

MEMORANDUM

To: State of Wisconsin - Department of Administration & Incorporation Review Board

From: James M. Kalny & Tanya Fonseca, AICP

Date: July 24, 2020

Subject: Petitioner Post-Hearing Response to Intervenor's Presentation at the July 14, 2020 Public Hearing

The Intervenor makes several arguments against the incorporation of Greenleaf. Each argument will be addressed in this document:

- I. REAL MOTIVATION BEHIND THE INCORPORATION - PAGES 1-8
- II. DOES NOT MEET STATUTORY REQUIREMENTS FOR INCORPORATION - PAGES 9-20
- III. SPLITTING PARCELS THROUGH INCORPORATION - PAGE 21
- IV. INCONSISTENCIES THROUGHOUT TOWN DOCUMENTS AND PLANS - PAGES 22-24
- V. ADDITIONAL INFORMATION REQUESTED BY THE DOA - PAGE 25

I. REAL MOTIVATION BEHIND THE INCORPORATION

As Chair Vick stated at the outset of the hearing, the role of the IRB is to determine whether Greenleaf complies with the applicable statutory standards of Wis. Stats. § 66.0207. However, the Intervenor's first argument ignores that charge and instead attempts to divert the Board's attention to speculative and parochial topics that are not included in the statutory requirements. In addition, this intentional misdirection is based in speculation and assumption not supported by facts or documentation.

Many incorporated areas object to their neighbors becoming incorporated and subsequently including large areas of undeveloped areas of land. When that happens, the typical resolution is for the applicant to reduce their area for incorporation drastically. In this case, Petitioners carefully the proposed incorporation area. It is also relevant that the result is a well-defined incorporation area that is 2 miles from the boundary of the Intervenor.

1. In its first slide the Intervenor claims:

- True motivation = to incorporate the entire Town using the “Harrison Two-Step”
 - To limit growth of the Village of Wrightstown.
-

The Incorporators Presentation Stated the Motivation for Incorporation

In the face of a pandemic 18 people appeared and spoke in favor of the incorporation at the public hearing. Many more - 113 people - wrote expressing their positive support for the incorporation. Copies of those public comments are included in this submittal. As incorporators presentation showed, considerable information was disseminated, and considerable public meetings were held to be sure that the public was informed of and part of the incorporation and the reasons for it.

As the incorporators explained, the Greenleaf community is expanding, the timing is good for incorporation. As the extraterritorial jurisdiction of the Intervenor moves toward the new village, Greenleafer’s do not want to wait until others have a say in their development. The use of tax incremental financing and a more focused approach to Greenleaf development are just a few of the rationale that the petitioners explained in their presentation. The intervenor simply chose not to believe what was said and asserts their own speculative motivation.

In support of their assertion, Intervenor presented a news article that states that the “Harrison two-step” is being contemplated. We ask the Incorporation Review Board (IRB), to note that no one is quoted in that article. We also think it is relevant that neither the Greenleaf Incorporation Review Committee or the Town Board ever considered the issue of town-wide incorporation during any meeting or even discussed the extent that annexation might take place after incorporation. The notion of the Harrison two-step or any mention of extensive annexation does not appear in any of the considerable incorporation information that was disseminated to the public over the last two (2) years. While it is true Harrison was invited to a meeting almost two (2) years ago to explain the incorporation process they had recently completed, there has been no motion, agenda item or other action to consider town-wide annexation. There certainly is no commitment to that result on the part of the town or the incorporators.

We ask the IRB to consider the evidence presented rather than the speculation proposed by the Intervenor in an effort to divert the attention of the IRB from the issue at hand, that is compliance with the statutory incorporation requirements.

*This Petition is About the People of Greenleaf Choosing Their Own Form of Government,
Not About the Development Concerns of the Village of Wrightstown.*

The Intervenor’s participation in this proceeding is based on Wis. Stat. § 66.0203(5), which allows participation in an incorporation proceeding by anyone found by the circuit court to be a “party in interest.” While the statute, itself, does not define a “party in interest,” the legislative drafter’s notes indicate that this section was designed to allow a party with a *legitimate* interest to enter the proceedings. *In re Incorporation of Town of Fitchburg*, 98 Wis. 2d 635, 651, 299 N.W.2d 199 (1980).

But what is a *legitimate* interest of a third party in an incorporation proceeding? The Intervenor apparently believes that its own self-interest, particularly its self-interest in future expansion, is so legitimate that it should take precedence over the interest of citizens of a different town to determine their own form of government. Even before Wis. Stat. § 66.0203(5)'s predecessor was enacted, however, the Wisconsin Supreme Court had already clearly and directly declared that other municipalities' self-interests shall play no role, and shall bear no weight, in the incorporation efforts of electors in other municipalities.

Specifically, Petitioners direct the Board to *Schatzman v. Town of Greenfield*, 273 Wis. 277, 77 N.W.2d 511 (1956). In that case, the Town of Greenfield began proceedings to incorporate as a city, and the City of Milwaukee petitioned for leave to intervene, insisting its joinder was necessary because of the following issues: (1) when the Town began its incorporation efforts, the City of Milwaukee had already started proceedings to annex certain town areas; (2) the City of Milwaukee was servicing some of such areas; (3) the City of Milwaukee owned certain property within the town; and (4) "if the Town succeeds in its purpose to become a city the necessary and proper expansion of the City of Milwaukee into the Town of Greenfield will be thwarted[.]" *Id.* at 279.

The Wisconsin Supreme Court resoundingly rejected the City of Milwaukee's arguments, including its position that incorporation would "thwart" any future expansion attempts. In doing so, the Supreme Court strongly stated:

It is a startling proposition that a City has a right, which a Court must recognize, to commence or participate in an action to block the attempt of electors in another municipality to choose their own form of government.

Id. The Supreme Court went on to state that "[t]here is no such enactment in favor of the intervention of cities *and if there was* the incorporation does not attach or detach any territory to or from the City nor are its boundaries altered in any respect if the proposed incorporation is accomplished. The only loss is of territory which the City now has no claim to but which it would like to reserve for its future attempt to annex." *Id.* at 280 (emphasis added).

Town of Greenfield's predating of Wis. Stat. § 66.0203(5) is inconsequential - per the Supreme Court, even if there was a statute allowing participation of outside municipalities, which there now is, concerns of an outside municipality that incorporation may impede its own future growth are irrelevant.

While the Intervenor has a right to participate, their parochial interests of protecting its borders are not related to a § 66.0207 standard and under the guidance of the State Supreme Court, not relevant.

It is not Appropriate to Consider the Annexation Rights of a New Village in Determining Whether to Allow the Vote to Incorporate.

The possibility of annexation after incorporation is not included as standard in the incorporation process. Further, there is no reason why the existence of the annexation rights afforded to incorporated entities should be considered a reason to deny the Greenleaf application. In fact, that reasoning is contrary to precedent. What rationale is there for

saying Greenleaf should be denied that statutory right when it incorporates or more drastically, that Greenleaf should be denied incorporation because the annexation right exists?

In *Ries v. Village of Bristol*, Court of Appeals 2014. The plaintiffs argued that Bristol was using the incorporation process as a manipulative technique to circumvent the requirement for their incorporation - thus ending the process by annexing the remainder of the town after its efforts had failed to incorporate the majority of the town. The Court of Appeals rejected this argument out of hand stating:

“If the legislator wanted to include a provision in the annexation statutes precluding the method of annexation taken by the Village here, it could have done so. The fact that no such requirement is included in the annexation statute lends strong support to the position that it is permissible for a Village to annex territory by referendum that the Village of precluded from incorporation because of the failure to meet the statutory requirements for incorporation. The ability to annex after incorporation is an inherent part of being a Village. *The fact that that right exists should not be considered in determining whether the elements of the incorporation statutes have been met.*” (emphasis ours)

It is hard to imagine a clearer directive of the court with regard to the consideration of the right to annex as a consideration in the incorporation process.

2. Also in the first slide of the Intervenor’s presentation, the Intervenor informs this body and the public:

- No representation in the proposed incorporation boundaries
 - “At the time of this application, those holding elected positions on the Town Board and the Town Clerk all reside within the remnant town.” (p.114)
- Few full-time employment opportunities in the proposed Village
- Town Board has spent upwards of \$150,000 of taxpayer money pursuing incorporation

None of these points are remotely similar to the statutory requirements of Wis. Stats. § 66.0207 The reason for raising these issues, other than mean-spiritedness, is hard to fathom.

Based on the first bullet point above the Intervenor is concerned that there will not be leadership in the new village. The significant public interest in the incorporation speaks volumes to the contrary. We are confident there are enough competent, intelligent, community minded and motivated citizens in Greenleaf to staff the Village government they are supporting. This concern of the Intervenor is as unsupported, as it is insulting.

With regard to the full-time job opportunities in the new Village the Petitioner’s submission analyzed jobs at pp 64 and 65. Also as several people testified, we are optimistic that will change - in fact, that was a motivator for the incorporation. The record contained testimony of recent business expansion and the expectation that job growth will continue. Whether there are full-time job opportunities in the new village is not a consideration under the statutory criteria.

What the Town Board has spent on this matter is not relevant to the IRBs consideration. Again, the motivation for raising this point to this body is at best suspect. Please note that of the over 35 people in attendance, none objected to the Intervenor's cost revelation and several people who spoke after the Intervenor's presentation were not dissuaded by the cost. The reason is simple, the amount spent is not relevant to whether Greenleaf should be incorporated. The people of this community want to initiate a new form of government.

3. The Intervenor asserts in its 5th slide:

- This is an unneeded, unnecessary, and competing new layer of government
 - Creating an additional annexing municipality
 - Counter to the Town's Comprehensive Plan
-

As to the main bullet point above, the incorporators and all those who appeared and testified - beg to differ. The people of the Greenleaf area believe this layer of government is needed. A sense of direction centered in Greenleaf is long overdue. The reasons why it is needed were reviewed by the Petitioner in the Petitioner's presentation. That the Intervenor wishes to ignore the express reasons given by the petitioner and citizens of Greenleaf and the surrounding Town does not change the validity of the reasons.

The use of the term "competing" is telling. Competing with who? The Town is welcoming an incorporated community that shares its vision. Again, the "unneeded layer of government is not a concern of Greenleaf or the Town of Wrightstown. These are the parochial, concerns of the Intervenor.

As the Town Chair stated when addressing this incorporation, the Town is not concerned about the new Village's extraterritorial jurisdiction or annexation power as the interests of the incorporators are generally consistent and those of the people in the remnant town. The Town has bitten off a considerable project in the new digester and will still have it is 47.3 miles of road to maintain and 1,475 residents to serve. The Town Board can concentrate on the rural interests of the remnant town while the new government can work toward the interests of Greenleaf in anticipated cooperation with the Town.

That this action is contrary to the Town's Comprehensive Plan is another unsubstantiated assertion. The Town plan was updated last year with full knowledge of the incorporation. The Intervenor should enlighten the IRB, Town of Wrightstown and incorporators of what we missed. We would also be interested in why compliance with a comprehensive plan would be relevant in any incorporation.

4. The slide on page 5 also states:

- Mediation was offered by the Village of Wrightstown and refused by the Town
 - Village of Wrightstown has sought a boundary agreement with the Town for many years
-

Petitioners point to the fact that boundary dispute resolution and mediation is not a requirement in the incorporation processes and not a factor in determining whether incorporation should be allowed. Again, this issue is not relevant to the determination of this body, but, as it has been raised, and as it may shed a negative light on the Town of Wrightstown and the incorporators, we will briefly address it.

The Intervenor asserts it has always been willing to negotiate a boundary resolution. Historically so has the Town. It also should be noted that while lip service was always given to reaching a boundary agreement, very little has come to fruition while there have been several attempts.

Town records show that in 1997 the parties met to discuss an agreement regarding the annexation of Shanty Road to facilitate the construction and use of that property by the school district. Ultimately in 1999 an agreement was reached. Notably the agreement required intervention of the Brown County Plan Commission to assist in reaching the agreement in the over 2-year process.

In 2004 the Town minutes' reveal more boundary dispute discussions. In June of 2005, the Town retained counsel to draft a boundary agreement, a copy of that draft is attached as Exhibit A. In June of 2007, the Town appointed a 3-person committee to work with the Village of Wrightstown. The committee met with the Village on at least one occasion, however an agreement was never reached, and discussions ceased. The current Town Board Chair was involved in those discussions and recalls the final session in that round of negotiations. While the parties were considering a Town proposal, the Village President told Town Chair, "here is what I think of your boundary agreement" or words to that affect and dropped it on the floor.

Nonetheless when the Village of Wrightstown requested to meet for boundary agreement negotiations in June of 2010, the Town passed a resolution to begin discussions with the Village of Wrightstown. The town has no further record of action after the resolution passed.

In September of 2016, the Town Board and the Village's Boundary Committee began meeting in the hopes of reaching a boundary agreement. In the first three meetings in September through November preliminary matters were discussed and little progress was made. During this time the Town Board, intent on making a concerted effort to reach agreement, met on its own to discuss the various types of boundary resolution and to form a strategy for discussions with the Intervenor. In April of 2017, the Town fashioned an offer that was presented to the Village's Boundary Committee on or approximately May 23, 2017 (a copy of the offer and the materials prepared for that meeting is attached as Exhibit B). The proposal was the product of considerable thought and including four (4) different areas and the direction forward for the communities. In exchange, the Town requested the Village of Wrightstown to look outside the box and give the Town some direct assurance that the expanse to the east of the Village's growth on the east side of the river would be limited.

The parties met three more times altering the proposal at each meeting. The Town amended the agreement after each meeting and in early August the Town believed the parties were close to agreement the text of which is attached as Exhibit C.

When Exhibit C was being discussed at a meeting in August, the parties allowed opened the meeting to hear from interested parties. A past elected official of the Village got into an argument with one of the Town Board members and when the Town Board official asked why the Village would not be willing to do what is being requested, the Village resident responded because we do not have to.

When the Wrightstown Village Board reviewed Exhibit C a few days later, the Board decided to discontinue negotiations.

The Town later received the letter attached as Exhibit D. Note that the board directed the Administrator to discontinue negotiations, not to explore alternatives let alone to counteroffer. Once again, the Town had worked hard, reached what it thought was an agreement with the Village's Boundary Committee, only to have the rug pulled out by the Village Board. The Town Board was not interested and continues not to be interested in negotiating a boundary agreement where there is little evidence of commitment to the process by the Village Board as a whole.

The Town Boundary seriously considered the option of mediating during this process. After an initial inquiry to the Village, the Town elected not to delay the determination of these proceedings with another (likely) lengthy attempt to reach agreement with the Intervenor. The unnecessary condescending and inflammatory comments of the Intervenor in this matter also evidences why the Town is hesitant to delay these proceedings and expend additional funds for mediation. As the Village pointed out the Town has invested a lot in this process. As the record shows there is a lot of interest in the new village government. The Town and the Petitioners would like to see the incorporation issue determined without delaying it further. The Town and Petitioners believe this desire is shared by the citizens who have signed and appeared in support of the petition.

We therefore request the IRB to focus on the statutory compliance issues and avoid the attempts of the Village to misdirect this matter to considerations that are not relevant to the Wis. Stats. § 66.0207 standards.

5. In slide 6 Intervenor asserts:

- Long-term planning outcomes of approving this incorporation could be catastrophic for the area
- Village of Wrightstown has annexed 571 acres from the Town over the past 20 years (Avg. 29 acres per year)
- If the Town incorporates over the next 20 years (“Harrison Two-Step”), that’s an average of 1,024 acres of land per year
- 35 times the current rate

The obvious speculation of the first bullet is only overshadowed by the lack of any substantive argument. While the Intervenor does not bother to list them, there are likely many reasons that a town-wide annexation (aside from the sheer size of the resulting Village) would not be wise. We are curious what specifically the catastrophic results would be.

It may be speculation on our part, but we would like to think the Village of Greenleaf will be guided by well-intended intelligent and community minded people who will weigh the public interest and make informed decisions. We think that planning decisions should be left to the Village of Greenleaf government, certainly not the Intervenor.

The Intervenor’s insistence in the new village’s inability to govern wisely is rendered even more unfounded by the fact that the new village is 2 miles away and that a Wis. Stats. § 66.0301 agreement is not automatic. To pull off the “Harrison two-step” the new village would have to reach across that 2-mile expanse. The fact is that even if the new village leaders thought a massive annexation was well advised, Wis. Stat. § 66.0301(6) requires notice to all property owners and whose jurisdiction is affected and offers a referendum if one out of five of those property owners object to the incorporation agreement.

As the Town Chair noted, there will be no change in services and the real estate taxes for the remnant town will likely decrease. Assuming tax rate is a consideration in annexation, the mass annexation the Intervenor speculates may encounter some opposition.

Finally, and most salient, the statutes instruct that in an isolated village petition the issue of impact on regional issues is not a statutory factor. Again, the Intervenor is ignoring the guidance of the courts, statutes and this body’s rules and attempting to get this body to consider issues not within its purview.

We ask that the IRB not speculate on what would be the in the best interest of the Intervenor Wrightstown or what actions might be taken by the new village board. We trust this body will analyze the standards of Wis. Stats. § 66.0207 as they relate to the Petition. When so doing we ask that you consider the groundswell of support by Greenleaf citizens for incorporation. We ask the Board to allow those citizens to choose a form of government that allows them to determine their local affairs.

II. DOES NOT MEET STATUTORY REQUIREMENTS FOR INCORPORATION

Slides 9-11 state the following:

- A. Doesn't meet the **minimum density** for the area beyond the most dense half square mile
- **Wis. Stats. 66.0207(1)(b)** requires the territory beyond the most densely populated half square mile to meet a minimum average density of 30 housing units per quarter section (160 acres) or 0.1875 housing units per acre
 - This requirement is **not** met:
 - Only 0.1746 dwelling units per acre (50 housing units in 286.35 acres)
 - Requesting a waiver of the quarry (46.1 acres) because of “water, terrain, or geography prevents development.”
 - Without the quarry = narrowly met requirement by 0.0205 housing units/acre
 - Quarry is included because of the need to “provide village-level resources to the planning of the quarry’s long-term future and the long-term future (of the quarry) is likely to yield development aligned with that of an incorporated community.” (p.94).
 - **Essentially a double-dip, the proposed Village doesn't want the quarry today so it can meet statutes, but plans to develop it in the future**
-

The quarry is included in the boundary because it is part of the proposed village - physically, economically, and socially. Its inclusion is appropriate, and it makes sense. Waiving the quarry from the Territory Beyond the Core does not diminish its importance to, and inclusion in, the Greenleaf community. The original 2004 quarry reclamation plan and 2006 updates are included in this submittal. This document outlines conditions, post-mining land use, and does not include a timeline for closure.

Key reasons for the Petitioners' request for waiver of the quarry are:

1. Until quarrying operations cease, for which there is no timeline, the quarry land cannot be developed (other than as an ongoing quarry). The statutes specifically allow for waivers of such property and, thus, exemption from the Territory Beyond the Core calculations. In fact, the IRB has previously determined that exempting quarry land is a proper exercise of Wis. Stat. § 66.0207(1)(b). It did so in *In re The Incorporation of the Town of Lisbon, Waukesha County, Wisconsin as a Village*, dated June 17, 2011, where it stated, “[t]he Board is also waiving the thousands of acres that are currently being quarried.”

While the Town of Lisbon incorporation involved a “metropolitan village,” as opposed to the “isolated village” that the Village of Wrightstown would be, the IRB still is able to waive the quarry from the pertinent calculations. In *In re the Incorporation of a Portion of the Town of Bloomfield, Walworth County, Wisconsin as a Village*, dated June 14, 2010, the IRB found it appropriate to waive certain lands from the Territory Beyond the Core calculations within the context of a petition to incorporate an isolated village. Specifically, on page 27 of its determination, the IRB stated:

Intervenors object to removing the undevelopable environmental lands from the calculation. The statute does provide the Board with express authority to waive certain lands from the standard to the extent that they are undevelopable. It is undisputed that the lands Petitioners identify as undevelopable are in fact not developable due to their wet and mucky soils and their legal status as wetlands. Waiving these lands from the standard is appropriate and is backed by the precedence of past Department and Board determinations, and caselaw.

The quarry is not developable. Its exclusion from the Territory Beyond the Core calculations is proper and is supported by past determinations. Those past determinations should be applied here, and the quarry should be waived.

It is important to note that even if the quarry were not included within the proposed Village boundary, the Territory Beyond the Core standards for incorporation can still be met, albeit in a less desirable manner that has no impact on the Village of Wrightstown.

2. Given the location of the Niagara escarpment, and the natural limitations to some development out of respect for the feature and associated ecology, it was considered whether some of this acreage could also be waived given that it cannot be developed at a more significant density, however it was not deemed necessary given that the density is met only with the waiver for the quarry.
3. It is important to note that without the waiver for the quarry parcels, the Territory Beyond the Core density requirement would be met with the addition of four more houses. Given the rate of home construction in the Territory Beyond the Core, it is clear that the density will exceed the requirements with the rate of construction (this year, there are three under construction and one additional building permit has been issued). There are 14 available lots in the Territory Beyond the Core along Ridge Royale Drive, providing some room to grow in this desirable Greenleaf neighborhood.

Slide 13 notes the following:

- Application provides no documented methodology for determining the most densely populated half square mile vs. the area beyond
-

The proposed boundary for Greenleaf includes a core of the most densely populated half square mile. What the intervenor provides as an alternative differs by one parcel, with some right-of-way and the water tower removed, which were thought to be included in the core. The residential parcel that the intervenor includes in their version of the Core is a property on Fair Road that is currently part of the residential character of the Greenleaf neighborhood Fair Lane, which is part of the Territory Beyond the Core. These are very minor differences that do not provide grounds for it not meeting the standards.

The methodology in creating the Greenleaf boundary, and identifying the Core and Territory Beyond the Core:

- Discuss the boundaries with leaders and residents of the town who are familiar with the history and culture of the land.
- Look at the conditions of the land, patterns of development and the physical properties of existing parcel boundaries.
- Use expert knowledge of planning to create an initial option for the boundary condition.
- Discuss this option with the leaders of the community and the Department of Administration to determine if this was a reasonable establishment for the starting boundaries of the village.
- Recognize that the proposed boundary is a starting point; that most incorporated areas grow incrementally; and a goal of an appropriate “first” boundary is to start (not terminate) the process of boundary evolution.

Methodologies for creating boundaries are not always just quantitative and require expert knowledge. The alternative Core and Territory Beyond the Core proposed by the intervenor is nearly identical to what has been proposed. Minor differences are part of the “art of planning” rather than the “science of planning.”

Slide 13 also notes the following:

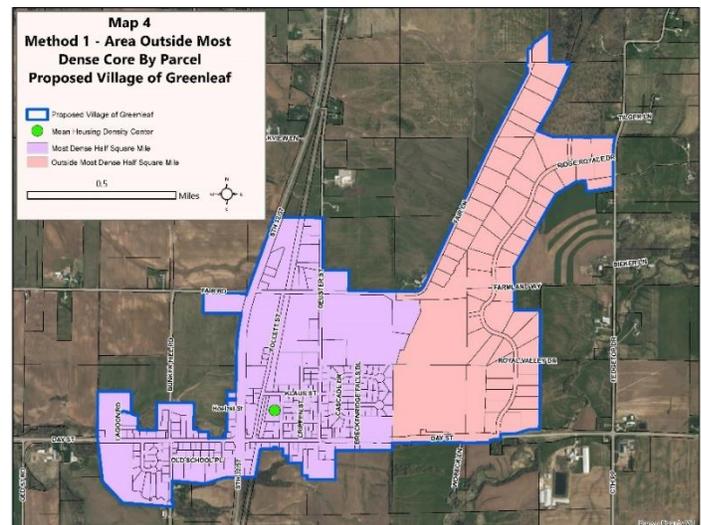
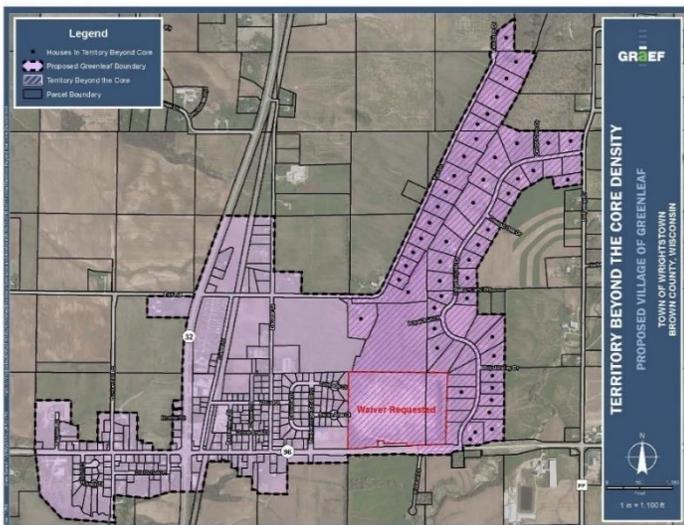
- **This delineation was manufactured to more closely meet statutes**
 - Get to exactly a half square mile:
 - Included extra right-of-way and small parcel next to quarry
 - Increase density beyond the half square mile:
 - Included the parcel along Fair Road (has a housing unit)
 - Show two housing units at 6899 Ridge Royale Dr. which are not documented

This parcel (1786 Fair Road - Parcel Number W-301-1) was included in the territory beyond the core given its connection to Fair Lane and consistency with that neighborhood character, beyond the Core. There are two apartments at 6899 Ridge Royale Drive, and therefore two housing units have been indicated and counted in the density calculation. This has also been recently confirmed by visual inspection.

Slide 14 notes the following:

- Using a standard statistical analysis methodology based on parcel density, a more accurate delineation of the most dense half square mile vs. the area beyond it was determined by Vandewalle & Associates – the standard methodology results in a different boundary than used in the application.
- Again, the requirement is **not** met:
 - 0.1726 housing units/acre beyond the most dense half square mile (with the quarry)

The evaluation by Vandewalle & Associates results in an alternative Core that differs very minutely, and with the waiver for the quarry, still meets the density requirement in Wis. Stats. § 66.0207.



Slide 16 outlines:

- B. Doesn't meet the **minimum assessed property tax base** for non-residential development in the area beyond the most dense half square mile
- **Wis. Stats. 66.0207(1)(b)** requires the territory beyond the most densely populated half square mile to meet a minimum assessed value for real estate tax purposes, more than 25 percent of which is attributable to existing or potential mercantile, manufacturing or public utility uses.
 - This requirement is **not** met: only 2.4% of the total assessed value is in a non-residential use

This is not the basis of decision making for this standard in this application.

Wis. Stat. § 66.0207(1)(b), *reads as follows:*

“The territory beyond outlines that the most densely populated one-half square mile specified in s. 66.0205(1) *shall have an average of more than 30 housing units per quarter section or an assessed value, as defined in s. 66.0217 (1) (a) for real estate tax purposes, more than 25% of which is attributable to existing or potential mercantile, manufacturing or public utility uses. ... The Board may waive these requirements to the extent that water, terrain or geography prevents such development.*” (emphasis ours)

Slide 17 asserts:

- C. Doesn't meet the requirement for **boundary homogeneity**
- **Wis. Stats. 66.0207(1)(a)** requires that the entire territory of the proposed village or city shall be reasonably homogenous and compact.
 - This requirement is **not** met:
 - Distinct difference between the core area traditionally known as the Hamlet of Greenleaf vs. the area beyond the core comprised mostly of the residential areas along the “Ledge”

Differences in land uses, neighborhood, districts, corridors, and subareas are common throughout municipalities throughout Wisconsin, including the Village of Wrightstown. Homogenous does not mean that all land uses are alike or that there is no diversity within the overall urban pattern. It means that they are alike as part of one entity. In this case, they are homogenous in terms of the culture, social character, environmental character, and self-identification of place. Residents that live on Fair Road, Fair Lane, and Ridge Royale Drive identify with living in Greenleaf. These homes have been planned and developed to be a neighborhood that is part of Greenleaf, with the most unique environmental characteristic of Greenleaf (the Niagara escarpment, which is known regionally) in their backyards. Some variety in the age of housing stock, size, and locations of the homes is not against the public interest in Greenleaf incorporating as a village, rather the choice makes it a community and will continue to feed its growth.

Slide 19 notes:

- Differences between the Hamlet and the “Ledge”:
 - Separated by the quarry, open space, and physical distance (0.4 miles)
-

This is not a valid interpretation of conditions and not against the public interest. The Greenleaf Core and Territory Beyond the Core are not separated, they are part of the same community.

Slide 19 continues:

- Separated by the elevation change of the Niagara Escarpment (100-150’)
-

This is not a valid interpretation of conditions and not against the public interest. The Niagara Escarpment is a natural feature that is significant to the establishment and ongoing identity of Greenleaf. It is not seen as a separation socially, economically or physically. Rather, it is a significant feature that leverages the growth of the community. Many incorporated communities in the state have varied natural features and elevations.

Slide 19 continues:

- Public sewer and water in the Hamlet vs. private septic and well beyond it
-

This is not inconsistent with other incorporated areas, including the Village of Wrightstown. Furthermore, this is not against the public interest. Existence of some unsewered properties does not violate the standard.

When a new well was being considered in 1985, a study was done to determine where the best location for a new well would be. Locally, most private wells had very hard water and a few contained sulfur, which produces an unpleasant smell that is not desirable in drinking water. At this same time, radon in drinking water became an issue. To have safe and good tasting water, it was necessary to try and avoid these three factors (hardness, sulfur, and radon). It was determined that the best location for a well would be outside of the sanitary district on Bunker Hill Road. Samples from the new well showed that it did contain an almost undetectable amount of sulfur but was free of radon and was extremely soft, meaning citizens no longer needed water softeners.

Another advantage of the well being located there is fire protection. Water mains are laid out in a grid pattern. This grid or loop allows water to flow to hydrant(s) from multiple directions. Additionally, with the standpipe (water tank) located at the top of the escarpment hill on the east end and the well on the west, the water supply also comes from opposite directions. This is the best setup because water is being supplied to the mains from two different sources on opposite ends of the proposed village. This dramatically improves the available water supply during a significant fire event.

Studies have been undertaken by the Town to assess serving development along Fair Lane and Ridge Royal Drive with sewer and water. At this time, this has not been a priority by the Town, the Sanitary Sewer District, and property owners on Ridge Royale Drive given the cost, which is quite significant, but is possible and will be more of a consideration as development continues in that direction.

Slide 19 states:

- Hamlet is within the Census Designated Place (CDP) vs. the “Ledge “ is not included
-

Census Designated Place boundaries are not a valid determination of community boundaries. Their purpose is different. They were established historically for the purpose of taking a national Census, not for the purpose of establishing or governing local municipalities. They are not legislated as standards.

Slide 19 also states:

- All of the identified “community center” locations identified in the Incorporation Application are in the Hamlet vs. none of them along the “Ledge”
-

This condition is not against the public interest and is not inconsistent with the standards. Many incorporated areas have a Core that contains different subareas. A community center as part of a core is completely consistent with incorporated municipal areas. Greenleaf’s community center is within the Core of the proposed Village of Greenleaf. The Territory Beyond the Core is predominantly residential, as is often the case in many communities throughout the state.

Slide 20 outlines the following:

- Additional important differences between the Hamlet and the “Ledge” demonstrating the boundaries not being homogenous:
 - Significantly different property values, housing stock, lots sizes, and zoning

Hamlet of Greenleaf	The “Ledge”
Housing Stock Dates Back to Early 1900’s	Housing Stock Dates Back to Early 2000’s
Average Residential Property Value = \$143,264	Average Residential Property Value = \$286,464
Average Residential Lot Size = 0.8 acres	Average Residential Lot Size = 2.9 acres
Zoning = Mostly R-1, with some B-1 and I-1	Zoning = Mostly A-R (Ag. Residential)

A hamlet is a term used by professional planners as part of their jargon. Hamlets are not incorporated, nor are they defined in the statutes. They are simply not relevant. What the intervenors refer to as the hamlet of Greenleaf, which is another name for an unincorporated community center and can often be mistaken for an incorporated area, includes what they refer to as “the ledge.”

All communities contain variation some in subareas, as seen throughout the state, including in the proposed in Greenleaf and even in the Village of Wrightstown (intervenor).

Authentic communities grow over time. As with all communities, Greenleaf’s residential districts were developed over time. Development spans from 1850 to today and naturally reflect different styles and lot sizes over time and based on the level of planning. Residential zoning districts and the reflected development in community cores are typically denser, older, and developed in a more traditional pattern of development than areas outside of the core. This is reflected in both of Greenleaf’s Core and Territory Beyond the Core. The homes built along Fair Lane and Ridge Royale Drive were developed later, varying from the 1970s to 2000s.

The land flanking Ridge Royale Drive was long farmed; however, it was not ideal for farming given the granite on the ledge, making tilling a challenge. This area along the top of the Niagara escarpment was long seen as desirable for development, however that has not been accessible for residential development until more recently, since there are now more affordable advancements to blast into the granite to install wells, septic tanks, and build foundations for structures.

Slide 21 states the following:

D. Doesn't meet the requirement for a **developed community center**

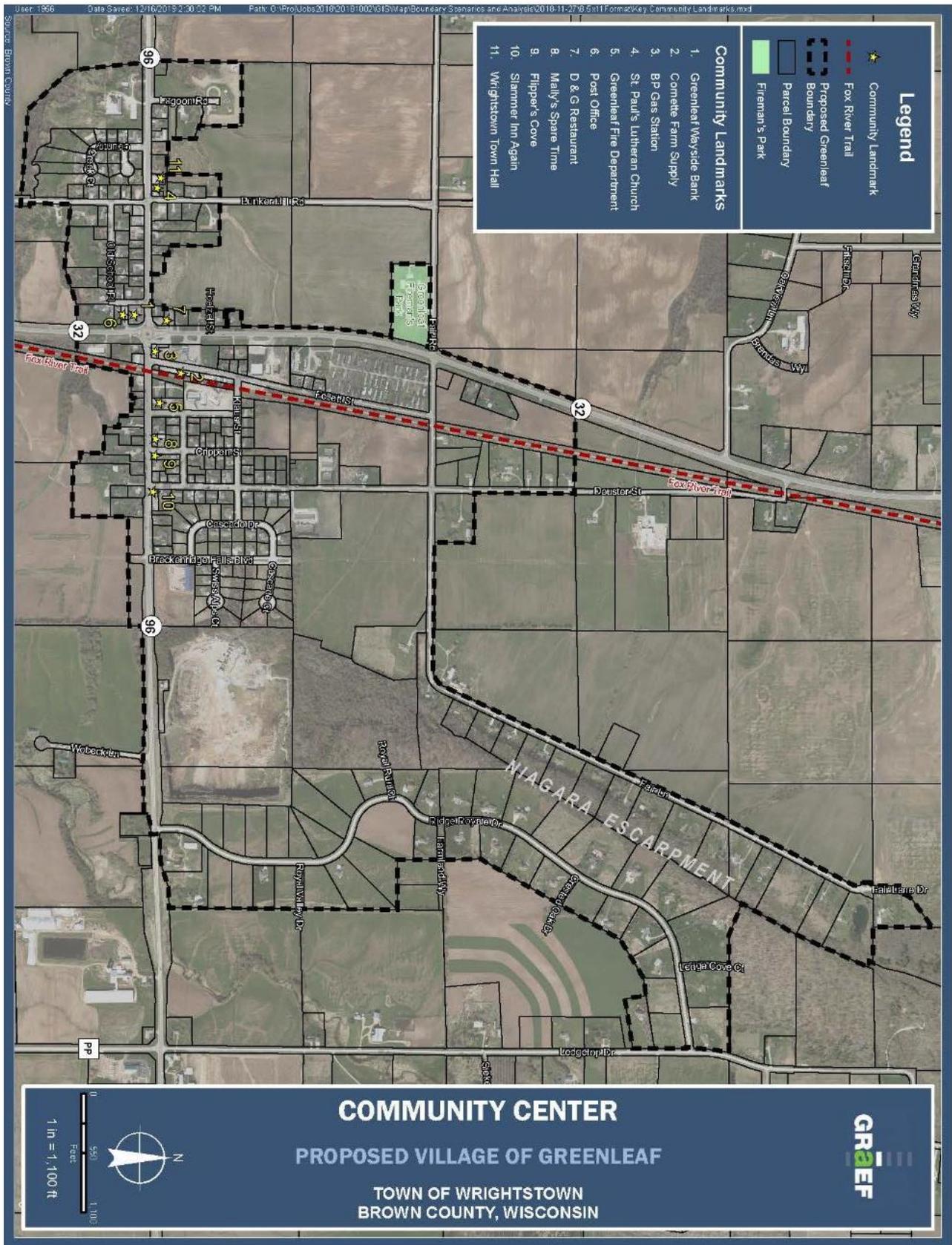
- **Wis. Stats. 66.0207(1)(a)** requires an isolated municipality to have a reasonably developed community center, including some or all features such as retail stores, churches, post office, telecommunications exchange and similar centers of community activity.
- This requirement is **not** met: there is no developed community center within the proposed boundaries
- Only one church
- Only one post office
- No true retail stores (bank, convenience store, and a few bars)
- Any county crossroads or hamlet could have this level of development
 - Yes of course they do and may qualify for being incorporated. Nothing in the statutes says that communities built around crossroads cannot be at a crossroads.

The community center is indicated on the following pages, in the map and associated table provided in the original application. This community center flanks Day Street / Highway 96 as indicated, and Highway 32/57. It is physically and socially apparent in Greenleaf, to residents, business owners, visitors to Greenleaf, and travelers driving in and out of Greenleaf, that there is a center. A video site visit is included as part of this submittal for IRB members and DOA staff to experience the community character and conditions first-hand, given that an in-person site visit is unlikely in midst of the COVID-19 pandemic.

As was voiced by a community member during testimony at the July 14, 2020 public hearing, historically the community has had many additional businesses that are typical of community centers, but are no longer there given the changing landscapes of regions and retail - both moving towards regional shopping centers and online retail. While it is clear that this is a larger societal shift in retail, incorporated communities have more tools to utilize to manage economic development. Greenleaf would like this ability as a village to focus on economic development that serves local and regional market needs, as appropriate.

Here is the list of businesses as outlined by the community member that he has witnessed in Greenleaf in the last 55 years:

Church, two grocery stores, three gas stations (one with car repair ability), appliance store, lumber yard, hardware store, restaurants and bars, barber shop, feed mill, fertilizer plant, fuel plant, bank, post office, Brown County Shop, motel, stone quarry, and the railroad that served the feed mill and fertilizer plant.



The highlighted businesses below indicate businesses that are located in the community center of Greenleaf:

BUSINESSES IN THE PROPOSED VILLAGE OF GREENLEAF				
Business Name	Address	Total Employment	Full-Time	Part-Time
Banks				
Greenleaf Wayside Bank	1608 Day St, Greenleaf, WI 54126	19	17	2
Bars & Restaurants				
Mally's Spare Time	1681 Day St, Greenleaf, WI 54126	7	1	6
Flipper's Cove	1689 Day St, Greenleaf, WI 54126	8		8
The Slammer Inn Again	1705 Day St, Greenleaf, WI 54126	10		10
D & G Restaurant	6794 State Rd 57, Greenleaf, WI 54126	19	4	15
Church				
St Paul's Lutheran Church	1537 Day St, Greenleaf, WI 54126	2	1	1
Construction / Service Businesses				
Economy Roofing	6822 State Rd 57, Greenleaf, WI 54126	1	1	
Brick Plumbing	1513 Day St, Greenleaf, WI 54126	2	2	
J.C Enterprises	1562 Day St, Greenleaf, WI 54126	1 (owner operated)		
Joe Brice Cabinets	Breckenridge Blvd, Greenleaf, WI 54126	12	9	3
J. Owen Construction, LLC	6773 Deuster Rd, Greenleaf, WI 54126	2		
SCG Solutions	Breckenridge Blvd, Greenleaf, WI 54126	3	3	
Little Devils Pet Grooming	1480 Day St, Greenleaf, WI 54126	1	1	
Improved Living SVC	6630 Deuster Rd, Greenleaf, WI 54126	16		
Complete Storage	6825 State Highway 57, WI 54126	1 (owner operated)		

Farm Supplies				
Cornette's Farm Supply	Follett St, Greenleaf, WI 54126	37	23	14

Gas Station / Convenience / Hardware				
Greenleaf BP	6786 State Rd 57, Greenleaf, WI 54126	3	1	2

Public Authority				
US Post Office	6814 State Rd 57, Greenleaf, WI 54126	2		2
Greenleaf Volunteer Fire Department	1657 Day St, Greenleaf, WI 54126	45		
Brown County Shop	6757 State Rd 57, Greenleaf, WI 54126	10		10
Wrightstown Town Hall	1527 Day St, Greenleaf, WI 54126	4		
SD - Plant	Lagoon Rd, Greenleaf, WI 54126	2		

Rentals				
Wh Development (MHP)	6773 State Rd 57, Greenleaf, WI 54126	1		1
BJ Grandviews Estates	6708, 6710 - 6723 - 2725 Deuster Rd, Greenleaf (three buildings), WI 54126	None on site		

Total Employees (all employers)		209		
---------------------------------	--	-----	--	--

Wis. Stats. § 66.0207 indicates that an isolated community shall have a reasonably developed community center, including some or all features such as retail stores, churches, post office, telecommunications exchange and similar centers of community activity. In regard to discussion of retail and grocery store specifically, it is important to note that this is not a requirement in the statutes, and not against the public interest. With the changing formats of retail, many grocery stores are now in super store formats, that are a regional draw and therefore in more populated communities. Furthermore, more and more consumers are also growing more dependent on online retail. Most residents shop physically in De Pere, or other surrounding communities. This includes residents of the Village of Wrightstown, that must go to neighboring communities for greater selection in supplies. While this is unfortunate for small communities, it is the current retail climate and has meant a changing landscape for smaller communities where running day to day retail sustainability has been quite difficult. The BP Convenience Store and Gas Station in Greenleaf provides hardware, home goods, food, drinks, greeting cards, and other items for Greenleaf resident store get basic supplies without driving to De Pere.

III. SPLITTING PARCELS THROUGH INCORPORATION

Slides 22-24 highlight:

3. Splitting parcels through incorporation

- The proposed incorporation boundary splits existing parcels
 - If incorporated, the Village of Greenleaf would contain a portion of 4 parcels, while the other portion of the parcels would remain in the unincorporated Town
 - 4 Parcel Boundaries Split by Proposed Incorporation Boundary
 1. W-351, WisDNR owned, Fox River Trail north of Fair Road cut in half
 2. W-452, WisDNR owned, Fox River Trail south of STH 96 parallel to STH 32/57 cut in half
 3. W-1201, Gilson Thomas S LLC ETAL owned, just west of Lagoon Rd. portion of their property included in incorporation boundary that abuts Lagoon Rd.
 4. W-972, DMW Real Estate LLC owned, just east of Fox River Trail portion of their property included in incorporation boundary that abuts STH 96
-

Splitting of parcels does not violate the standards outlined in Wis. Stats. § 66.0207. Splitting of parcels is valid as a subjective decision to improve the character of the proposed incorporated area. In this case, each specific split parcel was considered independently and on the basis of reasonableness. If the parcels were not split, all of the standards for incorporation could still be met.

IV. INCONSISTENCIES THROUGHOUT TOWN DOCUMENTS AND PLANS

Slide 25 asserts:

4. Inconsistencies throughout Town documents and plans
 - Significant inconsistencies within published documents:
 - **The proposed boundary does not reflect the most dense residential development pattern (i.e. the “Ledge”)**
 - “Boundaries of incorporation were chosen to follow the densest residential development surrounding the commercial center” (p.87 Application)
-

Based on our analysis and the methodology described above, this conclusions on page 87 of the Application is valid. The Intervenor has not described why the methodology is inaccurate.

Slide 25 continues:

- **All the properties along the “Ledge” are not served by the Sanitary District**
 - Town’s Land Use Recommendations, “Limit future development served by onsite sanitary sewage systems and wells in areas adjacent to the Town of Wrightstown Sanitary District in the Greenleaf area so that future extension of public water and sewerage service will not be impeded by existing development not wanting to change over to public sanitary sewer and water service.” (p.40 of the Town’s Comprehensive Plan)
-

It is reasonable and not against the statures and associated standards for some properties to be serviced by the sanitary district, and some properties to be served in other ways. This is a question of engineering practice, soil and environmental conditions, topography, funding, and common sense.

The desire of the Town and proposed Village of Greenleaf is to facilitate orderly development that is connected to the public water and sewerage service whenever possible. For this very reason, the Town has explored the potential for serving the areas along the ledge, even with the significant costs given the granite and drilling requirements. Despite all of this, it is critical to note that many communities throughout the state have areas that are unserved by public services. While this is not ideal, there are sometimes specific reasons or exceptions that must be considered.

Slide 26 outlines:

- Significant inconsistencies within published documents:
 - **Existing boundaries of the sewer service and water utility districts do not match the incorporation boundaries**
 - Properties not currently served by either district:
 - All homes along the “Ledge”
 - Properties currently served by the districts are not all included in new Village:
 - Areas north, south, and west of the Hamlet
 - Most notably, the well serving the utility district is planned to remain in the Town (p.106-107 Application)

The statutes do not require these to match. Many sewer and water utility districts do not match incorporation boundaries. Changes in response to growth evolve over time.

The statutes do not require that all utilities be supplied within a proposed community. Many incorporated areas throughout the state have water supplies outside of their municipal boundaries.

Slide 28 asserts:

- Significant inconsistencies within published documents:
 - **Town Comprehensive Plan wants to protect rural character/identity/community, yet grow, develop, expand, and discourage annexation**
 - “protect the agricultural base and rural character.” (p.111)
 - “retaining the Town of Wrightstown’s small-town identity” (p.4)
 - “a strong desire to keep its identity as an agricultural, quiet, rural community.” (p.24)
 - “identify policy options to discourage annexations from the Town of Wrightstown” (p.4)
 - Several goals aim to grow, develop, and expand services within the Town itself. (p.4-5)

The quoted Comprehensive Plan is for the Town of Wrightstown - these are some of the vision, goals, and objectives, as developed in concert with Brown County Planning. Just as with any community, the Town itself has subareas within, including agricultural lands and Greenleaf. Some of these goals apply to the developed area of the proposed Village of Greenleaf, and some apply to the rural agricultural areas that are not planned to be developed.

Slide 29 asserts:

- Significant inconsistencies within published documents:
 - **Future Land Use Map** was manufactured to reflect the real motivation behind incorporation – block future growth of the Village of Wrightstown
 - Planned development shown = multiple times more than needed
 - Planned development pattern along STH 96 = urban sprawl
 - Most logical and prudent development pattern = minimal growth along STH 96 and focused growth in and around the Village of Wrightstown
-

The Future Land Use Plan was a collaboration between Brown County Planning and the Town of Wrightstown Plan Commission. This Town of Wrightstown Future Land Use map indicates preferred land uses over the following 20 years.

One significant reason that Greenleaf would like to incorporate is to facilitate orderly development that is served by the sewer and water systems. As previously noted, the existing system has capacity for 270 acres of development and can be expanded to include more as necessary and appropriate.

V. ADDITIONAL INFORMATION REQUESTED BY THE DOA

At the close of the hearing IRB staff raised two questions regarding the accounting for costs for police and planning services.

With regard to police services in Appendix A includes a letter from Brown County Sheriff Todd Delain. The last paragraph of that letter provides:

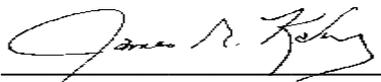
The purpose of this letter is to inform all parties that current police protection provided by the Brown County Sheriff's office will remain the same, in accordance with Wisconsin State Statutes governing law enforcement requirements. The continue police protection will not change from the protection currently provided and will be provided at no additional costs, so long as the Village population does not exceed 5,000.

With regard to planning services the incorporators anticipate the new village will make the determination regarding what level of planning services are needed once incorporated. Many Villages the size of Greenleaf do not have in house planning staff but hire services when needed

Conclusion:

This Petition for incorporation is the result of a groundswell of community interest in government- something you do not see very much of today. This tightly knit community undertook the process of incorporation carefully, hiring professionals to advise them on each step of the way. During the consideration of whether to file the petition, preparing the submission and even preparing for the public hearing, DOA staff have been invaluable guides and resources suffering through countless calls and an in person meeting to help the Greenleaf team address the statutory elements of Wis. Stats. § 66.0207. We thank them for their time and assistance. We are confident our proposed village meets Wis. Stats. § 66.0207 and appreciate your consideration. We look forward to being able to vote on our incorporation.

On Behalf of Petitioners, we thank the IRB for your time and consideration.



James M. Kalny
Attorney for Petitioner



Tanya Fonseca, AICP
Planner & Associate | GRAEF