity or demand. **Table 11** shows an average of 8 variiances per year over the past 15 years. The variance activity rate remained consistent until the recession in 2005.

<sup>52</sup> Email correspondence from Town of Harrison administrator Travis Parish, November 9, 2012.

<sup>53</sup> Petitioners' Submittal, page 73, supplemented by email correspondence from Town of Harrison administrator Travis Parish, July 2, 2012.

### ***Certified Survey Maps (CSMs)***

**Table 11** shows the lots in Harrison that have been created using CSMs. Creation of lots precedes new development, so examining trends in lot creation is useful in determining potential future development activity. **Table 11** shows that an average of 17 lots were created per year. Even in the recession years of 2005-2011 CSM lots have continued at a consistent pace.

### ***Subdivisions***

Like CSMs, subdivision of land into smaller lots or parcels of land also precedes new development. Examining trends in lots created via subdivision plats is useful in determining potential future development activity. **Table 11** shows that Harrison has approved an average of three subdivision plats per year over the past 15 years. Even during the recession years, Harrison approved five new subdivision plats, which shows that the development demand within the proposed village area is strong. **Table 12** shows that approximately 50 subdivisions were platted since the mid 1990's. **Table 12** shows 2201 total lots were created covering over one-thousand acres. About 80% of these subdivisions are located within the proposed village area. Of the remaining 20% of subdivisions platted, a majority of these have been located between Harrison and the Cities of Appleton and Menasha, within these cities' growth areas as determined by the boundary agreements. Only one of the 50 approved subdivision plats in the Town remnant area was not in a sanitary district.<sup>54</sup>

**Table 13** shows the subdivision lots that were available within the Darboy Sanitary District as of 2009. The table shows that only 3 lots now remain. As the Darboy area is where demand for development is greatest, this scarce supply of available buildable lots is problematic. This high demand for new home lots is why Petitioners chose to include vacant and developable land south of Manitowoc Road within the proposed village area. Lands south of Manitowoc Road are within the Waverly Sanitary District. **Table 14** shows the buildable platted lots located within the Waverly Sanitary District as of 2009. Table 14 shows that 114 lots were available. Including this land within the proposed village will help to accommodate the demand for new housing.<sup>55</sup>

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<sup>54</sup> Petitioners' Submittal at page 54.

<sup>55</sup> Petitioners' Submittal at page 90.

Year	Subdivisions Approved	Lots	Total Subdivision Acres	Lots per acre
2011	1	14	38	.37
2010	0	0	0	-
2009	0	0	0	-
2008	0	0	0	-
2007	0	0	0	-
2006	2	97	49	1.99
2005	2	166	82	2.01
2004	2	64	31	2.05
2003	4	193	114	1.70
2002	5	284	130	2.18
2001	5	246	122	2.02
2000	4	225	120	1.88
1999	4	212	108	1.96
1998	4	207	97	2.13
1997	1	35	17	2.10
1996	3	99	41	2.44
1995	6	162	91	1.78
1994	5	146	56	2.60
1993	3	51	37	1.38
<b>Total</b>	<b>51</b>	<b>2201</b>	<b>1134</b>	<b>1.94</b>

Name of Subdivision	Lots
Sunrise Meadows	0
Hoelzel Haven	0
State Park Meadows	2
State Park Meadows, 1 <sup>st</sup> Addition	0
Jeff's Meadow	1
Midway Meadows	0
<b>Total</b>	<b>3</b>

Name of Subdivision	Lots
Woodland Trails	0
Northshore Woods	15
North Shore Estates III	5
Cedar Ridge Estates, 2 <sup>nd</sup> Add.	26
Oakwood Estates	22
Woodland Trails II (duplex subdivision)	15
Papermaker Ridge Estates	31
<b>Total</b>	<b>114</b>

<sup>56</sup> Petitioners' Submittal, page 74.

<sup>57</sup> Ibid., page 91.

<sup>58</sup> Ibid., page 91.

### **Building Permits**

Building permits are a direct measure of past building activity. **Table 15** shows the building permits that the Town of Harrison has issued for residential and commercial development over the past 15 years. The table shows strong residential development, with permits being issued for an average of 133 new single-family homes per year. After the 2005 recession, development in Harrison continued at a lower rate, with an average of 51 single-family home permits being issued from 2006-2011.

**Table 15: Harrison Building Permits<sup>59</sup>**

Year	New Single-Family Residential	New Multiple-Family Residential	Additions & Remodels to Existing Residential	Total Residential	New Commercial & Industrial	Additions & Remodel to Existing Commercial & Industrial	Commercial & Industrial Total
2011	16	0	90	106	3	1	4
2010	26	0	104	130	3	2	5
2009	38	2	91	131	2	13	15
2008	60	0	98	158	2	11	13
2007	65	0	102	167	4	5	9
2006	102	0	121	223	1	4	5
2005	117	0	104	221	2	2	4
2004	113	1	105	219	1	1	2
2003	243	1	109	353	0	0	0
2002	333	0	123	456	3	4	7
2001	304	5	73	382	3	7	10
2000	208	7	63	278	2	3	5
1999	209	14	15	238	2	1	3
1998	164	2	13	179	3	1	4
1997	86	9	18	113	0	0	0
1996	108	2	7	117	0	1	1
1995	83	6	12	101	0	0	0
<b>AVG</b>	<b>133</b>	<b>4</b>	<b>73</b>	<b>210</b>	<b>2</b>	<b>3</b>	<b>5</b>

### **Sewer Service Area**

The proposed village area is served with public sewer and water from the Darboy Sanitary District and the Waverly Sanitary District. **Map 3** shows that almost the entire petitioned territory is covered by a sanitary sewer service district, so future development will have sewer and water service available.

Only a small area in the southeastern corner of the proposed village cannot currently be served by the existing infrastructure, an area east of Coop Road, west of CTH N, and south of Woodland Road. However, East Central Wisconsin Regional Planning Commission (ECWRPC) considered this area in its *Fox Cities 2030 Sewer Service Area Plan Update* and found that it could be cost effectively served by the Waverly Sanitary District. ECWRPC indicated that additional infrastructure would be required to serve this area, namely a lift station and sewer and water lines, therefore development should occur first in adjacent areas to the north and west in order for sewer and water service to most efficiently be extended.<sup>60</sup>

<sup>59</sup> Petitioners' Submittal, page 73.

<sup>60</sup> Petitioners' Submittal, page 119

### **Accessibility**

The Incorporation Review Board also found that because the proposed village area is accessible by major roads and mass transit, demand for development is likely to continue to be strong in the future, despite the economic recession. Since Harrison is part of the Fox Valley metropolitan area, and near the Green Bay metropolitan area, the proposed village area will benefit from the regional economic development. Residents of the proposed village have access to opportunities found throughout the region, including educational, shopping, recreation, and employment opportunities.<sup>61</sup>

### **Plans**

Review of comprehensive plans provides insight into a community's future development intentions. Harrison's comprehensive plan recommends that development occur in a compact and orderly fashion served by full urban services. Development is expected to occur within areas covered by the Darboy and Waverly sanitary districts, as opposed to scattered development throughout in the rural parts of the Town. The comprehensive plan's future land use map shows that all of the proposed village area will be developed by the year 2023, as well as additional lands east of the proposed village. The comprehensive plan also estimates that 2700 acres of land will be required to satisfy Harrison's urban development needs through the year 2023<sup>62</sup>, which is substantially more than the 887 developable acres available within the proposed village and subject to this statutory standard.

### **Development Potential for Specific Properties**

**Map 8** shows the land within the proposed village area which is currently being considered for development. The map shows 18 sites, encompassing 523 acres<sup>63</sup>, roughly 60% of the 887 acres of potentially vacant and developable land within the proposed village that are subject to this statutory standard.

Listed below is the development activity for each specific property site shown on **Map 8**:

- Site 1 – rezoning from Neighborhood Commercial [CN] to Community Commercial [CC] was approved October 2012 in order to develop the property as an outdoor recreation and sports park. The property owners will apply for a Conditional Use Permit in December 2012;
- Site 2 – property owners have applied for rezoning from General Agricultural [AG] to Multiple-Family Residential. The Town will be reviewing this application in November 2012. The Town will also review a Comprehensive Plan amendment for this site to change the future land use from commercial to multi-family residential;
- Site 3 – property owner has been approached by developers interested in doing a commercial development. To facilitate this, the Town is working to construct a new town road near an existing commercial access/drive on CTH LP. The Town applied for an access permit in October 2012 from the Calumet County Highway Department;
- Site 4 – property owner has submitted a concept plan for a future subdivision to the Town, and is currently doing preliminary engineering and survey work;

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<sup>61</sup> Comments from Mayor Paul Fisk, Incorporation Review Board member, at the September 12<sup>th</sup> 2012 Board meeting.

<sup>62</sup> *Town of Harrison Comprehensive Plan*, page 100.

<sup>63</sup> Email Correspondence from Town of Harrison planner Mark Mommaerts, November 10, 2102.

- Site 5 – property owner is currently marketing the parcel for future residential development. The property has been petitioned for annexation into the Waverly Sanitary District in order to obtain sewer & water service;
- Site 6 – the Town approved a preliminary plat and final plat for a subdivision of the property known as *Papermaker Ridge*. The plat was approved in May 2012 and the infrastructure was installed. Seven new home building permits were issued in October 2012;
- Site 7 – property currently is being advertised for sale, which presents an opportunity for developers to acquire the parcel;
- Site 8 – property currently is being advertised for sale;
- Site 9 – property owner expects to submit a Certified Survey Map for review in November or December 2012 for a residential development;
- Site 10 – Town approved a Certified Survey Map for the property to designate several acres for the construction of a regional detention pond. The remaining property is intended to be developed as a subdivision in the near future, and concept plans were developed to indicate how it might look;
- Site 11 – property owner is working with the Garner’s Creek Stormwater Utility to construct a regional detention pond on the site, and concept plans have also been developed for a future residential subdivision. The Town has applied for an access permit in October 2012 from the Calumet County Highway Department to construct a new road adjacent to an existing road on County Road N. The property owner is expected to apply for a rezoning in December 2012 or in early 2013;
- Site 12 – property owners demolished a house and have cleaned up the site to prepare for future development, and a concept plan for development was created. The property owner also entered into an agreement with the Town to install storm sewer infrastructure for the area;
- Site 13 – a Certified Survey Map for the property was approved by the Town in March 2012 for residential development;
- Site 14 – property is being marketed as commercial property and is currently zoned Office & Retail Commercial [COR]. Sewer & water is currently available;
- Site 15 – property is being marketed as commercial property and is currently zoned Office & Retail Commercial [COR]. Sewer & water is currently available;
- Site 16 – property is being marketed as commercial property and is currently zoned Office & Retail Commercial [COR]. Sewer & water is currently available;
- Site 17 – The property is being marketed as commercial property and is currently zoned Office & Retail Commercial [COR]. Sewer & water is currently available;
- Site 18 – The property is currently being advertised for sale.<sup>64</sup>

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<sup>64</sup> Email correspondence from Town of Harrison administrator Travis Parish, November 9, 2012.

## **Determination**

This standard examines the vacant developable land that may be present within an incorporation petition, and whether or not these vacant lands may potentially be developed within the next three years.

In this case, only 887 acres of vacant and developable lands have been included. These lands are primarily located south of Manitowoc Road. According to Petitioners, they were included because the proposed village to the north is largely built out and has very few buildable lots still available. By including lands south of Manitowoc Road, the new village will have room to expand in the future.

Past trends in population growth and building activity within the area proposed to be a village strongly show that the area has the potential for substantial development activity. Population growth in the proposed village area exceeds the growth levels occurring anywhere else in Calumet County. The level of building activity shown via building permits and lots created by certified survey maps and subdivision plats show that development within the proposed village area over the past 15 years has been consistently high, exceeding the level of activity found in many whole towns in urban parts of the state.

Another significant factor in Harrison's favor is the fact that the Darboy and Waverly Sanitary Districts either cover the entire petitioned territory already, or have planning approvals in place to cover the entire territory. This means that new development within the proposed village may immediately hook up to municipal sewer and water service. This also means that development within the proposed village is more likely to be compact and urban in nature. In fact, Harrison's comprehensive plan recommends that new development be urban in nature and served with urban services.

The location of the proposed new village is also within the vibrant Fox Valley metropolitan area, which means that the proposed Village of Harrison will continue to be an attractive place to live.

Finally, roughly 60% of the 887 acres of vacant and developable lands are already experiencing development activity or interest, prior to the territory even becoming a village.

Because of the minimal amount of vacant developable lands that were included in the petition, the strong past development trends, and the current level of development activity and interest, the Board determines that the petition as submitted meets the *Territory Beyond the Core* standard set forth in §66.0207(1)(b), Wis. Stats.



## SECTION 2(A) TAX REVENUE

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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."*

Prior to the incorporation standards in s. 66.0207 Wis. Stats. being developed, a number of incorporations occurred in Wisconsin that were very small. Containing just a few hundred households, these new villages struggled to function as a village. They lacked a sufficient population to fill village board and committee positions, and also lacked sufficient tax base to raise the revenue required to provide village services. Therefore, when the legislature created the incorporation standards in 1959, the tax revenue standard was modified to address smaller proposed incorporations to ensure that they would have the financial resources to function as a city or village.

The Town of Harrison already functions as a village with a range of services typically provided by an incorporated community. These services include:

- Administrative – Harrison employs an administrator, clerk, treasurer;
- Public Works – road maintenance, snow plowing, ditch and culvert work, signage, parks maintenance, mowing;
- Public safety – fire and rescue department, contracted additional police protection service beyond what the Calumet county sheriff's department normally provides to towns. They provide fire protection services for Harrison, and also the Village of Sherwood and Town of Woodville.<sup>65</sup>;
- Planning - general zoning, subdivision, and stormwater ordinances, comprehensive planning, parks & open space planning, neighborhood plans, development site plans, full-time planner hired in 2008;
- Building inspection – contracted service; and
- Refuse and Recycling – collect weekly, curb side, yard waste drop-off site, and compost site.

The following paragraphs describe the Town's current financial situation, as well as its proposed budget.

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<sup>65</sup> Petitioners' Submittal, page 150.

## Equalized Value

**Table 16** shows that the total equalized value of the Town of Harrison in 2011 was \$857,963,600, with residential land use responsible for most of this value. Despite the recession which began in 2005, the equalized value increased by 13.1%. The majority of this increase was from increased residential (57.7%), commercial (27.4%), and manufacturing (11.7%) properties.<sup>66</sup>

**Table 16: Equalized Value in Harrison<sup>67</sup>**

Land Use	2007	2011	Change in Value from 2007	% Change in Each Land Use Category from 2007	% of Total Change in Equalized Value
Residential	\$686,575,800	\$742,905,700	\$56,329,900	8.2%	57.7%
Commercial	\$32,761,300	\$59,546,400	\$26,785,100	81.8%	27.4%
Manufacturing	\$9,458,600	\$20,847,900	\$11,389,300	120.4%	11.7%
Agricultural	\$2,517,100	\$2,507,200	(\$9,900)	-0.4%	0.0%
Undeveloped	\$278,900	\$1,755,800	\$1,476,900	529.5%	1.5%
Agriculture/Forest	\$1,629,000	\$2,063,400	\$434,400	26.7%	0.4%
Forest	\$894,000	\$1,379,400	\$485,400	54.3%	0.5%
Other	\$12,579,600	\$13,316,300	\$736,700	5.9%	0.8%
Total Real Estate	\$746,694,300	\$13,641,500	\$97,627,800	13.1%	
Total Personal Property	\$6,193,400	\$13,641,500	\$7,448,100	120.3%	
Total	\$752,887,700	\$857,963,600	\$105,075,900		

<sup>66</sup> Ibid., page 139.

<sup>67</sup> Petitioners' Submittal, page 139.

Separating the equalized value between the proposed village and Town remnant, **Table 17** shows the proposed village has a majority of the total value, 58% or \$500,192,278 as compared to \$357,771,322 for the remnant. **Table 17** also shows that both the proposed village and the proposed Town remnant would have more equalized value than all Calumet County municipalities with the exception of Appleton. The proposed village exceeds the value of nine of Calumet County's existing cities and villages. This indicates that the proposed village would have sufficient tax base to support village-level services needed and wanted by residents.

#### Debt

State statutes limit the amount of general obligation debt a municipality may issue to 5% of its total equalized value. The Town currently has \$401,125 in outstanding debt. Its debt limit is \$40,757,445, indicating that the town is at less than 1% of its debt limit.<sup>69</sup> This will give the new village a great deal of financial opportunity to sustain and encourage growth.

#### Proposed Budget

**Table 18** shows the current Town of Harrison budget, as well as a proposed budget for the new village and the Town remnant. Because Harrison already operates like a village, the proposed budget does not appear include major changes or increases in service levels. For most of the budget categories, the new village and town remnant apportion the current town budget, with the new village typically getting the larger share. Budget amounts for the Town remnant are fairly modest because the proposed village and the remaining town are expected to enter into shared service agreements to avoid creating new departments, staff, equipment or buildings.<sup>70</sup>

The only real budget change would be in the public safety expenditures. While the current Town budget allocates \$375,000 to public safety, the proposed village would expand this to \$630,000. Because the new village would contain greater than 5,000 residents and be statutorily required to provide police services. Once the area becomes incorporated, it will no longer receive automatic service from the Calumet County Sheriff's Department. It can choose to contract with the Sheriff's Department for service, or it could create a police department of its own. The Town currently contracts with the county for additional services beyond what the Sheriff's Department normally provides to its towns. This contract provides an additional 40 hours of patrol service, enforcement of Town ordinances, and an intake court. The reason Harrison contracts for these additional services is because the proposed village portion of the Town has become too urban in character to rely on the Sheriff Department's customary level of service for rural areas.<sup>71</sup>

**Table 17: Municipal Equalized Values in Calumet County<sup>68</sup>**

Municipality	Equalized Value
Appleton (City)*	\$600,319,900
<b>Harrison (Proposed Village)</b>	\$500,192,278
<b>Harrison (Town Remnant)</b>	\$357,771,322
Chilton (City)	\$241,121,700
Sherwood (Village)	\$234,030,400
Brillion (City)	\$191,234,600
Menasha (City)*	\$189,536,200
New Holstein (City)	\$172,134,200
Stockbridge (Town)	\$157,972,300
Brothertown (Town)	\$127,914,800
New Holstein (Town)	\$112,596,400
Chilton (Town)	\$101,171,100
Brillion (Town)	\$97,349,600
Woodville (Town)	\$65,587,700
Stockbridge (Village)	\$63,663,400
Charlestown (Town)	\$62,628,100
Rantoul (Town)	\$62,225,800
Hilbert (Village)	\$56,130,000
Kiel (City)*	\$20,721,100
Potter (Village)	\$12,875,600

<sup>68</sup> Ibid., at page 164.

<sup>69</sup> Email correspondence from Town of Harrison Administrator Travis Parish, November 9, 2012.

<sup>70</sup> Petitioners' Submittal, page 129.

<sup>71</sup> Ibid., at page 155.

The Town of Harrison held discussions with Calumet County to estimate costs to provide for varying levels of service. For example, cost estimates were \$465,000 for five officers and two squad cars, while a service alternative of three officers would be \$272,000. Town residents and elected officials will need to decide on a preferred service level.

Town of Harrison staff has also informally talked with the City of Appleton about contracting for police services with Appleton. Also, the new village could choose to become part of the Fox Valley Metro police department which provides police services to the villages of Kimberly, Combined Locks, and Little Chute.<sup>72</sup>

**Table 18: Proposed Village Budget**

<b>Revenues</b>	<b>Proposed Village</b>	<b>Percent of Existing Town Budget</b>	<b>Town Remnant</b>	<b>Percent of Existing Town Budget</b>	<b>Existing Town</b>
Taxes	\$1,333,221	58%	\$953,608	42%	\$2,286,829
Special Assessments	\$70,457	290%	-	0%	\$24,275
Intergovernmental Revenue	\$269,885	60%	\$180,613	40%	\$450,498
Licenses and Permits	\$107,067	66%	\$54,533	34%	\$161,600
Fines, Forfeitures and Penalties	\$5,300	91%	\$500	9%	\$5,800
Public Charges for Services	\$351,484	70%	\$147,726	30%	\$499,210
Intergovernmental Charges for Service	\$95,675	100%	-	0%	\$95,675
Intergovernmental Charges for Service	\$95,675	100%	-	0%	\$95,675
Miscellaneous Revenues	\$41,477	40%	\$60,990	60%	\$102,467
<b>Total Revenue</b>	<b>\$2,274,566</b>	<b>63%</b>	<b>\$1,397,970</b>	<b>39%</b>	<b>\$3,626,354</b>
<b>Expenditures</b>	<b>Proposed Village</b>	<b>Percent of Existing Town Budget</b>	<b>Town Remnant</b>	<b>Percent of Existing Town Budget</b>	<b>Existing Town</b>
General Government	\$340,475	58%	\$256,977	44%	\$584,200
Public Safety	\$630,232	168%	\$116,053	31%	\$375,303
Public Works	\$819,388	58%	\$490,749	35%	\$1,409,137
Health & Human Services	\$1,458	58%	\$1,042	42%	\$2,500
Culture, Recreation, and Education	\$14,562	65%	\$7,963	35%	\$22,525
Conservation & Development	\$2,332	58%	\$1,668	42%	\$4,000
Capital Outlay	\$389,886	36%	\$468,991	43%	\$1,092,929
Debt Service	\$76,233	58%	\$54,527	42%	\$130,760
<b>Total Expenditures</b>	<b>\$2,274,566</b>	<b>63%</b>	<b>\$1,397,970</b>	<b>39%</b>	<b>\$3,626,354</b>

Petitioners and Town of Harrison staff propose to offset any increase in law enforcement expenses by a similar reduction in road budget expenses. This would keep the tax levy rate the same regardless of the level of police protection is chosen. According to the Town, the road

<sup>72</sup> Ibid., at page 155.

expenses for the new village would be substantially less for the existing Town of Harrison. This is based on analysis of similarly sized communities. Dense, urban areas typically do not have the same road maintenance expenses that more extensive and mileage-heavy Towns have. The budget shown in **Table 18** assumes a five-officer program of police protection. However, if a three-officer program is ultimately chosen, then the road budget expenses would see a matching increase.<sup>73</sup>

The Board received correspondence<sup>74</sup> from several Town Board members opposed to the incorporation, in part because they claim that Petitioners’ proposed village budget is unrealistically optimistic regarding costs. The Board concedes that the budget as proposed is adequate, with no new services or added costs. The amounts appear to be reasonable, and it is conceivable that these service levels are what resident’s desire. Ultimately, the residents and elected officials will determine the budget for the new village. The Incorporation Review Board does not choose the community’s budget. Instead, the Board’s *Tax Impact* standard merely examines if the proposed village has the potential to raise sufficient revenue to operate as a village.

**Tax Rate**

**Table 19** shows the tax rates for the existing Town, proposed village and town remnant. Based upon the proposed budgets, the property tax rate for the proposed village and town remnant would remain at the existing Town’s current \$2.67 level.

**Table 19: Harrison Tax Rate**

	<b>Proposed Village</b>	<b>Remnant Town</b>	<b>Existing Town</b>
<b>Assessed Value</b>	\$499,174,900	\$356,461,400	\$855,636,300
<b>Property Tax Levy</b>	\$1,333,221	\$953,608	\$2,286,829
<b>Mill Rate</b>	.002670849	.002675206	.002672664
<b>Municipal Tax Rate</b>	\$2.67 per \$1000	\$2.67 per \$1,000	\$2.67 per \$1,000

**Table 20** shows that this proposed \$2.67 village tax rate compares favorably with other recently incorporated municipalities’ tax rates. Clearly, Harrison’s residents are currently able to fund their town’s current service levels, and since no significant additional services are anticipated, the proposed village should be able to accommodate any higher service levels needed or wanted by residents in the future without financial hardship or by imposing an unreasonable tax burden.

**Table 20: Comparable Tax Rates<sup>75</sup>**

<b>Community</b>	<b>Population</b>	<b>Tax Rate</b>
Howard (V)	16,140	\$3.31
Pewaukee (C)	12,450	\$2.89
Bellevue (V)	15,080	\$2.73
<b>Harrison (proposed village)</b>	<b>7,373</b>	<b>\$2.67</b>
Richfield (V)	11,480	\$1.59
Summit (V)	5,177	\$1.32

**Anticipated Future Capital Needs**

<sup>73</sup> Petitioners’ Submittal, page 129.

<sup>74</sup> Correspondence from Town of Harrison Supervisors Matt Lancaster and Tom Ultenbroek, August 6, 2012.

<sup>75</sup> Petitioners’ Submittal, page 138.

Neither Petitioners nor Town of Harrison staff anticipates any new capital needs due to incorporation. The Town remnant and new village would continue to operate out of the current Town hall and share services, equipment and staff.<sup>76</sup>

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<sup>76</sup> Ibid., page 141.

## **DETERMINATION**

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For the preceding reasons, it is the Board's finding that the proposed village will have substantially sufficient revenue to effectuate typical home-rule powers and services. Harrison's high equalized value, low tax rate, low debt level, high remaining debt capacity, and the fact that it already operates like a village, are all favorable factors. Petitioners' proposed budget cannot be considered to be unreasonable, especially since this proposed budget is essentially the budget that the existing Town of Harrison is operating under.

For all of the reasons mentioned in this section, the Board determines that the petition meets the *Tax revenue* standards set forth in §66.0207 (2) (a), Wis. Stats.

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## **SECTION 2(B) LEVEL OF SERVICES**

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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.*

Earlier this year, the City of Menasha passed a resolution<sup>77</sup> indicating a willingness to annex the entire area proposed for incorporation. However, because the City of Menasha and Town of Harrison also have an intergovernmental agreement between them that prohibits Menasha from contesting any attempt by Harrison to incorporate, Circuit Court Judge Gary Sharp found the City estopped from filing its resolution. Judge Sharp ordered the Department of Administration's Incorporation Review Board not to consider the City's resolution. As a result, this *Level of Services* standard will not be reviewed in this determination.

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<sup>77</sup> City of Menasha Resolution R-3-12



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

Section 66.0207(2)(c), Wis. Stats., requires that the Board consider “the impact, financial and otherwise, upon the remainder of the town from which the territory is to be incorporated”. This standard ensures the well-being of those town residents who are not included within the proposed village area, safeguarding that incorporation will not negatively impact residents by making continued governance of their remaining town difficult.

In this case, Petitioners indicate that there should be little to no impact on the remainder of the Towns of Harrison and Buchanan.<sup>78</sup> For the remaining Town of Harrison residents, the primary change will be the need to elect a new town board. For the of Town of Buchanan residents, there will likely be no change at all since this incorporation petition only includes a small section of road right-of-way along CTH KK. Buchanan residents may become aware of the change during snowfalls, because the new village would assume responsibility for snow removal on sidewalks along CTH KK. The Town of Buchanan has requested that petitioners and Town of Harrison staff influence the new village to maintain the same level of snow-plowing service that residents along this road have enjoyed in past years.

Because the Town of Buchanan remainder is so minimal, the rest of this statutory section will only examine the impact on the Town of Harrison remainder.

### **Physical Effects of Proposed Village Boundary and Shape**

The proposed village encompasses 4.7 square miles, leaving roughly 27 square miles of Town remnant. Because the shape of the proposed village is compact, its land uses urban, and its boundaries physically delineated by roads, identifying the town remnant territory is clear and readily apparent. The likelihood that area residents will be confused by what is village and what is remnant is remote.

The largest block of contiguous town remnant territory is east of the proposed village and north of the Village of Sherwood. Land uses are exclusively agricultural, with natural resource features such as streams and wetlands.

The Village of Sherwood nearly cuts the town remnant area in half, so that an area roughly ten square miles in size is isolated from the area to the north. However, the existence and extent of Sherwood precluded this incorporation petition. This petition did not create this situation, or worsen it. The Town remnant will simply need to manage this separation of its territory, just as the current Town of Harrison has been dealing with it for many years.

Beyond these two large areas, smaller Town remnant pieces are located west of the proposed village. As mentioned previously, these isolated and problematic islands and peninsula fragments of Town remnant territory have been created by incremental annexations by the Cities of Appleton and Menasha. These confusing fragments of Town remnant territory are dealt with by the boundary agreements, which call for them to eventually transfer to Appleton and Menasha.

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<sup>78</sup> Petitioners’ Submittal, page 161.

### **Population**

Of the Town's almost 10,912 residents, 7,373 live in the proposed village area, and roughly 3,600 live in the anticipated town remnant. As shown previously by **Table 10**, the Town remnant's population would make it the fourth most populous municipality in the county.

### **Financial Capacity**

As mentioned previously, and shown in **Table 17**, the Town remnant would have \$358 million in equalized value, which is 41.7% of the total value of the existing town. The remnant town would have the 3<sup>rd</sup> highest value among Calumet County municipalities, behind just Appleton and the proposed village. The remnant's equivalent value would be greater than all other Calumet County towns.

### **Proposed Budget**

Petitioners are proposing a budget for the town remnant of \$1.4 million, which is shown at **Table 18**. The current Town of Harrison budget is \$3.6 million, more than twice as much as proposed for the remnant. However, the fact that the vast majority of the remnant is rural means that service demands are likely to be minimal. Also, Petitioners anticipate that the proposed village and remnant town will enter into shared service agreements for providing all services, including fire protection, garbage, road maintenance, and administrative functions. This will spare the remnant town from having to duplicate these services and incur higher costs. According to petitioners, the most noticeable change in service provision will simply be maintaining separate accounts for the proposed village and remnant Town.<sup>79</sup>

Regarding police protection, the Town remnant would continue to receive service from the Calumet County Sheriff's Department, just as does the current Town of Harrison.

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<sup>79</sup> Petitioners' Submittal, page 161.

## **DETERMINATION**

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For the preceding reasons, the Board finds that the proposed Town of Harrison and Buchanan remnants would not be negatively impacted should incorporation occur. The shape of the remnant Town is compact and rational. The remnant has sufficient equalized tax base and population to enable the town government to continue to provide the services desired by residents.

Therefore, the Board determines that the 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**

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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.*

The “metropolitan community” term in the above standard is defined in s. 66.013(2)(c), Wis. Stats., to mean:

*[T]he territory consisting of any city having a population of 25,000 or more, or any two incorporated municipalities whose boundaries are within 5 miles of each other whose populations aggregate 25,000, plus all the contiguous area which has a population density of 100 or more persons per square mile, or which the department has determined on the basis of population trend and other pertinent facts will have a minimum density of 100 persons per square mile within 3 years.*

This standard evaluates how incorporation would impact the larger metropolitan area and region, and in particular how incorporation would impact the larger metropolitan area’s ability to resolve regional issues such as stormwater, transportation, groundwater, housing, and economic development, among other issues. The Board must be able to make an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

The metropolitan communities for this petition are the Cities of Appleton, Menasha, and Kaukauna, the Villages of Kimberly and Sherwood, and the adjoining Towns of Buchanan, Woodville, Stockbridge, and Menasha.

The Petitioners believe that an incorporated Village of Harrison will actually benefit the metropolitan community because its expanded powers and authority as a village will enable it to play a more significant role in regional development. For example, expanded economic development powers such as Tax Incremental Financing (TIF) will help the new village grow the commercial and industrial base of the region, as well as finance projects to improve regional stormwater management, transportation projects, and recreational and cultural opportunities.<sup>80</sup>

### **Intergovernmental Agreements**

Petitioners’ point out that the Town of Harrison has a long history of working closely with its municipal neighbors, as evidenced by its numerous boundary agreements, namely the following:

- *Inter-municipal Boundary Agreement between the City of Appleton and Town of Harrison* (1999) – entered into under s. 66.0301 Wis. Stats., this boundary agreement establishes ultimate boundaries between the City and Town and provides for the eventual elimination of numerous Town islands, peninsulas, and fragments of Town territory;

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<sup>80</sup> Petitioners’ Submittal at page 167.

- *Inter-municipal Agreement between the City of Menasha and Town of Harrison (1999)* - entered into under s. 66.0301 Wis. Stats., this boundary agreement establishes ultimate boundaries between the City and Town and eventual elimination of numerous Town islands, peninsulas, and fragments of Town territory;
- *Intergovernmental Agreement Between the Towns of Buchanan and Harrison (2010)* – this agreement was developed to prospectively bind the future village to only annex territory from the Town of Buchanan if Buchanan expressly approves of the annexation;
- *Fire Protection Agreement Between the Village of Sherwood and Town of Harrison (2002)* – entered into under s. 66.0301 Wis. Stats., this agreement provides that Harrison will provide fire protection to Sherwood;
- *Fire Protection Agreement Between the Towns of Woodville and Harrison (undated)* - this agreement provides that Harrison will provide fire protection to the Town of Woodville;
- *Police Services Agreement with Calumet County* – contract between the Calumet County Sheriff’s Department and the Town of Harrison for forty “extra” hours of patrol in the town per week. As mentioned previously, Petitioners anticipate that this contract would be extended to include 3-5 officers solely dedicated to the new village;
- Harrison and Appleton informally coordinate snow plowing in certain areas where Harrison plows city streets and Appleton plows Town roads, and
- Harrison and the City of Menasha cooperate informally on shouldering, culvert replacement, and similar road maintenance.

Harrison’s high level of cooperation is evident since this incorporation petition has not generated significant opposition or controversy among its municipal neighbors. No towns surrounding Harrison have intervened against the petition or voiced any opposition. The Board received no comments from the City of Appleton or Village of Combined Locks. While the City of Menasha did initially intervene against the petition, it subsequently dropped its opposition when it entered into an agreement with Harrison.<sup>81</sup> The City of Kaukauna also intervened against the petition, however chose not to submit written letters, legal briefs, or other materials that might have supported and clarified its opposition.

Harrison’s intergovernmental agreements, along with the lack of significant opposition from its municipal neighbors, demonstrate that the metropolitan community appears not to view the incorporation as an issue or a concern.

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<sup>81</sup> *A Release and Settlement Agreement between City of Menasha, Town of Harrison, and Petitioners (August 27, 2012).*

## **Stormwater Management Cooperation**

The Town of Harrison has taken a lead on managing the area's stormwater. This was evident to the Incorporation Review Board and Department staff in its site visit to the area prior to the July 31<sup>st</sup> public hearing in Harrison. Numerous large detention ponds and basins were observed within the proposed village area.

The Town of Harrison is a member of the *Northeast Wisconsin Storm Water Consortium* (NEWSC) which is a group created to implement DNR and EPA regulatory requirements and programs for stormwater management. Petitioners anticipate that the new village will join the group since stormwater management continues to be a major regional concern.

Creation of the Garners Creek Storm Water Utility may be Harrison's most significant regional contribution. As mentioned previously, this utility is a partnership between the Town of Harrison, Town of Buchanan, and Village of Combined Locks with boundaries based on the watershed's boundaries rather than municipal boundaries. **Map 2** shows that that the Garners Creek watershed covers both the proposed village and the remnant town. The Utility covers this same area. Petitioners anticipate that both the town remnant and new village will remain a member of the utility.<sup>82</sup>

## **Transportation**

The Town of Harrison participates in East Central Regional Planning Commission's Transportation Policy Advisory Committee to help plan and coordinate regional transportation systems and facilities. As mentioned previously, extending Eisenhower Drive, a regional collector road, continues to be the most anticipated regional project within the proposed village. Money has been set aside for construction and the roadway has been officially mapped.<sup>83</sup> The proposed village expects to continue to participate in regional transportation projects.

Also, as mentioned, the Town has entered into various informal snowplowing and road maintenance agreements with its municipal neighbors.

The Town of Buchanan indicates that it currently clears snow from the sidewalks along CTH KK. However, because this petition includes Buchanan road right-of-way territory along CTH KK, these sidewalks may come into the jurisdiction of Harrison should the incorporation be successful. Buchanan requests that Harrison continues clearing the snow along this sidewalk, just as these residents have come to expect over the years.<sup>84</sup>

## **Parks**

As mentioned previously, the Town of Harrison cooperates closely with its municipal neighbors regarding parks and recreation. For example:

- Harrison is coordinating with Appleton and Menasha to jointly develop neighborhood parks;
- Harrison continues to work with Calumet County on extending the Friendship Trail through the Town to connect Appleton with High Cliff State Park;
- Buchanan and Harrison cooperate to jointly maintain and develop Darboy Community Park, and they also share recreational program staff.

Petitioners anticipate that the new village will continue these cooperative ventures.

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<sup>82</sup> Petitioners' Submittal, page 169.

<sup>83</sup> Ibid., page 169.

<sup>84</sup> Email correspondence from John St Peter, Town of Buchanan attorney, October 11, 2012.

## **Plans**

The comprehensive plans of Harrison's municipal neighbors do not appear to identify any conflicts with the Town of Harrison or the proposed village.

Specifically, the City of Appleton's Comprehensive Plan acknowledges the ultimate boundaries provided by the *Inter-municipal Boundary Agreement between the City of Appleton and Town of Harrison* (1999) and does not envision future land uses or territory beyond the City Growth Areas set forth by the agreement.

The same is true of the City of Menasha's comprehensive plan.

The City of Kaukauna's Comprehensive Plan does propose future land uses beyond the City's borders east of the proposed village area, however not within the proposed village area itself.<sup>85</sup>

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<sup>85</sup> *Y2Kaukauna: A Comprehensive Plan for the Year 2000 and Beyond*. See future land use map at section IV.

## **DETERMINATION**

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For all of the preceding reasons, the Board finds that Harrison has shown itself to be a good citizen of its region, and a leader with regard to managing stormwater, parks, and bike and pedestrian trails.

Therefore, the Board determines that incorporation of the proposed village will not hinder the metropolitan area and that the petition meets the *Metropolitan Impact* standard set forth in §66.0207(2)(d), Wis. Stats.



## **APPENDIX**

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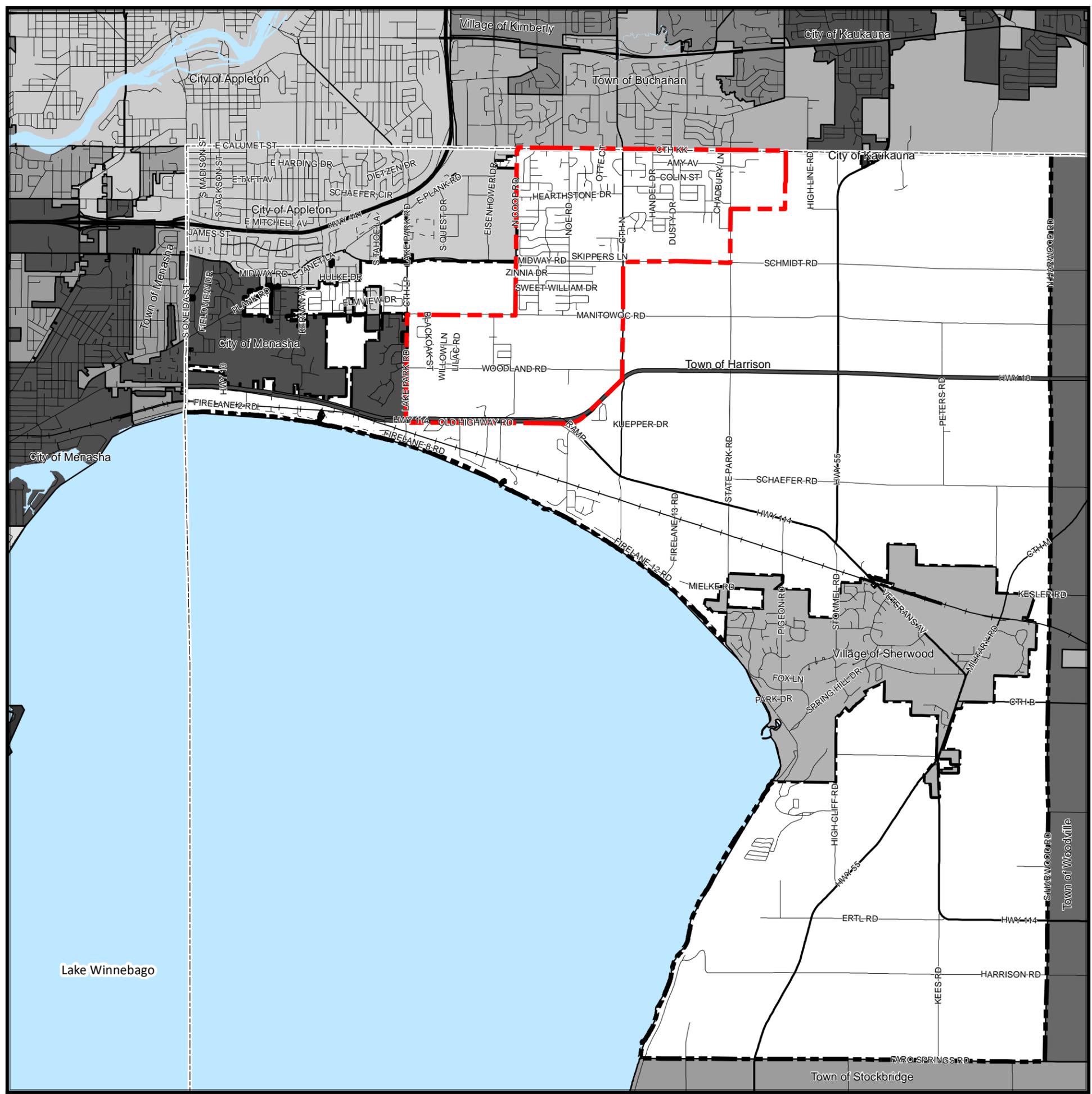
### **APPENDIX A: Maps**

Map 1	Proposed Village of Harrison & Neighbors
Map 2	Sub-Watersheds in Harrison
Map 3	Sewer Service Areas
Map 4	Parks & Trails
Map 5	School District Boundaries
Map 6	Population Densities in Harrison
Map 7	Existing Subdivisions in Harrison
Map 8	Lands for Sale or Lands Ready to Develop

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# Map 1

## Proposed Village of Harrison



### Legend

Proposed Village Boundary	Municipal Boundary
County Boundary	City of Appleton
Rail Roads	City of Kaukauna
<b>Road Centerline</b>	City of Menasha
Local	Town of Stockbridge
Federal	Town of Woodville
State	Village of Sherwood
County	City of Appleton
Private	City of Kaukauna
	Town of Buchanan
	Town of Grand Chute
	Village of Combined Locks
	Village of Kimberly
	Village of Little Chute
	City of Appleton
	City of Menasha
	City of Neenah
	Town of Menasha
	Town of Neenah
	Town of Vinland



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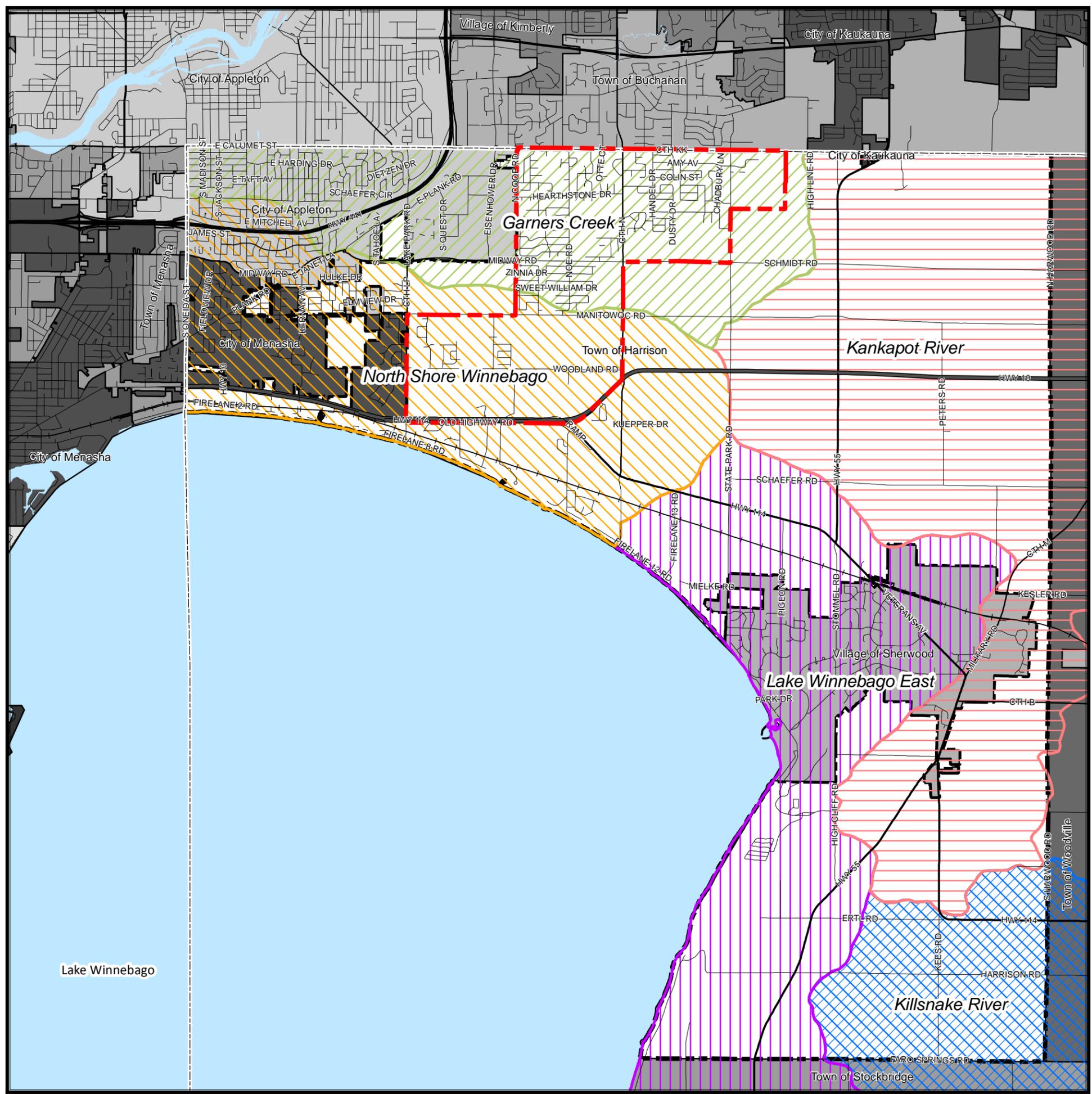
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# Map 2 Sub-Watersheds



### Legend

Proposed Village Boundary	Municipal Boundary
County Boundary	City of Appleton
Rail Roads	City of Kaukauna
<b>Road Centerline</b>	City of Menasha
Local	Town of Stockbridge
Federal	Town of Woodville
State	Village of Sherwood
County	City of Appleton
Private	City of Kaukauna
<b>Sub-Watersheds</b>	Town of Buchanan
Garners Creek	Town of Grand Chute
North Shore Winnebago	Village of Combined Locks
Lake Winnebago East	Village of Kimberly
Kankapot River	Village of Little Chute
Killsnake River	City of Appleton
	City of Menasha
	City of Neenah
	Town of Menasha
	Town of Neenah
	Town of Vinland



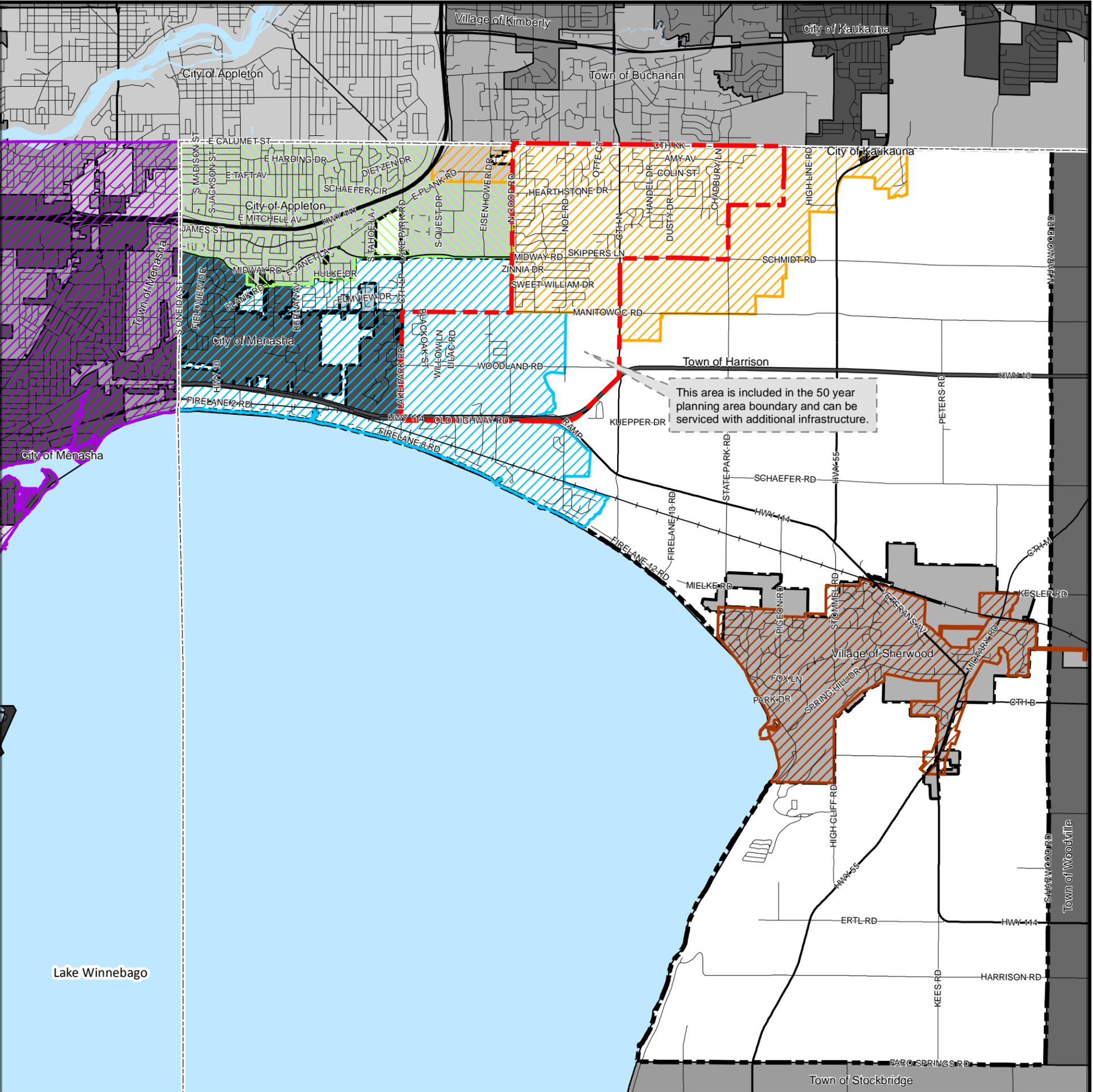
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# Map 3 Sewer Service Areas



**Legend**

Proposed Village Boundary	Municipal Boundary
County Boundary	City of Appleton
Rail Roads	City of Kaukauna
<b>Road Centerline</b>	City of Menasha
Local	Town of Stockbridge
Federal	Town of Woodville
State	Village of Sherwood
County	City of Appleton
Private	City of Kaukauna
<b>Sewer Service Area</b>	Town of Buchanan
Appleton	Town of Grand Chute
Darboy Sanitary District	Village of Combined Locks
Waverly Sanitary District	Village of Kimberly
Menasha Win	Village of Little Chute
Sherwood	City of Appleton
	City of Menasha
	City of Neenah
	Town of Menasha
	Town of Neenah
	Town of Vinland



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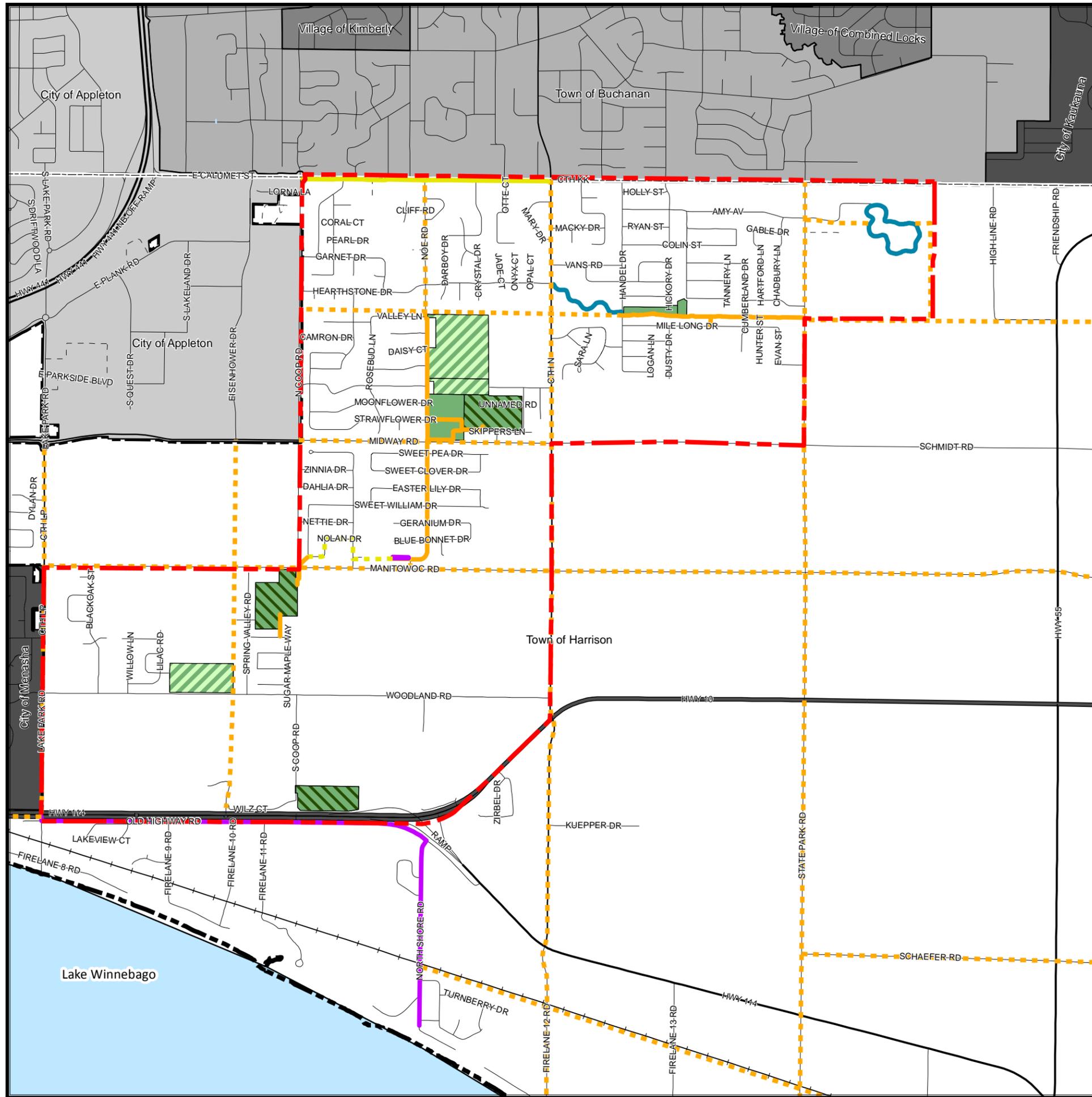
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# Map 4

## Existing and Future Parks, Open Spaces & Trails



### Legend

Proposed Village Boundary	<b>Municipal Boundary</b>
County Boundary	Town of Harrison
Railroads	City of Appleton
<b>Road Centerline</b>	City of Kaukauna
Local	City of Menasha
Federal	Town of Stockbridge
State	Town of Woodville
County	Village of Sherwood
Private	City of Appleton
<b>Parks</b>	City of Kaukauna
Future Park	Town of Buchanan
Park	Town of Grand Chute
School Playgrounds & Open Space	Village of Combined Locks
<b>Trails</b>	Village of Kimberly
Trail, Existing	Village of Little Chute
Trail, Proposed	City of Appleton
Sidewalk, Existing	City of Menasha
Sidewalk, Proposed	City of Neenah
Bike Lane, Existing	Town of Menasha
Pond Access Trail, Existing	Town of Neenah
	Town of Vinland



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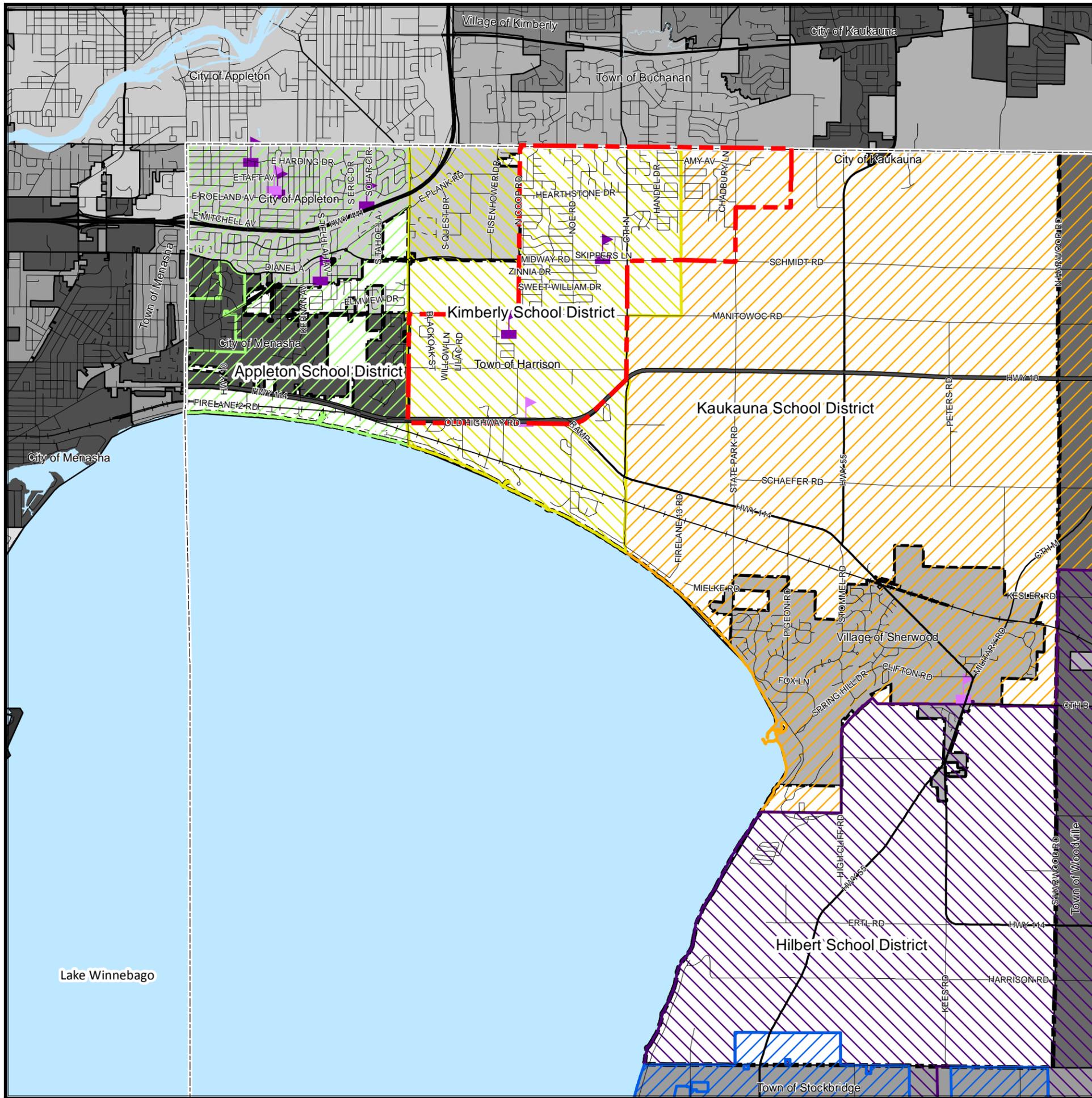
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W5298 Hwy 114  
Menasha, WI 54952  
920.989.1062

# Map 5 School Districts



### Legend

	Proposed Village Boundary		Municipal Boundary
	County Boundary		City of Appleton
	Rail Roads		City of Kaukauna
<b>Road Centerline</b>			City of Menasha
	Local		Town of Stockbridge
	Federal		Town of Woodville
	State		Village of Sherwood
	County		City of Appleton
	Private		City of Kaukauna
<b>School Districts</b>			Town of Buchanan
	Kimberly School District		Town of Grand Chute
	Kaukauna School District		Village of Combined Locks
	Appleton School District		Village of Kimberly
	Hilbert School District		Village of Little Chute
	Stockbridge School District		City of Appleton
<b>School</b>			City of Menasha
	Private		City of Neenah
	Public		Town of Menasha
			Town of Neenah
			Town of Vinland



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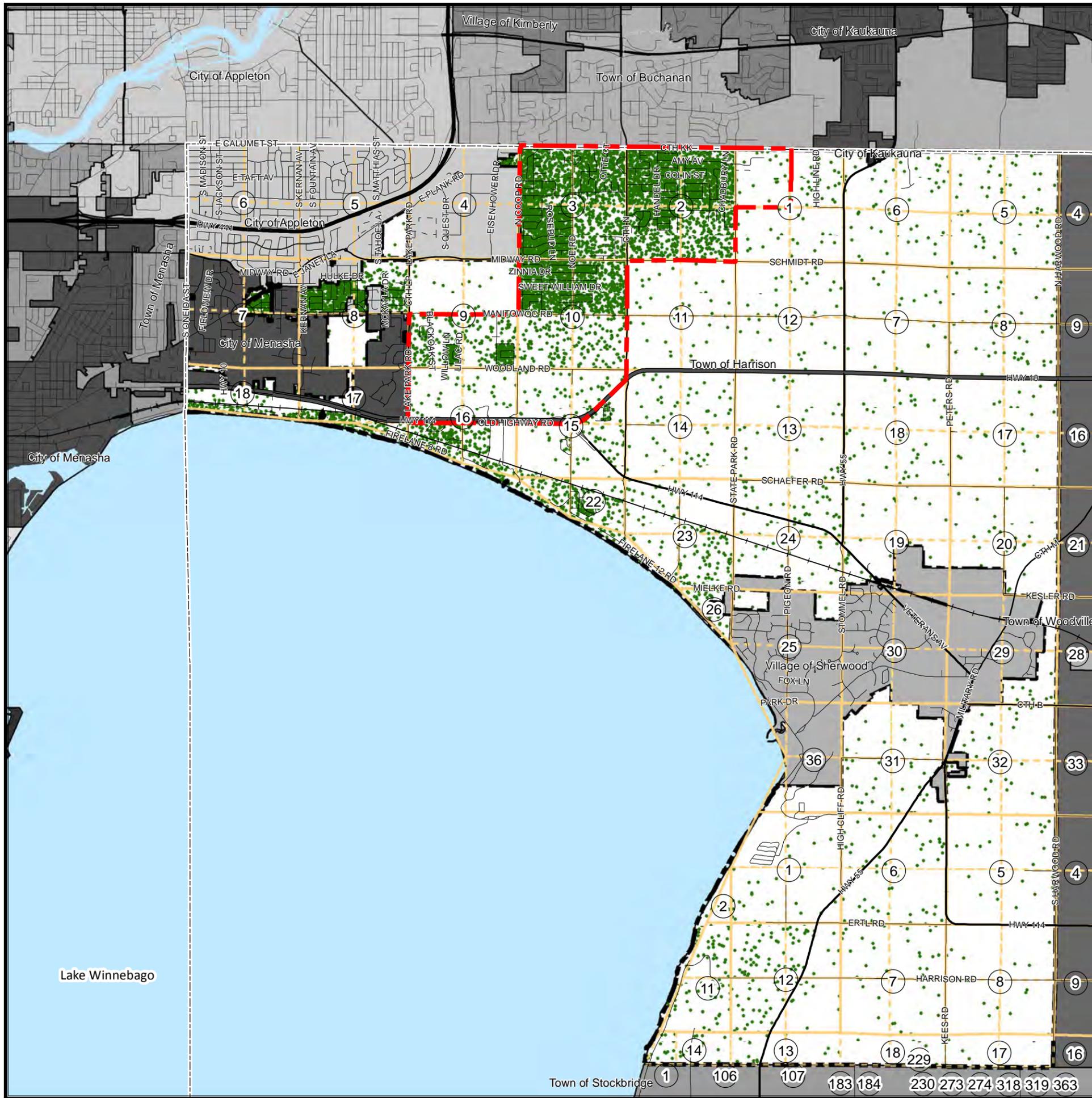


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# Map 6

## 2010 U.S. Census

### Population Density Distribution



**Legend**

Proposed Village Boundary	Municipal Boundary
County Boundary	City of Appleton
Rail Roads	City of Kaukauna
<b>Road Centerline</b>	City of Menasha
Local	Town of Stockbridge
Federal	Town of Woodville
State	Village of Sherwood
County	City of Appleton
Private	City of Kaukauna
PLSS - Section	Town of Buchanan
PLSS - Quarter Section	Town of Grand Chute
<b>Population Density</b>	Village of Combined Locks
1 Dot = 1	Village of Kimberly
POP10	Village of Little Chute
	City of Appleton
	City of Menasha
	City of Neenah
	Town of Menasha
	Town of Neenah
	Town of Vinland



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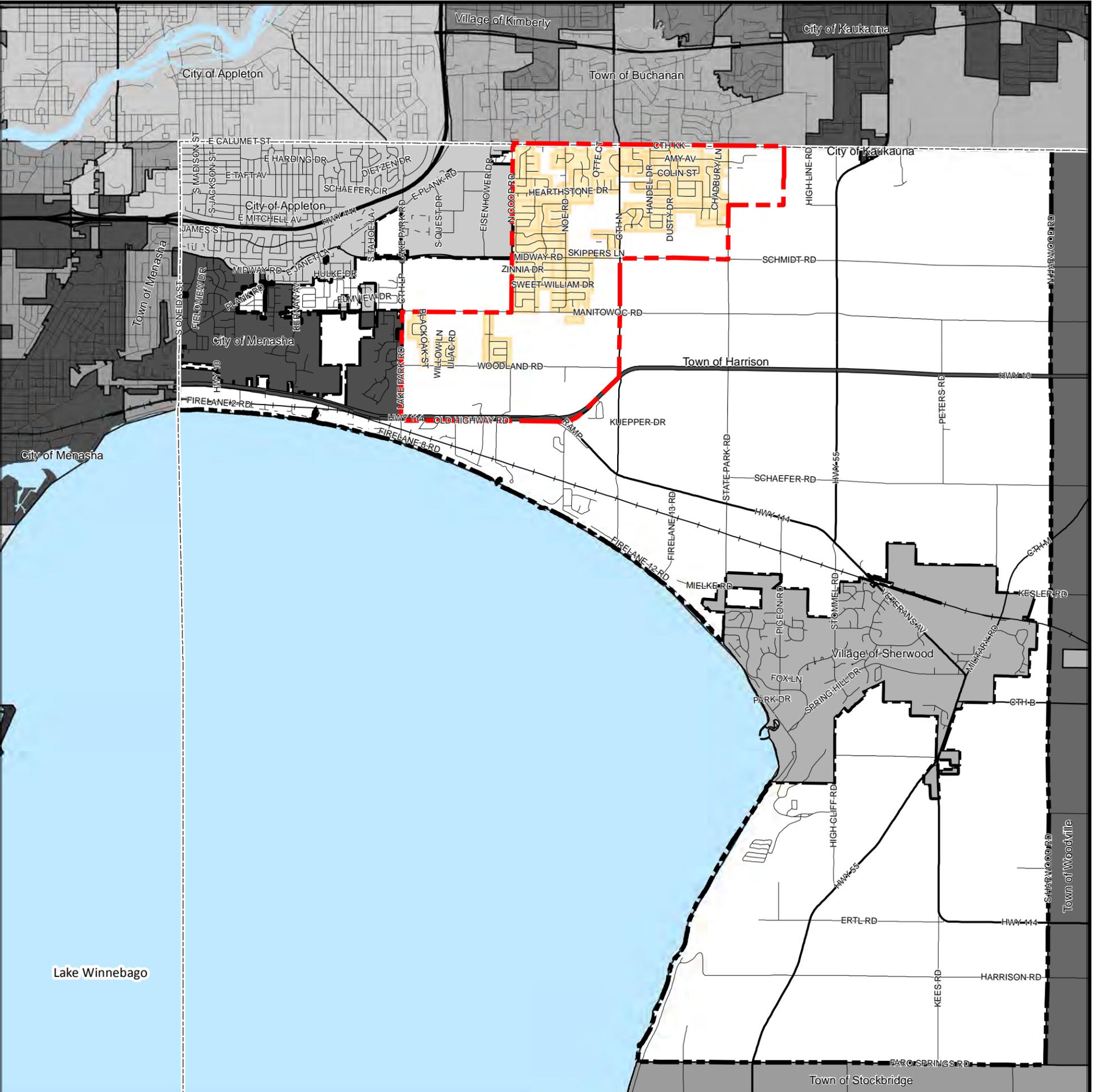
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# Map 7

## Existing Subdivisions within Proposed Village Area



**Legend**

Proposed Village Boundary	Municipal Boundary
County Boundary	City of Appleton
Rail Roads	City of Kaukauna
<b>Road Centerline</b>	City of Menasha
Local	Town of Stockbridge
Federal	Town of Woodville
State	Village of Sherwood
County	City of Appleton
Private	City of Kaukauna
Existing Subdivisions	Town of Buchanan
	Town of Grand Chute
	Village of Combined Locks
	Village of Kimberly
	Village of Little Chute
	City of Appleton
	City of Menasha
	City of Neenah
	Town of Menasha
	Town of Neenah
	Town of Vinland



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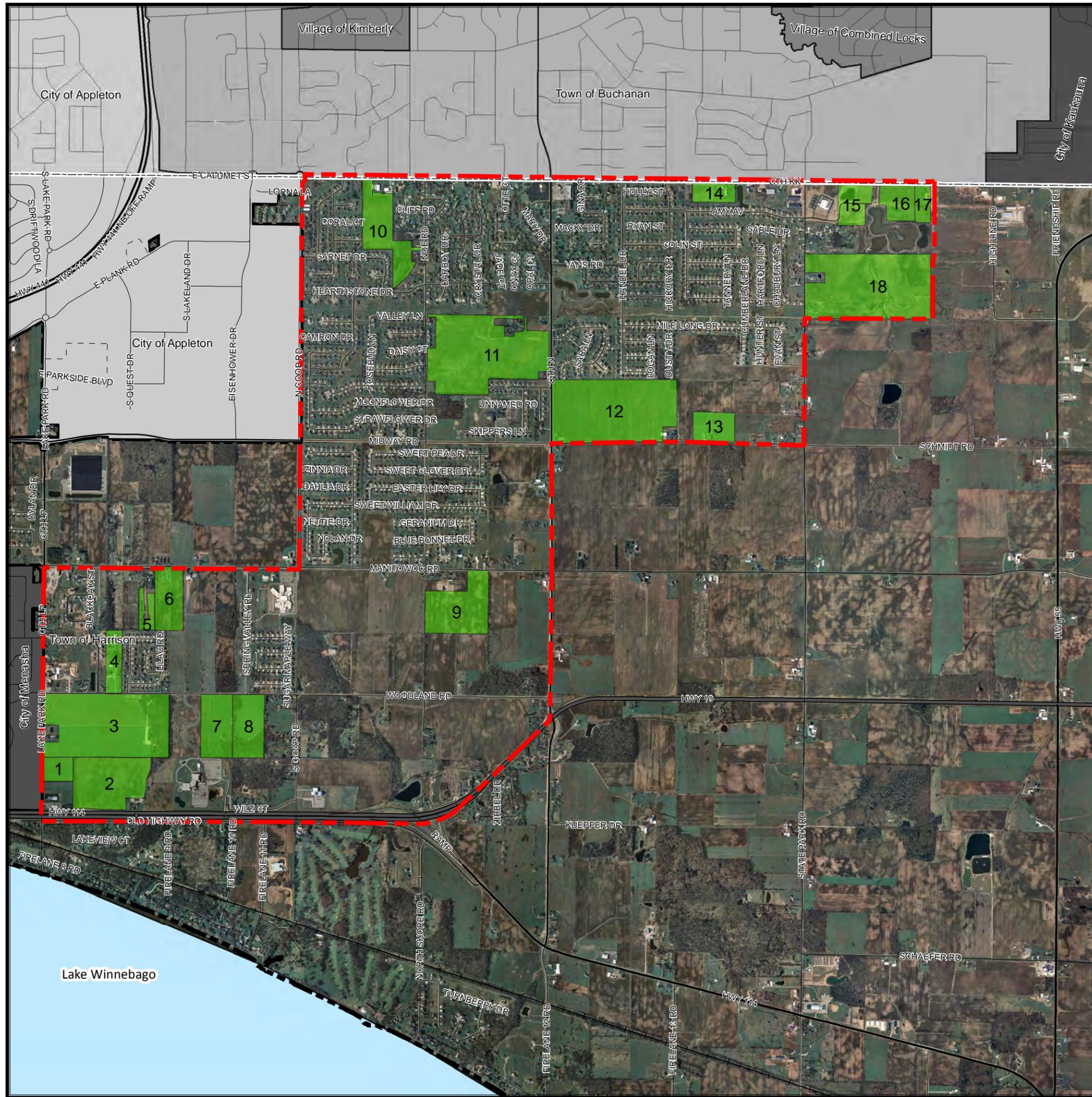
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# Map 8

## Lands for Sale or Lands Ready to Develop



**Legend**

Proposed Village Boundary	<b>Municipal Boundary</b>
County Boundary	Town of Harrison
Rail Roads	City of Appleton
<b>Road Centerline</b>	City of Kaukauna
Local	City of Menasha
Federal	Town of Stockbridge
State	Town of Woodville
County	Village of Sherwood
Private	City of Appleton
Lands for Sale or Ready to Develop	City of Kaukauna
	Town of Buchanan
	Town of Grand Chute
	Village of Combined Locks
	Village of Kimberly
	Village of Little Chute
	City of Appleton
	City of Menasha
	City of Neenah
	Town of Menasha
	Town of Neenah
	Town of Vinland



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## **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 \$25,000.

### **Members**

#### Department of Administration Member and Chair

Ed Eberle, Chair of Incorporation Review Board  
Administrator, 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, Mayor  
City of Lodi

#### Wisconsin League of Municipalities Member

Rich Eggleston

#### Staff

Erich Schmidtke  
Renee Powers  
Phil Wells

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