
STATE OF WISCONSIN

CIRCUIT COURT

WALWORTH COUNTY

**In re the Petition to Incorporate the
Village of Pell Lake, Walworth County**

Case No. 98 CV 25

**Ronald Spencer, Representative of
the Petitioners for the Incorporation of
the Village of Pell Lake, and said Petitioners**

Petitioners

vs.

Town of Bloomfield

Intervenors

DETERMINATION OF THE WISCONSIN DEPARTMENT OF ADMINISTRATION

December, 2000

INTRODUCTION

It is the function of the Department of Administration to prepare findings and to make a determination as to whether the territory petitioned for incorporation meets the applicable standards prescribed in Section 66.016, Wis. Stats. Having completed that task, the analysis and findings are attached.

In summary, it is the DETERMINATION OF THE DEPARTMENT OF ADMINISTRATION that, when considering the petition submitted to the Circuit Court by the petitioners, under s. 66.016, Wis. Stats.:

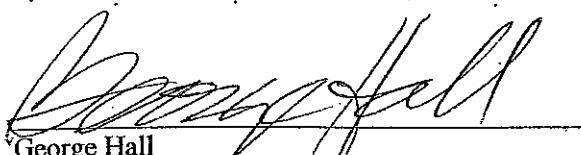
STANDARD 1 (a),	Homogeneity and Compactness - met
STANDARD 1 (b),	Territory Beyond the Core - met
STANDARD 2 (a),	Tax Revenue - met
STANDARD 2 (b)	Level of Services – not applicable
STANDARD 2 (c)	Impact on the Remainder of the Town - met
STANDARD 2 (d),	Impact on the Metropolitan Community – not applicable

The above conclusions are discussed in greater detail in the body of the DETERMINATION. THE DETERMINATION OF THE DEPARTMENT, as prescribed by s. 66.014 (9) (e) 2, Wis. Stats., is as follows:

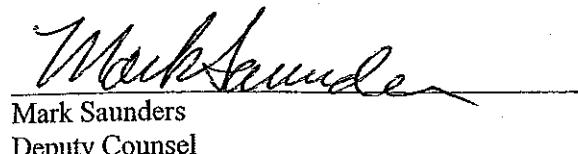
Having met the applicable standards for incorporation as set forth in s. 66.016, Wis. Stats., the department finds that the petition as submitted shall be granted.

Dated this 1st day of December, 2000.

By the Wisconsin Department of Administration:



George Hall
Director of Boundary Review
Wisconsin Department of Administration



Mark Saunders
Deputy Counsel
Wisconsin Department of Administration

Cc: The Honorable Michael S. Gibbs, Walworth County Circuit Court
Patrick J. Hudec, Attorney for Petitioners
Richard A Lehmann, Attorney for Intervener (Town of Bloomfield)
Peter J Ludwig, Attorney for Petitioners
Ron Spencer, Petitioner's Representative
Dan Aronson, Petitioner's Alternate Representative
Kimberly Bushey, Clerk, Walworth County
Martha Wells, Chairman, Town of Bloomfield

Earnestine Kennedy, Clerk, Town of Bloomfield

Theresa A. Von Ogden, Clerk, Village of Genoa City

Colleen Alexander, Clerk, City of Lake Geneva

Phillip C. Evenson, Director, Southeastern Wisconsin Regional Planning Commission

Mark Saunders, DOA Deputy Legal Counsel

F. Thomas Creeron, III, DOJ Assistant Attorney General

ANALYSIS

The following analysis and findings relate to the standards to be applied by the Department of Administration, henceforth the Department, as found in Section 66.016 of the Wisconsin Statutes. The present petition for incorporation was filed in Walworth County Circuit Court in March of 1998. The Department conducted a public hearing regarding the matter on April 4, 2000.

The area proposed for incorporation is located in the center of the town of Bloomfield, Walworth County and consists of approximately 2 ¾ square miles centered around Pell Lake, from which the community derives its name. The proposed village includes portions of Public Land Survey (PLS) sections 14, 15, 16, 21, 22, and 23, Town 1 North, Range 18 East. The area is approximately 3 miles northwest of the village of Genoa City and approximately 6 miles southeast of the city of Lake Geneva. Map 1, at page 5, shows the Pell Lake area in relation to its position within Walworth County. Map 2, at page 6, shows the boundaries of the territory proposed for incorporation.

Many of the lake communities in this area were originally developed as seasonal and weekend recreational retreats drawing residents from the Chicago and Milwaukee areas.¹ With the establishment of interstate highways allowing easier and faster commuting, these communities have developed into year round communities. Many former summer cabins have been remodeled as year-round homes. While these lake communities are still largely dependent on surrounding metropolitan areas for employment and for regional shopping and service facilities, increasing urbanization in communities like Pell Lake has created a desire for greater levels of municipal services and more organized local governments.

The population of the town of Bloomfield for 1999 was estimated by the Wisconsin Department of Administration, Demographic Services Center, to be 4,426 people. Although neither the petitioners nor the town of Bloomfield have provided the Department with an exact population count for the area proposed for incorporation, the population is estimated (1990) to be approximately 3,000 people (seasonal and permanent, used for subsequent calculations). This estimate may be slightly low based on population data for the Pell Lake Sewer Service Area that was provided by the Southeastern Regional Planning Commission (SEWRPC). The area proposed for incorporation includes the entire Pell Lake Sewer Service Area plus the northeast quarter of PLS Section 22 and the western half of PLS Section 23. Specifics regarding the boundaries are discussed in greater detail below. The SEWRPC reported a 1990 population of 3,040 for the Pell Lake area, including a seasonal population of 1,020 persons. Thus, the 1990 census figures already exceeded the population estimate of the town of Bloomfield for the Pell Lake area. By 2010, the SEWRPC estimates a population level of 3,840 persons in the Pell Lake Sewer Service Area.²

Section 66.016(1)(a) Homogeneity and Compactness

The standard to be applied is found in section 66.016(1)(a) and is as follows:

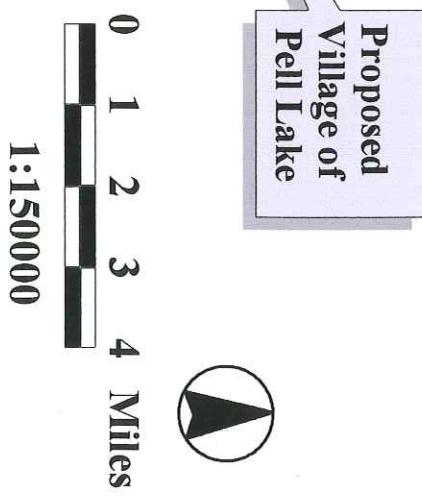
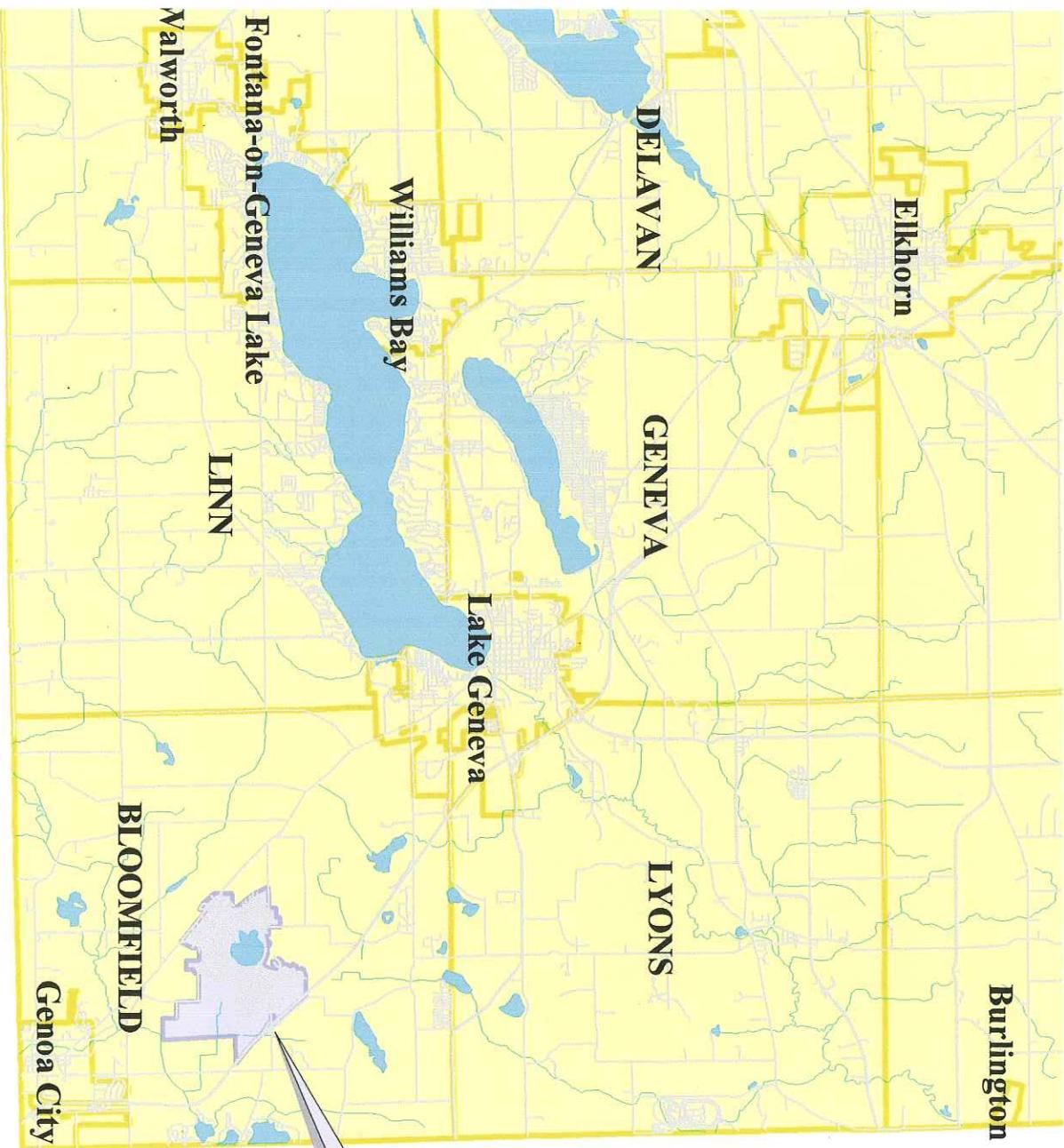
The entire territory of the proposed village or city shall be reasonably homogenous and compact, taking into consideration natural boundaries, natural drainage basin, soil conditions, present and potential transportation facilities, previous political boundaries, boundaries of school districts, shopping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

¹ In fact, according to material presented to the Department at the April 4, 2000 hearing, when the community was developing in the 1920's, lots around Pell Lake were offered as an incentive to subscribe to the Chicago Evening Post.

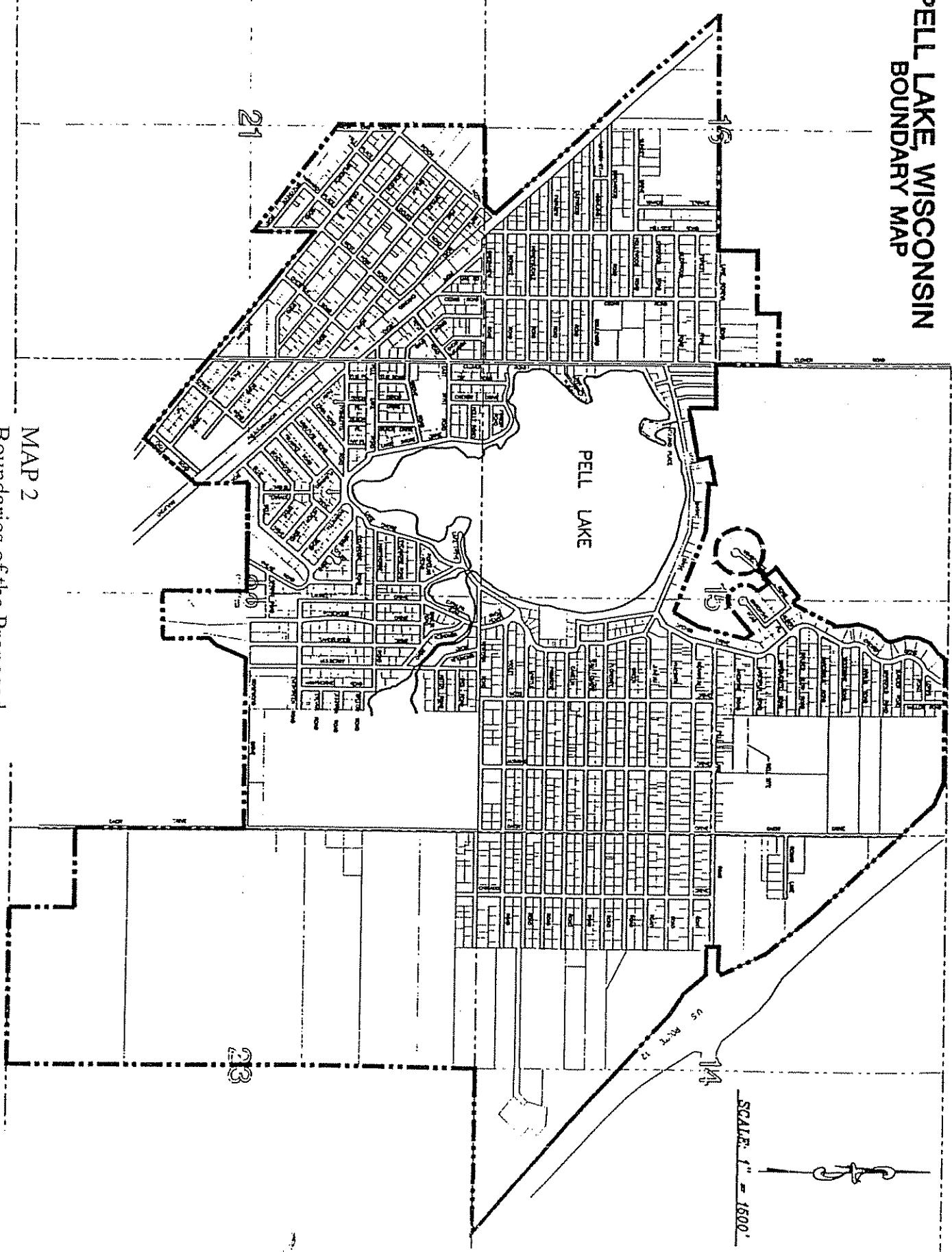
² SEWRPC, *Regional Water Quality Management Plan – 2000* (December, 1994), pg 7.

Proposed Village of Pell Lake in southeastern Walworth County

MAP 1
Pell Lake Area



PELL LAKE, WISCONSIN
BOUNDARY MAP



MAP 2
Boundaries of the Proposed
Village

community center, including some or all of such features as retail stores, churches, post office, telecommunications exchange and similar centers of community activity.

In addition to the statutory factors cited above, Pleasant Prairie v. Department of Local Affairs & Development³ also allows the Department to consider land-use patterns, population density, employment patterns, recreation and health care customs. Pleasant Prairie is clear regarding the flexibility allowed in factors to be considered in determining homogeneity and compactness. "...[H]omogeneity has a meaning apart and in addition to the factors listed [in s. 66.016 (1)(a)]..."⁴

Pleasant Prairie also makes clear that the incorporation statute mandates reasonable standards in regard to homogeneity and compactness and the presence of a community center. *"If those characteristics which are required by sec. 66.016 (1)(a), Stats., are not met sufficiently to result in a finding of reasonable homogeneity and compactness, findings in respect to the requirements of sec. 66.016 (1)(b) (territory beyond the core), and the public interest considerations of sec. 66.016(2) become irrelevant"*(emphasis added).⁵ Therefore, the flexibility is primarily in regard to consideration of additional non-enumerated factors, rather than flexibility in elimination, removal or reduction of a factor below some acceptable reasonable level.

The facts surrounding each incorporation petition are different. However, in each case and for each requirement, the reviewer must be able to state that, even though the "situation" presented may not be perfect (there may be some street circulation problems, or no health care facilities or telephone exchange), but, when taken as a whole, the facts support a finding of homogeneity and compactness (for example, in transportation patterns) and a finding of a reasonably developed community center.

Historical and Archeological Resources

According to information provided to the Department by the Wisconsin State Historical Society (SHS), no properties within the territory proposed for incorporation are listed on the National Register of Historic Places and no historical or archeological sites are listed in the state inventory. There are also no known sites designated as local landmarks. However, according to information submitted by the petitioners, the Pell Lake Property Owners Association clubhouse has been designated by the State of Wisconsin as a historical building.⁶ One private cemetery – the Bloomfield Cemetery – is located in the southwest quarter of PLS Section 22, outside of the area proposed for incorporation. Thus, it appears that the incorporation of the proposed village would not raise any concerns regarding the adequate identification and protection of any state-listed historical or archeological resources.

Endangered/Threatened Species

According to information provided by the Wisconsin Department of Natural Resources (DNR), Bureau of Endangered Resources, no rare or listed species have been identified by the DNR within the area proposed for incorporation. The Pell Lake Railroad Prairie, located just outside the area proposed for incorporation in PLS sections 8 and 17, does contain a number of rare and listed plant species. This area is approximately 25 feet wide and extends along the former railroad right-of-way for approximately one mile. Rare and endangered species identified in this area include:

³ Pleasant Prairie v. Department of Local Affairs & Development, 108 Wis.2d 465 (Ct.App. 1982), affirmed, 113 Wis.2d 327 (1983).

⁴ Ibid, pg. 337.

⁵ Ibid, pg 341.

⁶ Petitioner's Exhibit 1, Section 5.

<i>Prairie white-fringed orchid</i>	Federally Threatened and State Endangered
<i>Wild hyacinth</i>	Endangered in Wisconsin
<i>Marsh blazing star</i>	Species of Special Concern in Wisconsin
<i>Showy lady's slipper</i>	Species of Special Concern in Wisconsin (Old historical record)

Thus, it appears that the incorporation of the proposed village would not raise any concerns regarding endangered or threatened species.

Environmental Corridors and Isolated Natural Areas

A report prepared for the Pell Lake Sanitary District No. 1, entitled *A Sanitary Sewer Service Area for the Pell Lake Sanitary District No. 1*, shows the existence of a number of substantial environmental corridors and isolated natural areas in the area proposed for incorporation. “Primary environmental corridors” are linear areas in the landscape, typically associated with rivers and streams, that contain concentrations of natural resources and resource-related amenities. Primary environmental corridors are defined by the Regional Planning Commission as being at least 400 acres in size, and two miles in length, and 200 feet in length.⁷ “Secondary environmental corridors”, while not as significant as primary environmental corridors also play a significant role in providing wildlife habitat and migration corridors, and provide drainageways, green space, and spaces for parks and other recreational opportunities in developed areas. Secondary environmental corridors are areas that connect with primary environmental corridors and are at least 100 acres in size and one mile in length.⁸ “Isolated natural areas” generally represent remaining pockets, of at least 5 acres in size, that contain wetlands, woodlands, wildlife habitat, and other valuable natural resources. These areas may also represent the only available wildlife habitat and can also provide good locations for parks, nature study areas or greenspace.⁹

Map 3, at page 9, shows the environmentally significant lands in the Pell Lake area. Map 3 indicates that a large primary environmental corridor extends through the proposed village from the north and includes the northern and western shoreline of Pell Lake. The environmental corridor continues south of Pell Lake to a large area of wetland and woodlands in the western half of PLS section 22, just north of County Highway (CTH) H. This environmental corridor also extends east of Pell Lake along Nippersink Creek and includes a large wetland complex and some woodland areas in the northeastern quarter section of PLS Section 22 and PLS Section 23. This entire environmental corridor complex extends northward through PLS Section 14, where it is intersected by U.S. Highway (USH) 12.

Several isolated natural areas are also located within or near to the boundaries proposed for incorporation. One is in the southwest quarter section of PLS Section 14. A second is located in the northeast quarter section of PLS Section 22. A third is along the southern edge of Lake Geneva Road in the southeast quarter section of PLS Section 16. A fourth isolated natural area is located east of Daisy Road in the southwest quarter section of PLS Section 23.

The SEWRPC completed a study of the Pell Lake Sewer Service Area in its *Sanitary Sewer Service Area for the Pell Lake Sanitary District No. 1* (1996). According to this report, approximately 0.4 square miles of primary environmental corridor and less than 0.1 square miles of isolated natural resource areas are identified within the boundaries of the sewer service area. There are no secondary environmental corridors within the sewer service area. Thus, approximately 20% of the refined sewer service area consist of environmentally sensitive lands.

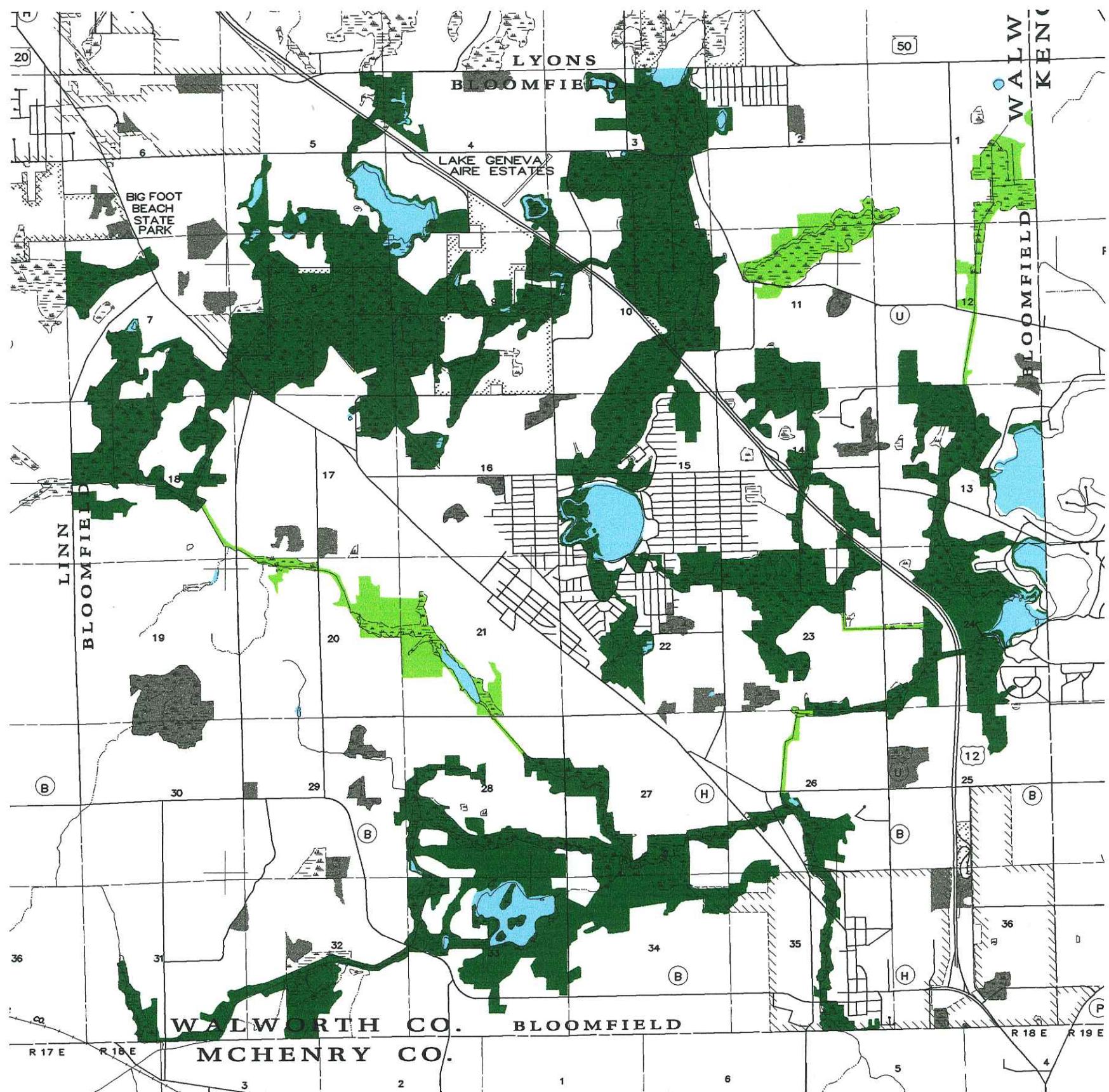
⁷ SEWRPC, *A Regional Plan for Southeastern Wisconsin : 2020* (December, 1997), pg 19.

⁸ *Ibid*, pg. 19.

⁹ SEWRPC, *Sanitary Sewer Service Areas for the Pell Lake Sanitary District No. 1* (June, 1996), pg 8.

PLANNED ENVIRONMENTAL CORRIDORS

T01N-R18E



ENVIRONMENTAL AREAS

- PRIMARY ENVIRONMENTAL CORRIDOR
- SECONDARY ENVIRONMENTAL CORRIDOR
- ISOLATED NATURAL RESOURCE AREA
- SURFACE WATER



GRAPHIC SCALE
4000
0 8000

MAP 3
Environmentally Significant
Lands

Source: SEWRPC.

Also located within the proposed village is McKay Park, a 13 acre park located along Lake Geneva Highway that was donated to the town of Bloomfield. The DNR has designated this park as wetland.

The Walworth County Zoning District map¹⁰, which has been adopted by the town of Bloomfield, shows that the environmentally sensitive areas discussed above are identified and designated as either conservancy or park land.¹¹

Natural Drainage Basin

The Town of Bloomfield lies entirely within the upper Fox River watershed. The subwatershed boundaries, shown on Map 4 at page 11, further divide surface water drainage into several subwatersheds. Substantially all of the Pell Lake area lies within the subwatershed that drains into the east branch of Nippersink Creek. The water and sanitary sewer treatment facilities for the Pell Lake Sanitary District are located in PLS section 23 along the east branch of Nippersink Creek.

The subwatershed and subbasin boundaries further contribute to the natural boundary delineation of the proposed village. As a result, the proposed boundaries for Pell Lake adequately correspond to the natural drainage systems

Soil Conditions

The surface features of the region are the result of ground moraine deposits from the Lake Michigan lobe of the final, or Wisconsin, stage of glaciation. The underlying bedrock in the eastern portion of Walworth County is Niagara Dolomite. The area surrounding Pell Lake is covered by unconsolidated glacial drift between 100-200 feet thick.¹² The topography of the area consists of shallow lakes or isolated ponds, wetlands, and level "flats", or gently rolling ground moraine, where glacial runoff has deposited sand, gravel and soil. Predominate soil types in the Pell Lake area are Fox-Casco and Houghton-Palms associations. Fox Casco associations are typically well-drained loam/silty clay loam subsoils, overlying sand and gravel formed by glacial stream terraces. The Houghton- Palms (Ht) association consists of poorly drained organic soils overlying shallow basins and depressions.¹³ For the purpose of urban uses, these soils can be characterized by their suitability for residential and commercial development, on-site sewage disposal systems, and transportation improvements

Wetland areas with organic, mucky soils that have moderate or severe limitations for development with public sanitary sewer services lie along the western shore line of Pell lake and extend to the north of the lake. Mucky soils, unsuitable for development, also run along Nippersink Creek and extend eastward from Pell Lake to a large wetland area that covers much of PLS Sections 14 and 23. Map 5, at page 12, identifies the soil classifications of Pell Lake Area soils. Map 6, at page 13, shows the suitability of the area's soils for residential development.

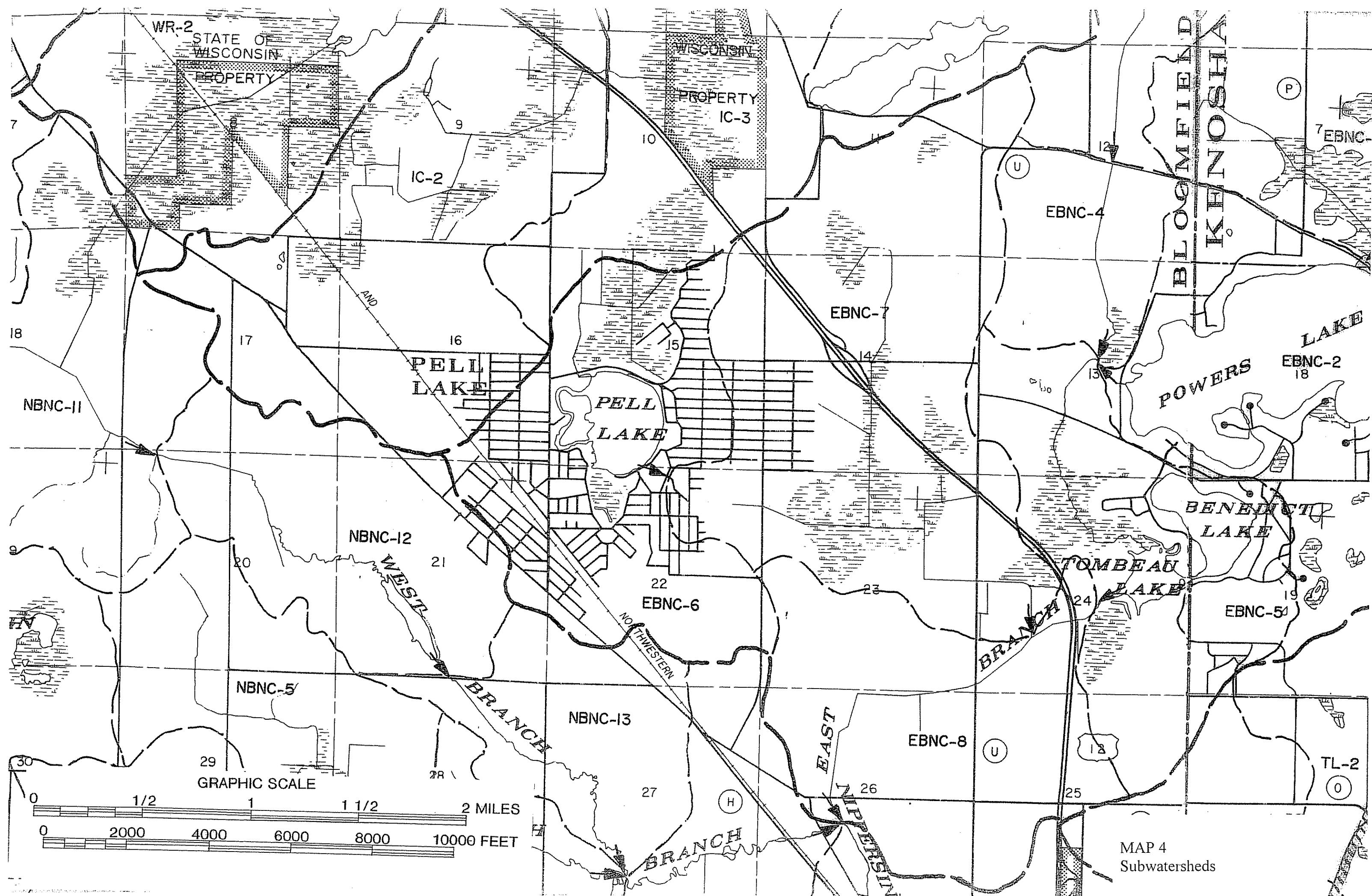
Much of the territory suitable for development within the boundaries proposed for incorporation has already been developed. There is some undeveloped land is in the northwestern corner of the proposed village

¹⁰ Petitioners Exhibit P-4

¹¹ SEWRPC, *A Regional Land Use Plan For Southeastern Wisconsin – 2010* (January 1992), pg 227.

¹² SEWRPC, *A Regional Land Use Plan for Southeastern Wisconsin – 2010* (1992), pg 111.

¹³ U.S. Department of Agriculture, Soil Conservation Service, *Soil Survey of Walworth County, Wisconsin* (1971), pg 108 (General Soils Map, Walworth County, Wisconsin).



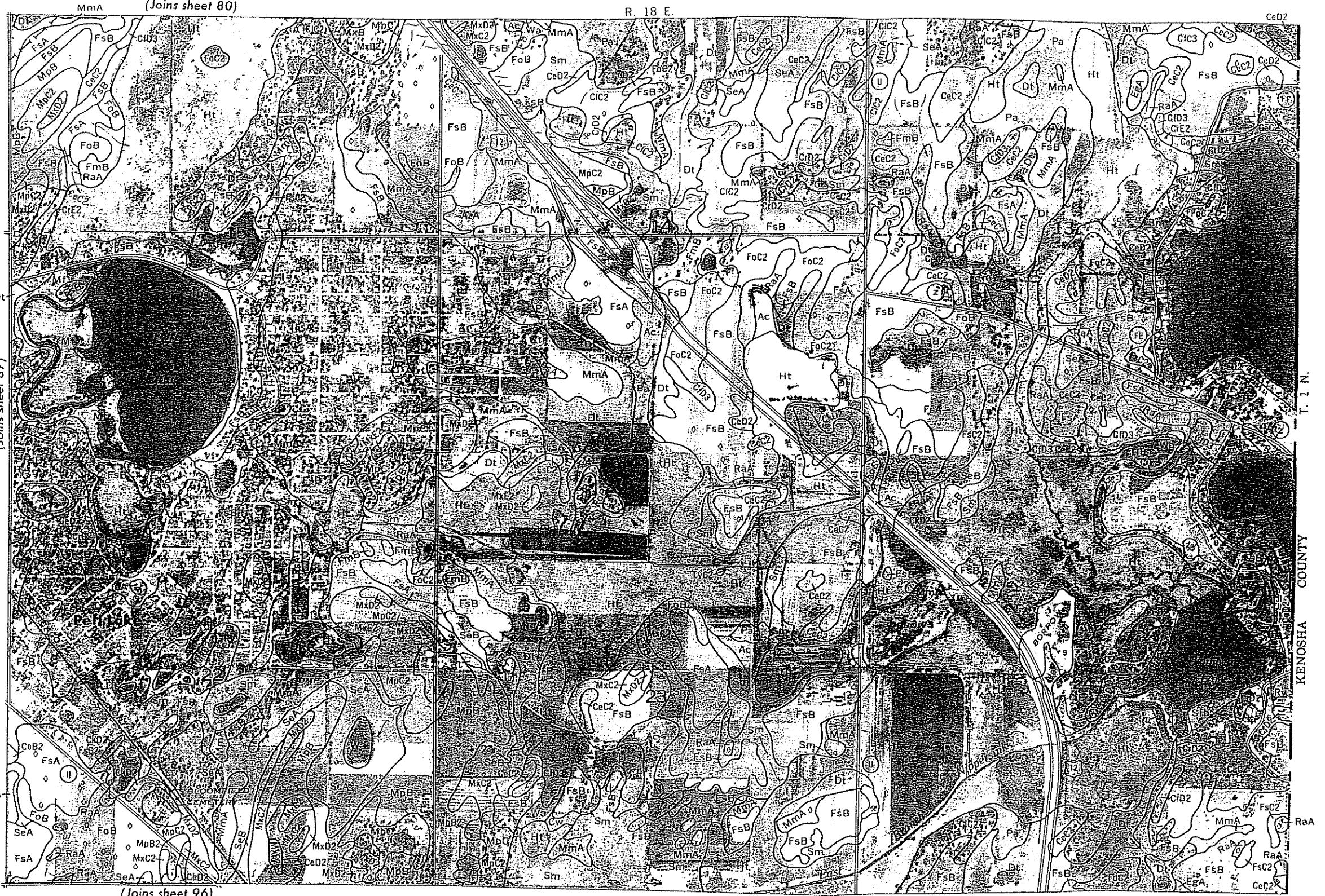
(Joins sheet 80)

R. 18 E

Ce

871

(28)



DIL LEGEND

The first capital letter is the initial one of the soil name. A second capital letter, A, B, C, D, E, or F, shows the slope. Most symbols without a slope letter are those of level soils or land types, but some are for soils or land types that have a considerable range in slope. The final number 2 or 3, in a symbol indicates that the soil is eroded or severely eroded.

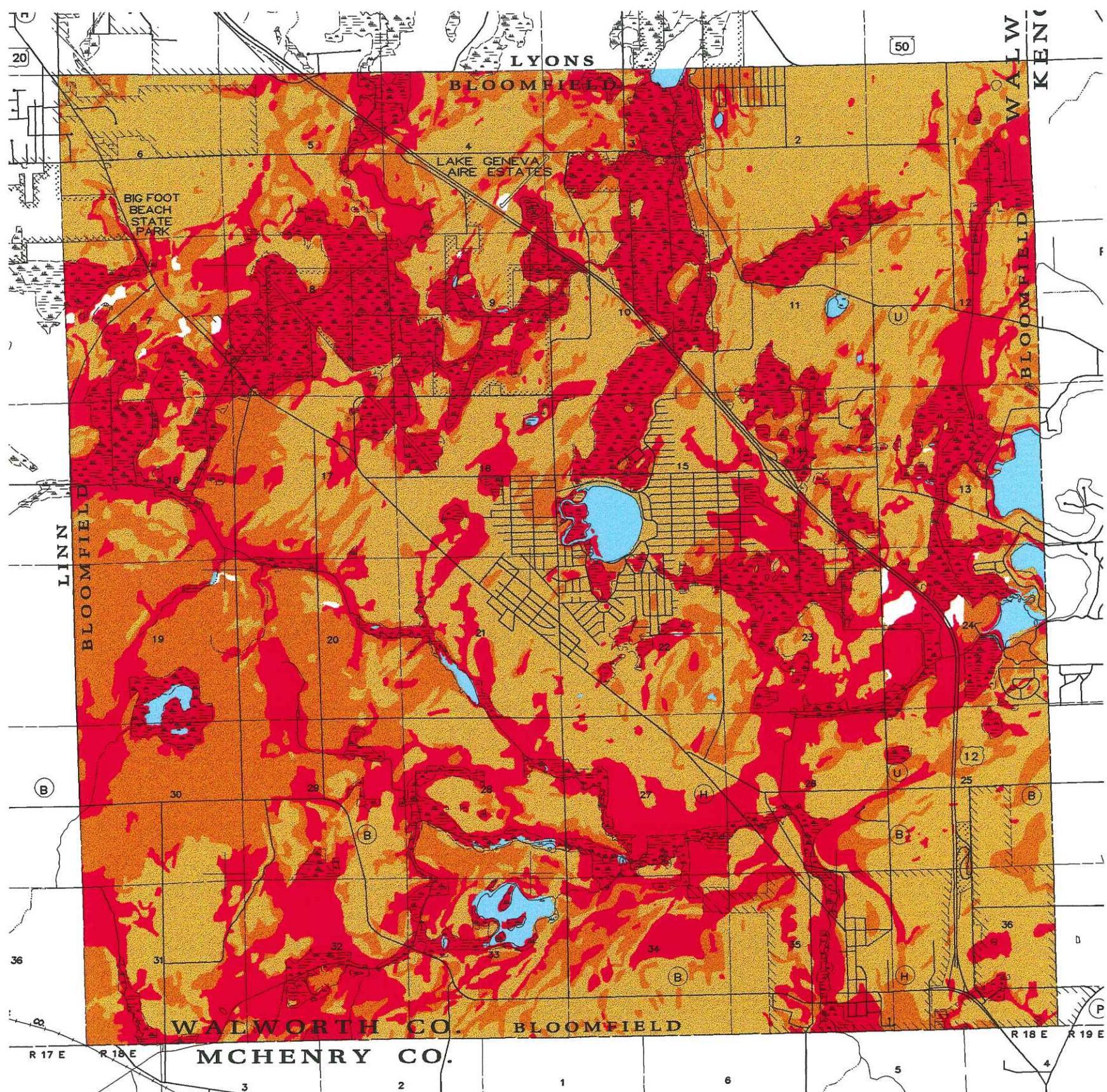
SYMBOL	NAME	SYMBOL	NAME
Ac	Adrian muck		
Aln	Alluvial land		
AzA	Aztlan loam, 1 to 3 percent slopes		
BoB	Boyer complex, 2 to 6 percent slopes		
BoC	Boyer complex, 1 to 6 percent slopes, eroded		
CaB2	Casco loam, 2 to 6 percent slopes, eroded		
CaC2	Casco loam, 6 to 12 percent slopes, eroded		
CaD2	Casco loam, 12 to 20 percent slopes, eroded		
CaC3	Casco soils, 6 to 12 percent slopes, severely eroded		
CaD3	Casco soils, 12 to 20 percent slopes, severely eroded		
CaD4	Casco-Fox loams, 12 to 20 percent slopes, eroded		
CaC2	Casco-Fox silt loam, 6 to 12 percent slopes, eroded		
CaD2	Casco-Radmon complex, 12 to 20 percent slopes, eroded		
CaE2	Casco-Radmon complex, 20 to 30 percent slopes, eroded		
CIB	Chelsea fine sand, 1 to 6 percent slopes		
CIE	Chelsea fine sand, 6 to 10 percent slopes		
Cw	Calwood silt loam		
CyA	Conover silt loam, 1 to 3 percent slopes		
DJA	Dodge silt loam, 0 to 2 percent slopes		
DJB	Dodge silt loam, 2 to 6 percent slopes		
Dr	Drummer silt loam, gravelly substratum		
Eba	Elburn silt loam, 1 to 3 percent slopes		
EgA	Elburn silt loam, gravelly substratum, 1 to 3 percent slopes		
FgA	Floss silt loam, 0 to 2 percent slopes		
FgB	Floss silt loam, 2 to 6 percent slopes		
FIA	Floss silt loam, mantled subsoil variant, 0 to 3 percent slopes		
FmB	Fox sandy loam, 1 to 6 percent slopes		
FmC2	Fox sandy loam, 6 to 12 percent slopes, eroded		
FgB	Fox loam, 7 to 16 percent slopes		
FcC2	Fox loam, 6 to 12 percent slopes, eroded		
FgA	Fox silt loam, 0 to 2 percent slopes		
FgB	Fox silt loam, 2 to 6 percent slopes		
FcC2	Fox silt loam, 6 to 12 percent slopes, eroded		
GbB	Griswold loam, 2 to 6 percent slopes		
GcC2	Griswold loam, 6 to 12 percent slopes, eroded		
GdD2	Griswold loam, 12 to 20 percent slopes, eroded		
GwA	Griswold silt loam, mantled subsoil variant, 0 to 3 percent slopes		
HeB	Hebron loam, 1 to 6 percent slopes		
HIE	Hennepin-Alton loams, sandy loam substratum, 20 to 35 percent slopes		
Hr	Houghton muck		
JuA	Junction silt loam, 1 to 3 percent slopes		
KIA	Kendall silt loam, 1 to 3 percent slopes		
KbB	Knowles silt loam, 1 to 6 percent slopes		
KyA	Knowles silt loam, mantled subsoil variant, 0 to 2 percent slopes		
LyB	Lorenz loam, 2 to 6 percent slopes		
LyC2	Lorenz loam, 6 to 12 percent slopes, eroded		
L1D2	Lorenz-Radmon complex, 12 to 20 percent slopes, eroded		
Mf	Marsh		
MoA	Martinton silt loam, 1 to 3 percent slopes		
MnA	Matherthon silt loam, 1 to 3 percent slopes		
MoB	McHenry silt loam, 2 to 6 percent slopes		
MoB2	McHenry silt loam, 2 to 6 percent slopes, eroded		
MoC	McHenry silt loam, 6 to 12 percent slopes		
MoC2	McHenry silt loam, 6 to 12 percent slopes, eroded		
MnA	Mated loamy fine sand, 0 to 2 percent slopes		
MnB	Mated loamy fine sand, 2 to 6 percent slopes		
MnB2	Mated loamy fine sand, 6 to 12 percent slopes, eroded		
MnC	Mated loamy fine sand, 2 to 6 percent slopes, eroded		
MnC2	Mated loamy fine sand, 6 to 12 percent slopes, eroded		
MnD2	Mated loamy fine sand, 12 to 20 percent slopes, eroded		
MnD3	Mated loamy fine sand, 12 to 20 percent slopes, eroded		
MnB	Mated loamy fine sand, 2 to 6 percent slopes, eroded		
MnB2	Mated loamy fine sand, 6 to 12 percent slopes, eroded		
MnC	Mated loamy fine sand, 2 to 6 percent slopes, eroded		
MnC2	Mated loamy fine sand, 6 to 12 percent slopes, eroded		
MnD2	Mated loamy fine sand, 12 to 20 percent slopes, eroded		
MnD3	Mated loamy fine sand, 12 to 20 percent slopes, eroded		
MnE2	Mated loamy fine sand, 20 to 35 percent slopes, eroded		
MnA	Mated loamy fine sand, 0 to 2 percent slopes		
MnB	Mated loamy fine sand, 2 to 6 percent slopes		
MnC	Mated loamy fine sand, 6 to 12 percent slopes		
MnC2	Mated loamy fine sand, 6 to 12 percent slopes, eroded		
MnD2	Mandelain silt loam, 1 to 3 percent slopes		
No	Never silt loam		
Po	Pelina muck		
PaA	Petertonica silt loam, 0 to 2 percent slopes		
PaB	Petertonica silt loam, 2 to 6 percent slopes		
Ph	Pelle silt loam		
PaA	Plane silt loam, 0 to 2 percent slopes		
PaB	Plane silt loam, 2 to 6 percent slopes		
PaC	Plane silt loam, 6 to 12 percent slopes		
PaA	Plane silt loam, gravelly substratum, 0 to 2 percent slopes		
PaB	Plane silt loam, gravelly substratum, 2 to 6 percent slopes		
PaC2	Plane silt loam, gravelly substratum, 6 to 12 percent slopes, eroded		
RnA	Randford silt loam, 0 to 2 percent slopes		
RnF	Rodenro-Casca complex, 30 to 45 percent slopes		
Ru	Rutlin muck, deep		
R	Rullin muck, shallow		
ScA	St. Charles silt loam, 0 to 2 percent slopes		
ScB	St. Charles silt loam, 2 to 6 percent slopes		
ScA	St. Charles silt loam, gravelly substratum, 0 to 2 percent slopes		
ScB	St. Charles silt loam, gravelly substratum, 2 to 6 percent slopes		
ScA	Sherman loam, 0 to 2 percent slopes		
ScB	Sherman loam, 2 to 6 percent slopes		
ScA	Sherman loam, gravelly substratum, 0 to 2 percent slopes		
ScB	Sherman loam, gravelly substratum, 2 to 6 percent slopes		
Sh	Sandy loam, benches		
ShA	Sorleyville silt loam, 0 to 2 percent slopes		
ShB	Sorleyville silt loam, 2 to 6 percent slopes		
ShA	Sorleyville silt loam, 0 to 2 percent slopes		
TsA	T-cowl silt loam, 0 to 3 percent slopes		
Wa	Walhill silt loam		
WaA	Waukegan loam, 0 to 2 percent slopes		
WaB	Waukegan loam, 2 to 6 percent slopes		
WaB	Waukegan silt loam, 2 to 6 percent slopes		
WaC2	Waukegan silt loam, 6 to 12 percent slopes, eroded		
WaB2	Waukegan silt loam, 2 to 6 percent slopes, eroded		
WaC2	Waukegan silt loam, 6 to 12 percent slopes, eroded		
Wa	Waukegan alluvial land		

MAP 5 Soil Classifications

Scale 1:15 840

SUITABILITY OF SOILS FOR RESIDENTIAL DEVELOPMENT
WITHIN PUBLIC SANITARY SEWER SERVICE AREAS

T01N-R18E



SOIL SUITABILITY CATEGORIES

- Areas covered by soils which have SEVERE limitations for residential development with public sanitary sewer service.
- Areas covered by soils having MODERATE limitations for residential development with public sanitary sewer service.
- Areas covered by soils having SLIGHT limitations for residential development with public sanitary sewer service.
- UNCLASSIFIED soils
- SURFACE WATER

GRAPHIC SCALE

4000

8000

Source: SEWRPC.

MAP 6
Suitability of Soils for
Development

in PLS section 16 and also land to the south of USH 12. Both sites have soils suitable for development. Also, developable land may exist in the northeast quarter section of PLS Section 22 and parts of the western half of PLS Section 23.

The SEWRPC has identified the presence of “prime agricultural land” within the town of Bloomfield. Prime agricultural lands consist of soil types designated by the Wisconsin Farmland Preservation Program as being particularly suitable for agricultural use based on productivity, slope, the size of the individual farms, and the size and extent of the combined areas being farmed.¹⁴ Map 7, at page 15, identifies those lands designated as prime agricultural land by the SEWRPC. The map shows that very little prime agricultural land exists within the area proposed for incorporation, the only instance being those lands located within the southeast quarter section of PLS Section 23.¹⁵

Area Lakes

Pell lake is approximately 84 acres in size. There is no Lake Management District, as defined by Chapter 33 of the Wisconsin Statutes. However, property along the majority of the eastern half of the lakeshore and portions of the western side was deeded to the Pell Lake Property Owners Association. This organization was formed in 1925 and is funded through voluntary membership and fund-raising activities. The current membership is approximately 100 members and is managed by a 6-member board including a president, vice president, secretary and treasurer.¹⁶ Pell Lake is used by seasonal visitors, by residents of the community surrounding the lake and by residents of the surrounding area. Recreational activities on the lake include fishing and ice-fishing, boating and swimming, etc.

In 1999, a committee was formed for the purpose of improving Pell Lake’s water quality. The committee is called the *Lake and Wetland Rehabilitation Committee* and was created in response to a \$10,000 DNR grant given to the Pell Lake Sanitary District for lake management purposes (specifics about the sanitary district will be provided later in this section). This committee has developed objectives to guide the development of a lake protection plan for Pell Lake. These objectives are as follows:

1. Improve water clarity for aesthetics, swimming, and other water-connected activities.
2. Eradicate invasive exotic plant and animal species, notably *Myriophyllum spicatum*

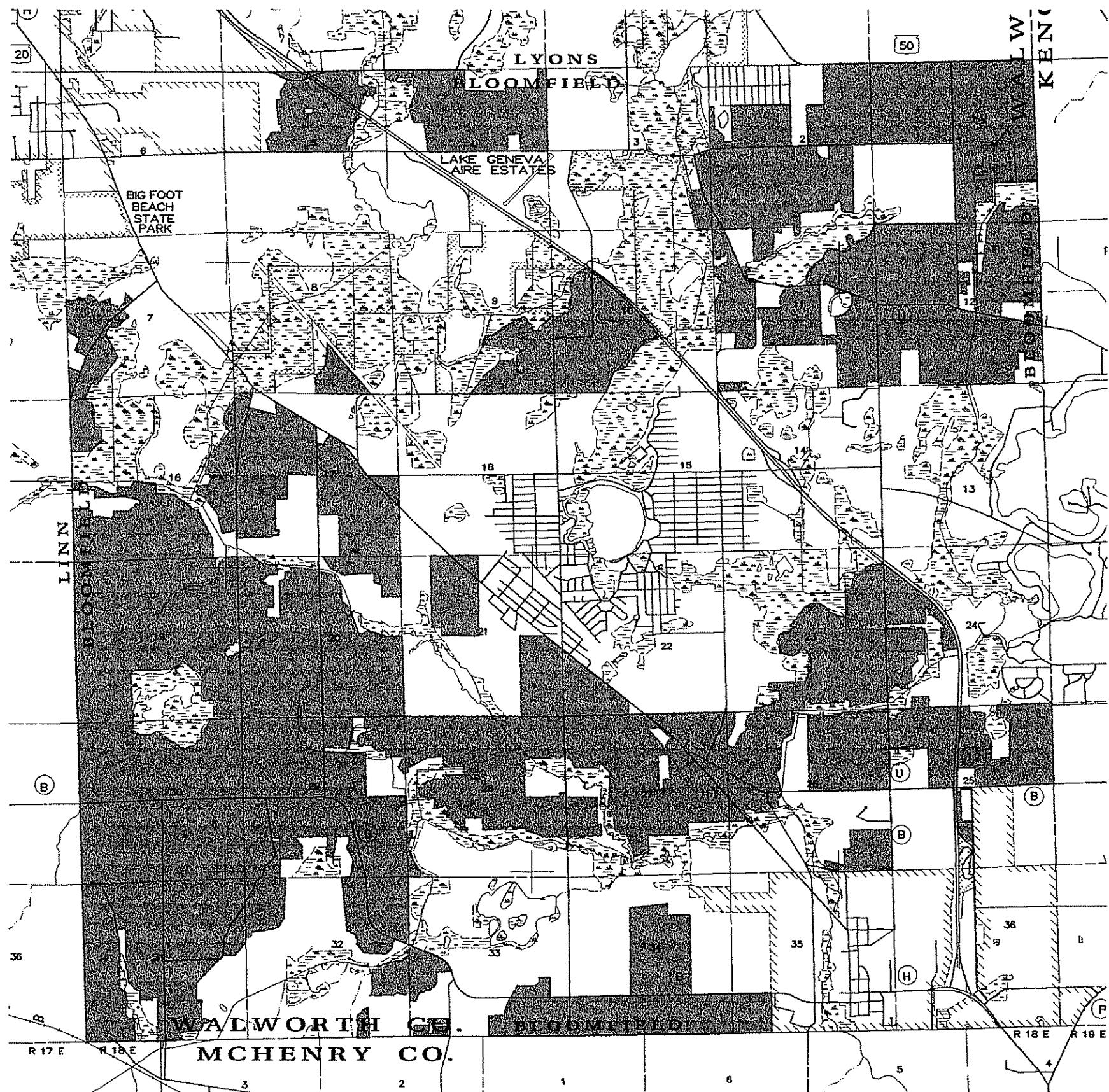
¹⁴ SEWRPC, *A Regional Land Use Plan for Southeastern Wisconsin – 2010* (1992), pg 23. The Wisconsin Farmland Preservation Program was created in 1977 and established a program that combines planning and zoning provisions with tax incentives to promote the preservation of farmland. Chapter 91, Wisconsin Stats., farmland preservation criteria specifies; “The farm unit must be at least 35 acres in area; at least 50% of the farm must be covered by soils which meet the U.S. Soil Conservation Service standards for national prime farmland or farmland of statewide importance; and the farm unit should be located in a block of farmland at least 100 acres in size.” The largest concentrations of prime agricultural lands that have been protected through exclusive agricultural zoning occur in Walworth County, western Racine and Kenosha Counties, and Ozaukee County. (pg 246)

¹⁵ A hand drawn map provided by Neal Frauenfelder, Planning Manager for the Walworth County Land Management Department (available from the Municipal Boundary Review upon request), does not appear to show any land included in the Farmland Preservation Certification program during 1999 that is located within the boundaries of the proposed Village.

¹⁶ Testimony by petitioners submitted to the Department in Exhibit 1, Section 5.

A-1 ZONING AS DEVELOPED FOR
THE WALWORTH COUNTY PLAN

T01N-R18E



A-1 ZONING

MAP 7
Prime Agricultural Lands

GRAPHIC SCALE

4000

8000



Source: SEWRPC.

- (Eurasian water milfoil) and *Cyprinum carpio* (common carp).
- 3. Promote public health by reducing bacterial contamination of lake water.
- 4. Enhance future lake management opportunities through public entity acquisition of additional lake bottom, shoreline, and near-shore/critical watershed areas.
- 5. Enhance the quality of boating and fishing opportunities¹⁷
- 6. Develop lake controls by ordinance.¹⁷

The lake management grant has been used to hire a private consultant, Aron Associates Inc., to conduct aquatic plant and water quality studies. The results of these studies will be provided to the sanitary district as well as to the SEWRPC. According to information provided by Jeff Thornton, Principal Planner for the SEWRPC, the process will culminate with a lake protection plan. The plan will differ from a traditional Lake Management Plan. It will focus on addressing current lake management issues but will not attempt to forecast future uses or conditions. Completion is expected in 2001.¹⁸

Control of the lake by the town of Bloomfield ordinances is limited to an ordinance prohibiting motor boat racing. The remaining ordinances appear to apply only to Powers Lake, Lake Benedict, and Lake Tombeau, lakes lying east of Pell Lake and USH 12. Neither the Town nor any other municipal government or lake management district provides lake patrols or other safety or enforcement services. Establishment of the proposed village may allow the new government to adopt local ordinances and either provide for or contract for patrol services on the lake.

Another citizen organization, in addition to the Pell lake Property Owners Association, is the Mudhens. The Mudhens help maintain and improve lake quality by cutting and removing weeds from the shoreline and by cleaning the beaches. They also maintain boat launches, black-top parking areas, mow grass, plant flowers, and provide rafts, piers, picnic tables, sand for the beaches, and playground equipment. This organization is discussed in further detail below under “Shopping and Social Customs”.

Lake Access

The two public beaches and various other properties around Pell Lake were conveyed to the Pell Lake Property Owners Association in 1920 by a private party. The two public beaches and two boat launches on the eastern side of the Lake are maintained by the Pell Lake Property Owners Association and by the Mudhens. These areas provide residents and visitors with good access to Pell Lake.

Transportation

Roads

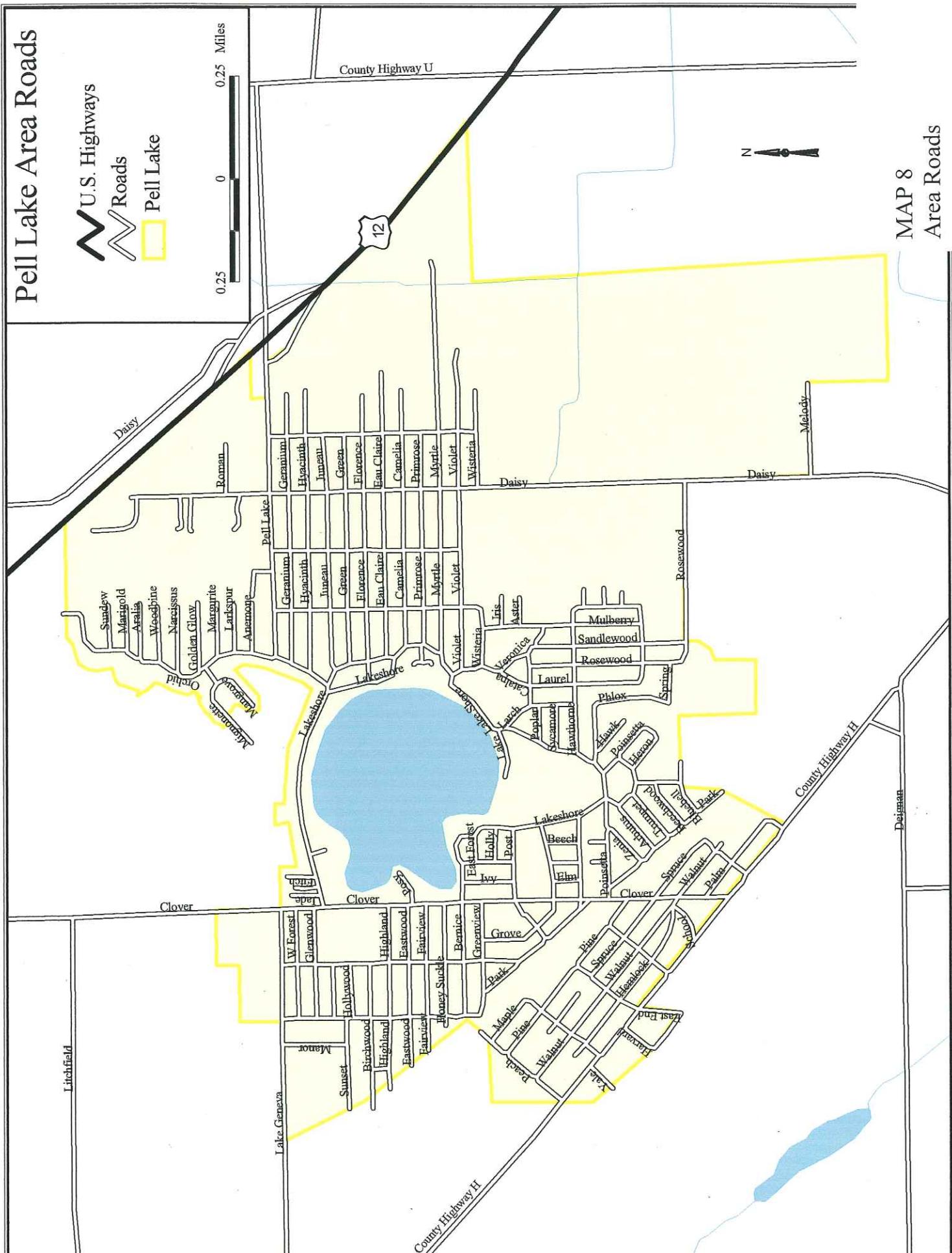
The area proposed for incorporation has approximately 28 miles of roads.¹⁹ Map 8, at page 17, indicates the location and extent of the area’s roads. U.S. Highway (USH) 12 runs along the northeastern boundary of the town. This highway runs northwest to the city of Lake Geneva, where it connects to USH 50. To the east, USH 12 connects with Illinois 173. County Highway (CTH) H runs along the western boundary of the proposed village and connects it to Lake Geneva to the north and Genoa City to the south.

¹⁷ Lake & Wetland Committee of the Pell Lake Sanitary District No. 1, *Objectives of the Pell Lake Management Plan* (1998).

¹⁸ Personal Communication with Jeff Thornton, of SEWRPC, 5/29/00.

¹⁹ Petitioners’ Exhibit 1, Section 13.

Pell Lake Area Roads



Locally, Pell Lake Drive exits from USH 12 and connects to Lake Shore Drive, which runs along the north side of the lake. Daisy Road is a straight road on the far east side of Pell lake connecting Pell Lake Drive to CTH H. Clover Road also runs north and south on the west side of Pell Lake, connecting at CTH H north to Bloomfield Road.

The village core identified by the petitioners lies in the southwestern portion of the proposed village, at Park and Clover Roads. The post office, bank, and the Veterans Memorial Park are located in this area, as well as other businesses. This area is accessible by substantially all parts of the town or petitioned territory on several local connector roads.

The SEWRPC is the designated Metropolitan Planning Organization (MPO) for the seven county area including the Pell Lake area. SEWRPC has prepared several regional transportation planning documents affecting the Pell Lake area. The most recent is *the Regional Transportation System Plan For Southeastern Wisconsin: 2020* (1997). SEWRPC also prepared a *Transportation Improvement Program for Southeastern Wisconsin: 1998-2000* (1997). A review of these studies shows that the arterial street and highway system in the Pell Lake area is at or under capacity.²⁰ Recommendations of the regional transportation plan include adding a connection from Lake Geneva Road to West Side Road and Willow Road.²¹ The jurisdictional responsibility proposed for this arterial would change from local trunk highway to county trunk highway.²²

Substantial road repaving and improvements have been accomplished between 1998 and the present by the Pell Lake Sanitary District No. 1 and by the town of Bloomfield. These improvements were made in conjunction with public sewer and water projects.

The local network of streets appears sufficient to connect the developed areas within the territory proposed for incorporation and also contributes to the ability of area residents to travel throughout the area for work, shopping, social activities, or other needs. This road system also provides ready access to the county and state highways that connect the Pell Lake area to surrounding communities.

Airports

There are four airports immediately north of Pell Lake, one located along USH 12 and three located along CTH H. However, none are located within the area proposed for incorporation, none are open to the public, and three of them have turf runways.

Rail Transportation

There are currently no existing rail routes through the proposed village area. Petitioners note, in a history of the area submitted to the Department, that the Chicago and Northwestern Railroad previously traversed the area.²³ The location of the former railroad line can be seen on an orthophoto submitted by the petitioners. This line traversed the southwest corner of the proposed village and forms part of the western boundary line. However, the route has been abandoned, and the tracks have been removed.²⁴

²⁰ SEWRPC, *A Regional Transportation System Plan For Southeastern Wisconsin: 2020* (December, 1997), pg 15.

²¹ Ibid., pg 42.

²² Ibid., pg 199.

²³ Petitioners' Exhibit 1, Section 5.

²⁴ Petitioners' Exhibit P-4.

Political Boundaries

The area proposed for incorporation is located entirely within the town of Bloomfield, Walworth County. As previously noted, the area lies approximately 3 miles northwest of the village of Genoa City and 6 miles south of the city of Lake Geneva. The boundaries of the proposed village very closely match those of the Pell Lake Sanitary District No. 1. In fact, the sanitary district's boundaries are entirely contained within those of the proposed village. The primary difference between the two is that the area proposed for incorporation includes the northeast quarter of PLS Section 22 and approximately one-half of PLS Section 23, an area that is not included in the sanitary district.

Town boundaries

As a result of annexation to the village of Genoa City in 1996, the boundaries of the village of Genoa City have expanded to the north and now abut the southern edge of CTH B in the southern ½ of PLS Section 25. However, an intergovernmental agreement under section 66.30, Wis. Stats. was signed by the town of Bloomfield and the village of Genoa City which establishes a growth boundary for Genoa City through the year 2010. The growth boundary for Genoa City is at Twin Lakes Road in the southern half of PLS Sections 26 and 27. The western boundary extends into the eastern ½ of PLS Section 34.²⁵ The Intervenors in this matter, the town of Bloomfield, have expressed a concern that the creation of an incorporated municipality in the middle of the town would result in the annexation of territory from within, as well as from the edges. A further discussion of the effects of incorporation is found in the "Impact On The Remainder Of The Town" section of this determination.

Sanitary district boundaries

The Pell Lake area receives sewer and water service from the newly developed Pell Lake Sanitary District No. 1. Currently, 900 households receive sewer and water service. Eventually, upon completion of the system, all residents within the district will be served. The district encompasses about 2 square miles between CTH H and USH 12. Because the boundaries of the sanitary district are nearly synonymous with those of the area proposed for incorporation, if Pell Lake were to incorporate, almost all of the territory would receive sewer and water service. Map 9, at page 20, shows the boundaries of the Pell Lake Sanitary District No. 1.

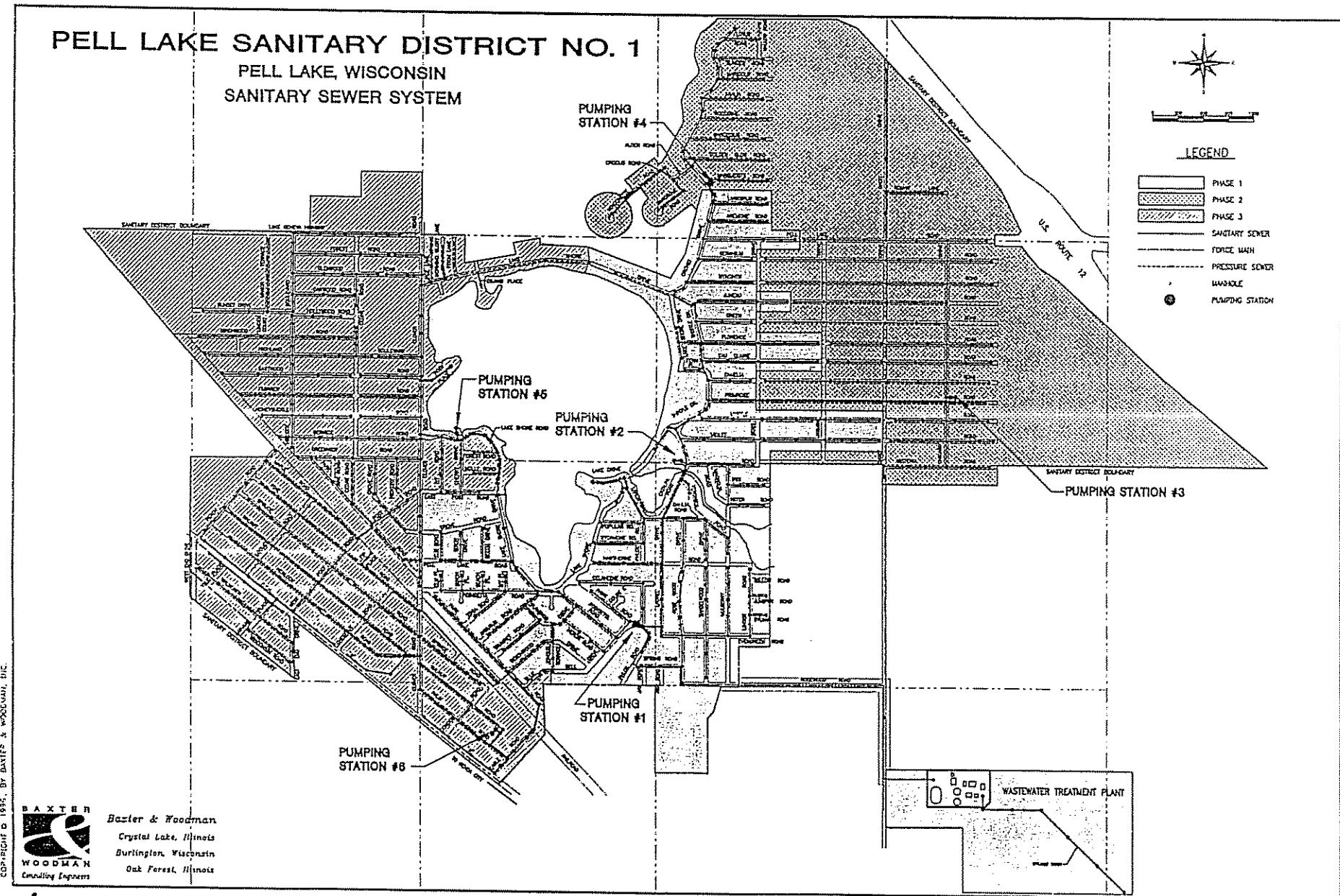
Prior to the sanitary district, area residents utilized private sewer and water systems. However, hook-up is mandatory now that a municipal system exists and use of individual systems has been made illegal.²⁶ Originally, the SEWRPC's *Regional Water Quality Management Plan* (1979) recommended continued use of onsite sewage disposal systems for the Pell Lake area. However, interest in a municipal system became high when individual systems began failing. In 1991 the Pell lake Sanitary District No. 1 was created. Following this, an amendment was made to the regional plan to formally allow the Pell Lake and Powers Lake areas to study the specifics of developing municipal sewer and water service.²⁷ The study that was developed was the Sanitary Sewer Service Area for the Pell Lake Sanitary District No. 1 (1996). This report resulted in, amongst other things, setting the boundaries for the district, and identifying the range of population to be served and the location and extent of environmentally sensitive lands within the area.

²⁵ The 66.30 boundary agreement and the attached boundary map is included in the Petitioners' Exhibit 1, Section 13.

²⁶ Pell Lake Sanitary Sewer District No. 1 Ordinance 97-1, s. 3.7.

²⁷ Personal communication with Jim Marquardt, Utility Director for the Pell Lake Sanitary District No. 1, 8/01/00. This amendment was formalized in a document titled, *Amendment to the Regional Water Quality Management Plan – 2000, Pell Lake Area and Powers-Benedict-Tombeau Lakes Area, Kenosha and Walworth Counties* (1994) by SEWRPC.

MAP 9
Pell Lake Sanitary District
Boundaries



The sewer and water facilities were built based on the recommendations of this report; both are complete and functioning. Water mains, interceptors, lift stations, fire hydrants, and other necessary infrastructure are 99% installed. Completion is expected soon and will allow those residents still unconnected to the system to connect.

The wastewater treatment plant has a capacity of .46 million gallons per day (mgd). This size was based on a year 2010 service estimate of 3,900 persons. Also, the plant site and design were chosen so that additional capacity could be added to serve the Powers Lake area if that area eventually desires service. The district's water treatment plant is located at W974 Pell Lake Drive and its wastewater treatment plant is located at N1183 CTH U. While the former is located within the area proposed for incorporation, the latter is actually located outside.

As an independent special purpose district governed by its own board of commissioners, the district raises revenue independently of the Town through fees and assessments. According to petitioners, the district could become part of Pell Lake were it to incorporate. The district's service, business, and debt obligations would be separate from the village and continue as is, although there could be some combined service with the public works department.²⁸

School District Boundaries

In Wisconsin, boundaries of municipal governments do not affect school district boundaries. School districts are free to establish and maintain boundaries independent of residential development patterns -- the very settlement patterns which lead districts to levy taxes and authorize expenditures for teachers and facilities. Should a change in school district boundaries be desired, the affected school districts would have to jointly agree to such a change, usually a rare occurrence. If agreement cannot be reached, appeal procedures specified in Chapter 117 of the Wisconsin Statutes need to be followed.

Two school districts serve the Pell Lake area. The boundaries of these school districts are shown on Map 10, at page 22. The Lake Geneva Joint # 1 school district and the Genoa City school district. The majority of the students from the Pell Lake Area are in the Joint # 1 school district. The Joint # 1 school district has one elementary school, the Star Center Elementary School, located within the territory proposed for incorporation.²⁹ The current attendance of children from the Pell Lake area in the two school districts is as follows:

Table 1 - Attendance of Pell Lake Residents in District Joint # 1 Schools

Elementary		Middle School		High School	
Eastview School	44	Lake Geneva Middle	127	Badger High	84
Central School	23				
Denison School	62				
Star Center School	137				

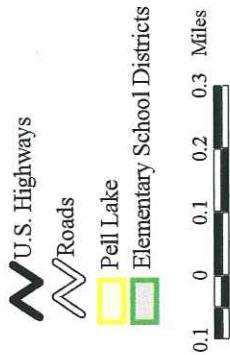
Source: Petitioner's Exhibit 1, Section 12

Over half of the elementary aged students in the Pell Lake area attend the Star Center elementary school. In March, 2000 the Joint #1 school board voted to pursue the purchase of approximately 9 acres of land adjacent to the current Star Center Elementary School in order to accommodate a growing population. The

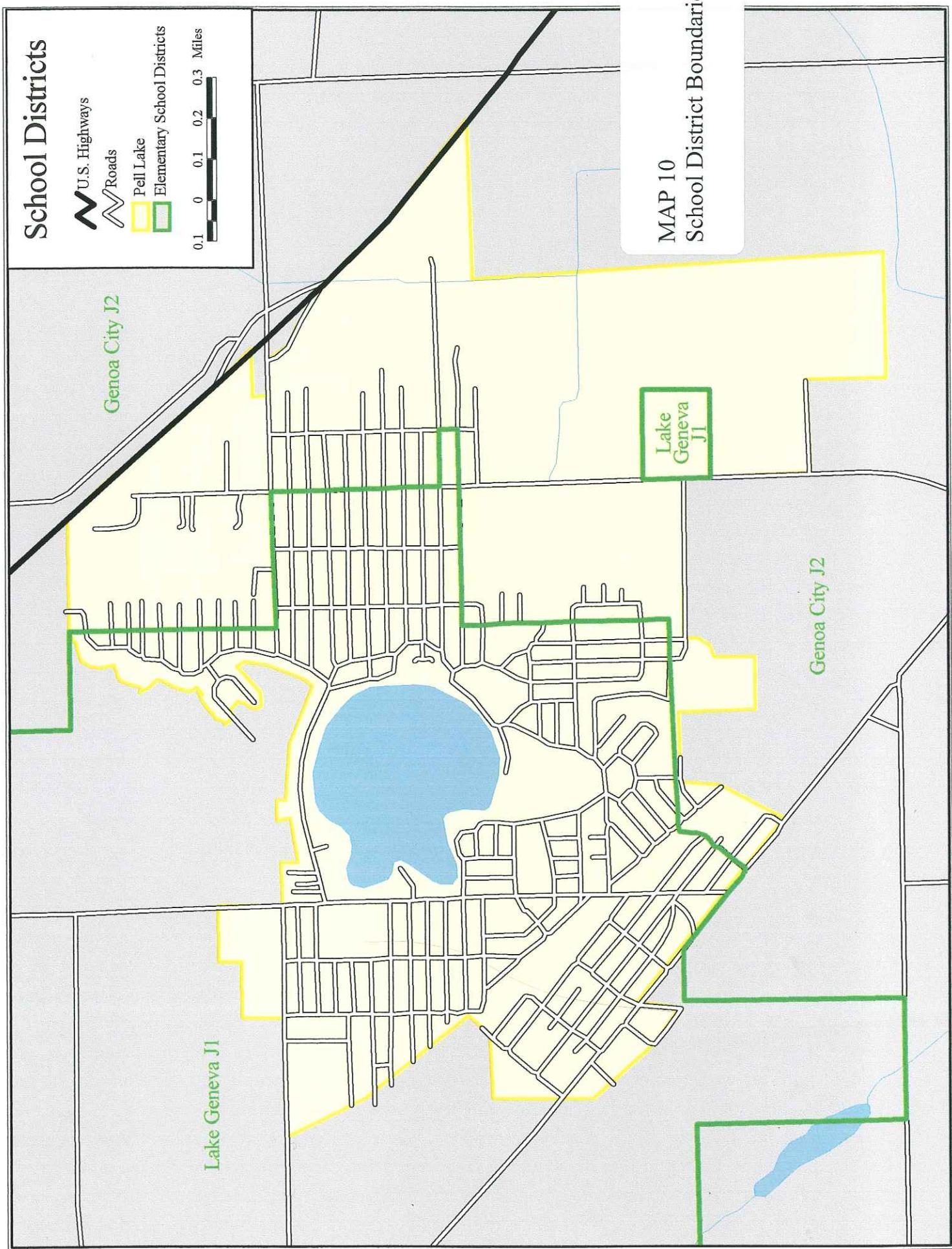
²⁸ Petitioners' Exhibit 1, Section 2.

²⁹ The location of the schools and school district boundaries are shown in Petitioners' Exhibit 1, Section 12.

School Districts



MAP 10
School District Boundaries



Genoa City school district is also nearing completion of a new elementary school facility to accommodate increasing residential growth in the Genoa City and Pell Lake areas.

Land Use and Regulation

Map 11, at page 24, shows the land uses in the town of Bloomfield. The town of Bloomfield has adopted the Walworth County zoning ordinances. The area around Pell Lake that is proposed for incorporation is a cluster of urbanized development in a town that is otherwise largely rural and agricultural. The majority of the developed land uses within the Pell Lake area are single-family residential. A cluster of commercial and institutional uses is located along Park Road and Clover Road. Map 12, at page 25, shows the location of businesses in Pell Lake, as well as the concentration of businesses, public facilities and institutions in the southwest corner of the proposed village, the area identified by petitioners as the community “core”. The map was provided by petitioners and includes a key at page 26. The map shows that the community core contains a healthy and diverse mix of public facilities, including a park, a church, and businesses. These facilities serve the needs of local residents and also provide a focus for community activity. The community core area is discussed in greater detail below in “Shopping and Social Customs. Additional businesses and institutions are scattered throughout the proposed village.

The shoreline of Pell Lake itself has been largely zoned and maintained as recreational park and lowland resource conservation. A few individual residential and business parcels exist on the northern and eastern part of the shoreline. Land that is currently zoned for agriculture is also included in the boundaries of the proposed village. Territory within the proposed boundaries that is zoned for agricultural uses is concentrated in the western half of PLS section 23, the northeast quarter section of PLS section 22 north of Rosewood Drive, and an area just southwest of USH 12 and north of Pell Lake Drive. Some agricultural land use is also zoned in the northwest corner of the proposed village, in PLS section 16. The remainder of the land within the area proposed for incorporation is zoned either conservancy or park land.

The majority of the developed land within the Pell Lake area lies within the boundaries of Pell Lake’s sanitary district, which are substantially the same as the boundaries of the proposed village, with the exception of the southeast corner.

Map 13, at page 27, submitted by the petitioners, identifies territory for future residential development west of Daisy Drive, between Rosewood Drive and Wisteria Road, as well as a portion of the northwest quarter section of PLS section 23, east of Daisy Drive. This map also identifies a large portion of the southwest quarter of PLS section 23 as intended for future business/commercial development. However, a review of the land use map and soil maps of the town prepared by the SEWRPC shows that much of the undeveloped territory in PLS sections 22 and 23 are wetlands and are covered with mucky soils unsuitable for development. Property located east of Daisy Road and north of Pell Lake Road, identified as (1) “Willow Estates” is currently under construction as a residential subdivision with 27 single-family homes on 1/3 acre sites.³⁰ This map also identifies (as (2)), the location of a planned gas station and convenience store to be located along USH 12.

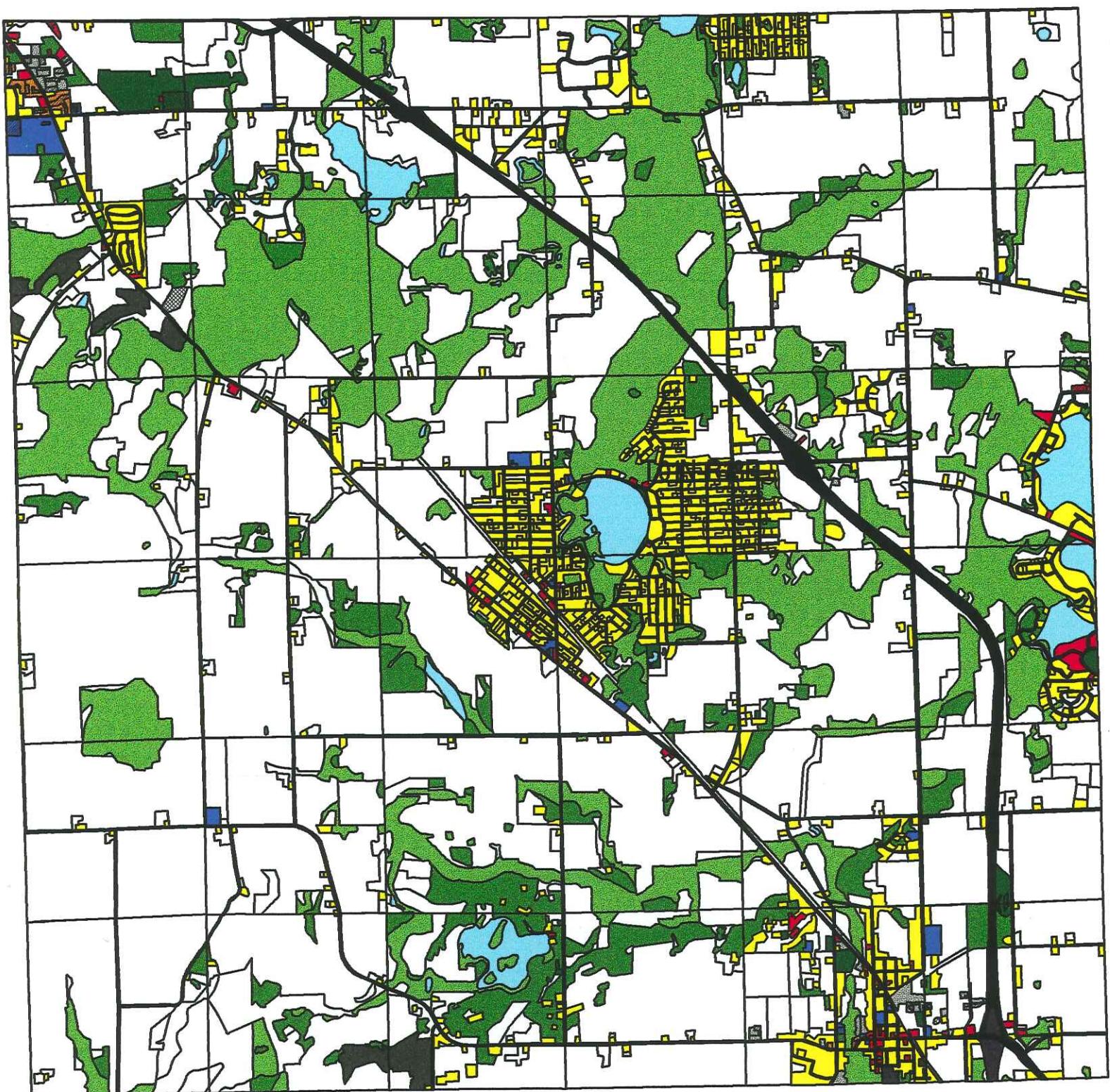
Shopping and Social Customs

It is clear from recent past determinations that the presence of shopping and professional services is extremely important in incorporation proceedings. For example, in Delavan Lake (1989), the presence of 84 businesses was insufficient to meet the standard since the 84 businesses included “[N]o grocery stores,

³⁰ Petitioners Exhibit P-3.

GENERALIZED LAND USE: 1995

T01N-R18E



URBAN LAND USES

	SINGLE-FAMILY RESIDENTIAL
	MULTI-FAMILY RESIDENTIAL
	COMMERCIAL
	INDUSTRIAL
	GOVERNMENTAL AND INSTITUTIONAL
	RECREATIONAL
	STREETS AND HIGHWAYS
	PARKING
	OTHER TRANSPORTATION, COMMUNICATION AND UTILITIES

RURAL LAND USES

	SURFACE WATER
	WETLANDS
	WOODLANDS
	EXTRACTIVE
	LANDFILL
	AGRICULTURAL AND OTHER OPEN LAND

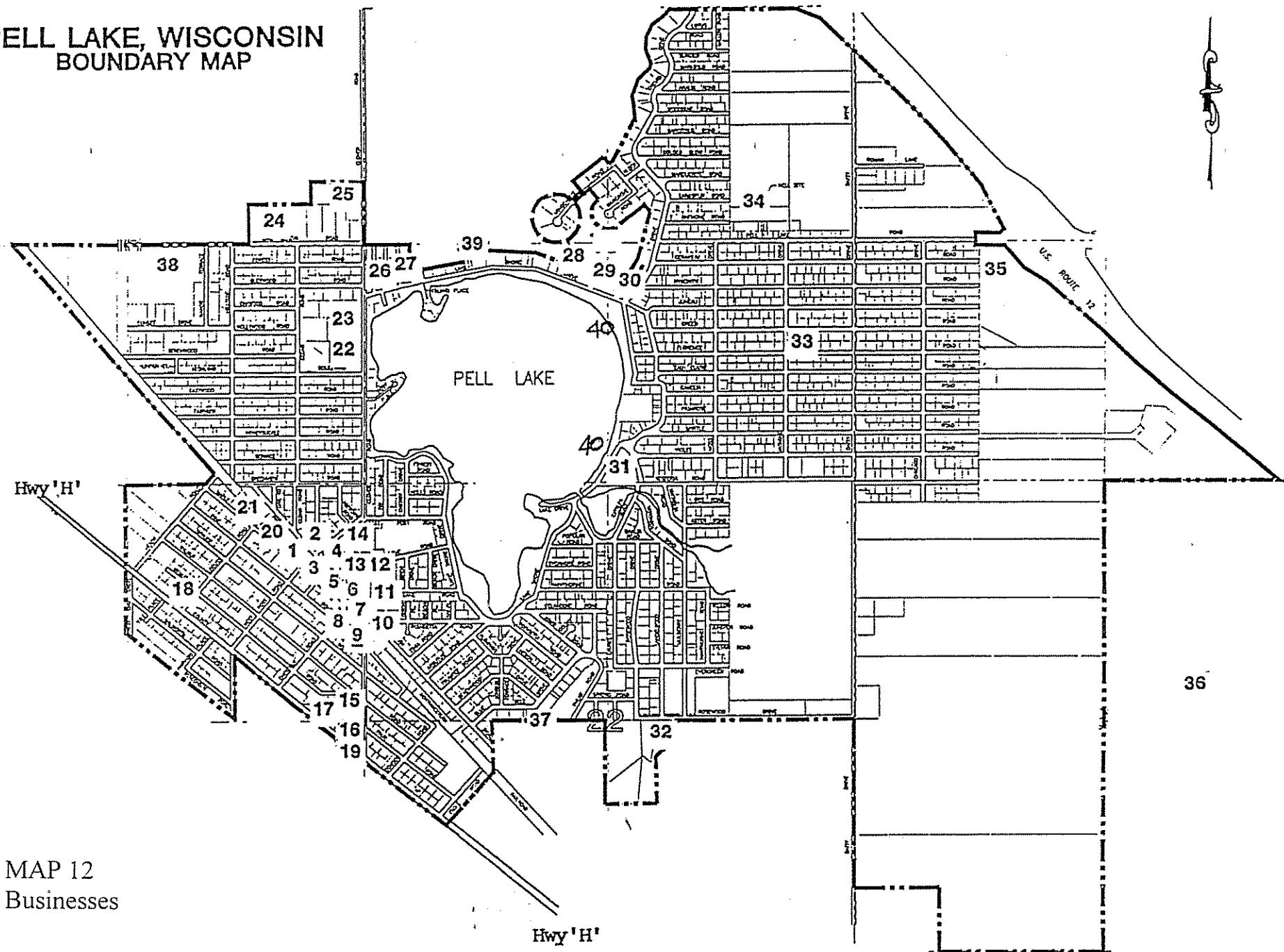


GRAPHIC SCALE
0 4000 8000

Source: SEWRPC.

MAP 11
Land Uses

PELL LAKE, WISCONSIN
BOUNDARY MAP

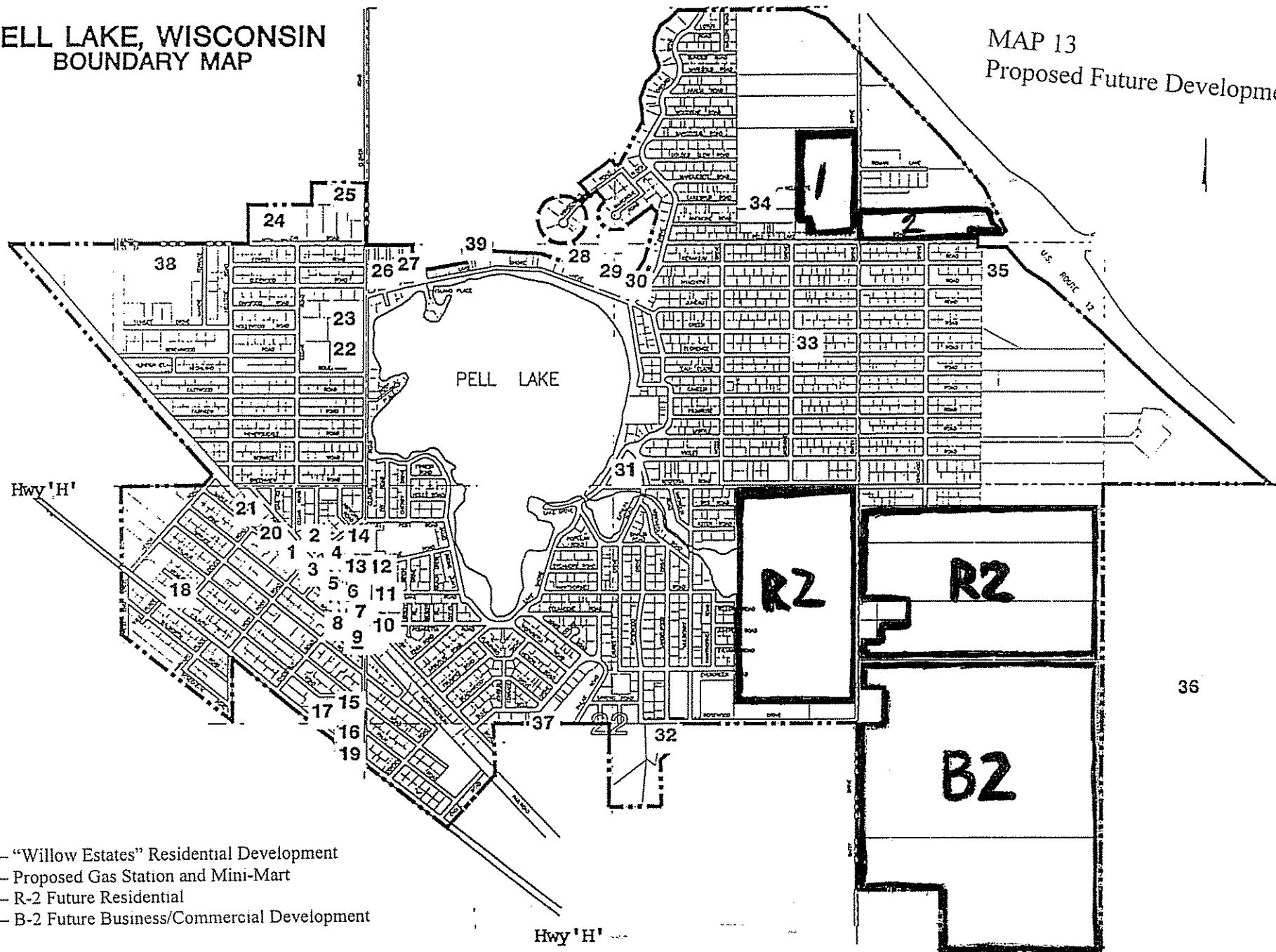


MAP 12
Businesses

1. Post Office
2. First Banking Center
3. Veteran's Memorial Park
4. Scotty's Service
5. Pell Lake Foods
6. Magicland Ceramics
7. Monroe's Mobil
8. Chuck's Storage
9. Dave's Not Inn
10. Property Shoppe
11. Skinner HVAC
12. Berts Auto/Clover Auto Reconditioning
13. Trinity Lutheran Church
14. Staco Manufacturing
15. Bloomfield Fire & Rescue
16. Bloomfield Town Garage
17. Bloomfield Town Hall
18. Blue Top Motel & Restaurant
19. Upper Crust Pizzeria
20. Lumberyard Storage/Lundberg's Martial Arts
21. J.C. Tool & Die
22. Clover Country Cottages
23. Auto Shop
24. Star Center School
25. PLSD Water Tower Site
26. JT's Bar & Grill
27. St. Mary's Church
28. "Sho Nuff" Blues Room/Darlene's Haven
29. Skip's Lakeside Bar
30. Lakeside Store
31. 4-Reasons Bar
32. Casa Mia Adult Care Center
33. Pell Lake Property Owner's Association Clubhouse
34. PLSD Well Site
35. Future Home of Trinity Lutheran Church
36. PLSD Sewer Treatment Plant
37. Signature Realty
38. McKay Park
39. Boezio's Rental Cottages
40. Public Beaches

PELL LAKE, WISCONSIN
BOUNDARY MAP

MAP 13
Proposed Future Development



department stores, pharmacies, doctors' or dentists' offices, insurance agencies, churches, schools or post offices.”³¹ However, it is significant to note that the community center in Delavan Lake did contain a bank, restaurants, service stations and various retail establishments.

In two earlier determinations, Lake Como (1969) and Chain O'Lakes (1982), the Department held that shopping opportunities need only be very minimal. In the Chain O'Lakes determination, the department stated that:

It is not mandatory that all services be available or that each petitioned territory maintain a postal station or telephone exchange strictly within its boundaries in order to fulfil the statutory requirements... The critical issue is the existence of retail facilities and services, not necessarily their size; the commercial center can be small, as noted in Chain O'Lakes, but it must be present and viable, and be able to meet the day-to-day needs of a majority of the residents in an isolated (non-metro) community.³²

Lake Como had a shopping area that could satisfy the daily needs of its residents, even in spite of its close proximity to shopping opportunities in Lake Geneva. Similarly, Chain O'Lakes possessed retail business and services such as groceries, barbershops, and restaurants.

Both of these past determinations involved lakeshore/recreational communities very near larger communities, but both proposed villages were able to develop and maintain a shopping area which could meet the daily needs of their residents. It was not considered surprising or detrimental that more major shopping excursions were focused on the larger community nearby. This would no doubt be true, to varying degrees, for every village. But every true village would have its own custom of shopping within its boundaries for the basic necessities.

The trends established in these earlier determinations by the Department were further explored in the decisions of Stone Bank (1995) and, more recently, in the incorporation of Bohners Lake (1999). The Department found that Stone Bank met the statutory requirements of section 66.016(1)(a) Wis. Stats. for a developed community center and for homogeneity and compactness. The Department distinguished Stone Bank from Delavan Lake by stating the following:

The essential difference between the Delavan and Stone Bank petitions are the churches, the school, the activities which, though minimal, can nevertheless be said to involve the entire community. ... Stone Bank physically has the potential to be, if it doesn't already physically function as, one community, whereas Delavan included separate enclaves or neighborhoods located around (the) periphery of Delavan Lake, widely separated by distances measured in miles.³³

The “village core” area of Stone Bank contained, for example, an elementary school, a branch bank, a general store, and a bakery/convenience store/gas station, as well as a year-round church and several other businesses. In the later Bohners Lake decision (1999), the Department held that the “village core” of Bohners Lake, while rudimentary, contained a concentration of stable and thriving businesses whose inter-relationships promoted successful retail trade activity. The Department held that as in the similar case of Stone Bank, “the church, school, telephone exchange, restaurant, ball diamond, and other business amenities minimally meet the statutory term ‘reasonably developed community center’”.³⁴ In Bohners Lake the

³¹ Delavan Lake(1989), pg. 24.

³² Chain O'Lakes(1982), pg. 40.

³³ Stone Bank (1995), pg. 43.

³⁴ Bohners Lake (1999), pg. 36.

Department found that the location and inter-relationship between the elementary school, church, businesses and recreational facilities located in the village core, when considered together, provided a focus for community activity and fostered a common community identity.

Both the Stone Bank and Bohners Lake decisions satisfy what we believe to be the statutory intent that there exist shopping opportunities to meet the daily needs of residents despite the proximity of nearby shopping establishments in neighboring cities and villages. A certain threshold of goods and services must be met within the proposed incorporated area.

In Bohners Lake, to interpret the statutory term “reasonably developed community center” under section 66.016(1)(a), Wis. Stats., the Department did consider such factors as the stability of the land use in question, the direction and intensity of land use trends, and the magnitude of growth in home building activity related to the installation of public sewers. However, the Department held that the community center must first minimally comply with statutory intent, stating; “... flexibility has limits and basic necessities cannot be waived.”³⁵

The area presently proposed for incorporation appears to meet or exceed the minimum levels of social and recreational opportunities, shopping and services established by these earlier determinations. The proposed village contains a variety of businesses and services that meet the basic daily needs of its inhabitants, in spite of the presence of nearby regional shopping opportunities in Lake Geneva, Twin Lakes, and Genoa City. The proposed village offers two full service grocery stores and at least one store selling convenience items. The area has a bank, a post office, taverns and restaurants, a gas station, several auto repair shops, as well as hardware and basic housewares. Entertainment venues, business services, real estate services, a senior care center and child daycare services are among the services available within the proposed village. While residents may travel elsewhere for greater selection and lower costs, the presence of these goods and services meet many of the daily needs of the residents of the community.

The Pell Lake area also contains two year round churches which offer a variety of social opportunities, meeting space and other services. The Trinity Lutheran Church has a membership of 213 congregants and is in the process of building a new church facility on land purchased at Pell Lake road and USH 12. The church employs 3 staff members and a permanent pastor and sponsors events such as an annual spaghetti dinner, Mexican fiesta, a turkey dinner in November, as well as holiday activities, hobby and crafts events, recreational field trips, etc. St. Mary’s Catholic Church is also located in the area proposed for incorporation and is part of the Milwaukee Archdiocese. The Parish consists of over 200 families and coordinates the activities of the St. Vincent De Paul Society, a home visitation program and serves as the location for a food pantry. St. Mary’s also offers a religious education program and summer vacation bible school, as well as a year round day care program for approximately 25 children.³⁶

The existence of an elementary school within the area proposed for incorporation also offers opportunities for the 137 students attending the Star Center elementary school and their families to interact and socialize. The Star Center Parent Teacher Organization has been in existence since approximately 1934 and its members help organize a variety of community activities including the “Reading Is Fundamental” program, a Halloween costume party, holiday workshops for making or buying gifts, Earth Day activities, as well as bowling and roller skating activities.³⁷

Finally, the existence of a unified and independent social identity is also demonstrated by Pell Lake Property Owners Association and the Mudhens, both very active citizen organizations. The Pell Lake Property

³⁵ Bohners Lake (1999), pg. 46.

³⁶ Petitioners Exhibit 1, Section 5.

³⁷ Petitioners Exhibit 1, Section 12.

Owners Association has existed since the 1920's and has a membership of over 100 residents from throughout the Pell Lake area. The Mudhens began their lake clean-up activities in the early 1980's. As indicated earlier, they cut and remove over 1,750 tons of aquatic vegetation annually and have greatly improved lake conditions for fish and for recreational swimming and boating. The Mudhens hold annual fundraisers to support their activities and use the resulting funds to purchase and maintain weed cutters and a conveyor system and other equipment. This group is also largely responsible for maintaining the two public beaches. They have rebuilt two public boat launches, provided and maintained rafts and piers at the beaches, purchased picnic tables for the parks, provided and maintained signs at both beaches, blacktopped the boat launch on Lake Shore Drive, and have replenished the public beaches with sand.³⁸

Other park and recreational facilities available to residents and visitors to the Pell Lake area include the Veterans Memorial Park which is located in the "core" area of the proposed village and a 13 acre area in the northwest corner of the town called McKay Park. As noted earlier, this area consists of 13 acres of wetlands which was donated to the town of Bloomfield by a private landowner. It is currently undeveloped. According to the town of Bloomfield, less than one acre of Town parkland is developed for passive recreational use. This is the Veterans Memorial Park that is maintained by the VFW. Although there does not appear to be any County or SEWRPC standards for recreational facilities that apply to this area, the Department concludes that the town has not provided public recreational facilities that meet the needs of the residents of this area. However, the presence of privately maintained recreational facilities by the VFW and the Pell Lake Property Owners Association appear to offer recreational facilities that are available to the public and which appear to compensate for the lack of municipally maintained facilities. In addition, future plans for the McKay Park property include the development of nature trails to allow for public recreational and educational uses.³⁹

There are a variety of social, religious, and service organizations, as well as a variety of annual community-wide events in the Pell Lake area that provide opportunities to foster social and business connections and suggest that a unified and independent sense of social identity exists within the proposed village.

Employment

There appears to be a rudimentary core of approximately 30 - 40 commercial and institutional enterprises located within the proposed village of Pell Lake. These businesses each employ between 1 and 30 persons on a full and part-time basis. There appears to be a viable base of commercial, retail and institutional development within the proposed village that offers employment opportunities, as well as functional connections to nearby centers of employment. Nearby employment centers also include Lake Geneva and Genoa City, the Milwaukee metropolitan area, and the Chicago, Illinois metropolitan area.

Community Center

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

The Department discussed the "Community Center" requirement for isolated villages under section 66.016(1)(a) in its determination in Stone Bank (1996). The Department used the following language and analysis to describe what is meant by community center:

³⁸ Petitioners Exhibit 1, Section 5.

³⁹ Petitioners Exhibit 1, Section 5.

Analysis of past incorporation determinations written by successive Departments responsible for the incorporation function suggests the elements needed to meet this standard. These elements overlap with shopping and social customs because of the nature of the community situs and structural relationships, relationships that give meaning to the physical and social nature of a community center. In past determinations, the following comments have been used to characterize this requirement:

- Presence of a shopping area which can satisfy the daily needs of its residents despite the close proximity of nearby shopping establishments;
- It is not mandatory that all services be available or that each petitioned territory maintain a postal station or telephone exchange strictly within its boundaries in order to fulfill the statutory requirements;
- The critical issue is the existence of retail facilities and services, not necessarily their size;
- Every true village would have its own custom of shopping within its boundaries for basic necessities
- That there be community-wide organizations with the potential to serve as a focus or to contribute to the social identity of the area.
- Social activities centered around churches found in the proposed villages were specifically noted as evidence of a sense of community identity (Hewitt, 1973; Newburg, 1973). In other determinations (Rockfield, 1964; Fitchburg, 1982), failure to have a continuously operating church was found to suggest that religious and social activities took place elsewhere.
- The commercial center can be small, as noted in Chain O'Lakes, but it must be present and viable, and be able to meet the day-to-day needs of a majority of the residents in an isolated (non-metro) community.
- All past isolated areas that met the standards for homogeneity/compactness and community center included a village center area which contained most or all of the following: post office, school, bank, church, and commercial establishments, including grocery stores, restaurants, or gasoline service stations. These establishments, along with professional services, appeared to be the most critical in terms of whether a real community center existed in the area. If establishments, such as those listed above, were not specifically present in the community center, then determinations often pointed out that the community itself was sufficiently developed to supply daily necessities (Oakdale, 1986), or that it served as a service and social center for the surrounding area (Potter, 1982; Arpin, 1978; Nelson, 1978; Crivitz, 1974).
- Failure to provide day-to-day needs and a year-round focus of community-wide activity was considered determinative.⁴⁰

⁴⁰ Stone Bank (1996), pp 40-41.

The community center for the proposed village of Pell Lake, as identified by the petitioners, appears to meet all the requirements of the above statements. As discussed earlier, the area identified as the community center by the petitioners is located in the southwestern corner of the town, around the intersections of Park Road and Clover road and is accessible from all parts of the area proposed for incorporation by a network of local roadways.

Businesses and services located in area identified as the “Community Center” of the proposed village include:

1. Post Office
2. First Banking Center
3. Veterans Memorial Park
4. Scotty's Service
5. Pell Lake Foods
6. Magicland Ceramics
7. Monroe's Mobil
8. Chuck's Storage
9. Dave's Motel
10. Property Shoppe
11. Spencer's Business Support
12. Skinner HVAC
13. Bert's Auto/Clover Auto Reconditioning
14. Trinity Lutheran Church
15. Staco Manufacturing
16. Lumberyard Storage/Lundberg's Martial Arts
17. J.C. Tool & Die

This area contains a post office, a bank, a church, the Veterans Memorial Park, a grocery store, gas and automobile service/repair, as well as a number of other businesses and services. The community center, together with the other businesses, services, and recreational/social opportunities available in the proposed village, are sufficient to meet the day-to day needs of its residents. The community center contains the type of attractive features that offer residents an opportunity to meet and socialize together and fosters a common sense of social identity and community.

Determination

As previously described and analyzed, the boundaries selected for this incorporation petition largely correspond with many of the natural attributes of the area. The boundaries of the proposed village fit closely with the natural boundaries of the area. The area proposed for incorporation falls mostly within the Nippersink sub-watershed of the Upper Fox River and contains substantially all of the developed area surrounding Pell Lake and the entire area included in the Pell Lake Sanitary Sewer and Water Service Area. The proposed boundaries also include some small areas of developable soils in PLS Sections 22 and 23 that are located outside the sewer service area. However, much of the territory in these sections consists of wetlands and areas designated as environmental corridors or isolated natural areas by the SEWRPC and by the Walworth County Zoning District Map and are not anticipated to be developed according to testimony by the owners of these parcels. The developed area surrounding Pell Lake is separated from the surrounding communities by areas of wetlands, streams and prime agricultural lands. Furthermore, because development in these communities has remained fairly concentrated and stable, this has also resulted in separation.

The current pattern of local streets within the proposed area provides access to the various parts of the area proposed for incorporation and creates a sense of identity to the community. Pell Lake Drive, Lake Shore Drive, Daisy Road and Clover Road all provide means of access to the various residential neighborhoods as well as to the various businesses and institutional facilities in the proposed village. CTH H, on the western boundary, and STH 12, on the eastern boundary, connect the Pell Lake area to the city of Lake Geneva to the northwest and to the village of Genoa City to the southeast. STH 12 also connects to USH 50 and to Illinois 173 and provides routes through and outside the region.

Incorporation of Pell Lake does not present any significant conflict with existing political boundaries. As indicated above, the area proposed for incorporation contains the boundaries of the entire Pell Lake Sanitary District. It lies entirely within the town of Bloomfield. The majority of it lies within the Lake Geneva Joint #1 school district. Finally, the area proposed for incorporation would not create any town islands or create any functionally isolated areas within the town.

Although the Department has stated in previous determinations that the boundaries of school districts are unaffected and therefore neutral with respect to the establishment or change of municipal boundaries, schools are an important factor in molding a sense of community identity through social and recreational activities. The location of the Star Center Elementary School within the proposed village contributes to a sense of community identity and adds to the homogeneity of the proposed village. Many students in the Pell Lake area attend this school and share common social and recreational activities. Many parents are also involved in activities surrounding the school and PTO activities. This contributes to a common sense of social identity in the community.

The Proposed village has a distinct, functioning and long-standing “community center” in the southwest corner of the proposed village, made up of a number of businesses, institutions, a park and other public facilities. The businesses and facilities located in this “core” area appear to be viable and stable uses that meet many of the daily needs of residents of this community for goods and services and provides the residents with a natural focus for their community identity. This “village center” provides a place for residents to gather and interact socially and in the course of their daily activities. In addition to this community center, the proposed village also contains many other year round businesses and services that meet the needs of local residents and that add to the internal focus of local residents.

Finally, the territory includes the presence of many active social and neighborhood organizations that tend to support the existence of an independent social identity within the Pell Lake Community. The Pell Lake Property Owners Association and the Mudhens are groups with active members from throughout the Pell Lake area. These groups have been supported by the community in their efforts to raise funds, conduct lake improvement projects, and generally maintain lakeshore property for public recreational use and enjoyment. Local churches offer religious education to children, run a food pantry, and sponsor a number of annual community-wide social events.

Therefore, for the above-mentioned reasons, the Department finds that the territory proposed for incorporation meets the standards established in section 66.016(1)(a) Wis. Stats. for the incorporation of an “isolated village”.

SECTION 1(b), Territory beyond the core

The standard to be applied is found in section 66.016(1)(b), Wis. Stats. and is as follows:

The territory beyond the most densely populated one-half square mile specified in s. 66.015(1) or the most densely populated square mile specified in s. 66.015 (2) shall have an average of more than

30 housing units per quarter section or an assessed value, as defined in s. 66.021(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 territory beyond the most densely populated square mile as specified in s. 66.015 (3) or (4) shall have the potential for residential or other land use development on a substantial scale within the next three years. The department may waive these requirements to the extent that water, terrain or geography prevents such development.

This standard is a single standard comprised of two parts. The first part pertains only to “isolated” villages or cities, and permits one of two criteria to satisfy the standard: an average of 30 housing units per quarter section, or an assessed value of 25 percent or greater which is attributable to existing or potential mercantile, manufacturing, or public utility uses.

The remaining developable land in the Pell Lake area, that which is associated with soil types capable of development, is located in the far northwest corner of the territory, in PLS Section 16, and also in the far northeast corner of the territory, between USH 12 and Pell Lake Drive. Also, isolated areas of developable land exist in the northeast quarter of PLS section 22 and along the East side of Daisy Drive in PLS section 23. However, these areas are currently located outside of the sanitary district’s boundaries.

Intervenors contend that the territory proposed for incorporation does not meet the “Territory Beyond the Core” requirement.⁴¹ They argue that the southeastern portion of the territory will not be developed, contrary to section 66.016(1)(b), Wis. Stats., which requires that the territory beyond the most densely populated square mile have the potential for residential or other urban development on a “substantial scale” within the next three years. Intervenors base their argument on written and oral statements by the landowners of parcels in this southeastern portion of the territory that they have no intention of developing their land for urban uses. However, Intervenor’s argument relates to the second part of section 66.016(1)(b), Wis. Stats., the requirement of substantial development within three years. This requirement pertains to “metropolitan” villages or cities. It does not apply to isolated villages such as Pell Lake.

According to the SEWRPC’s *Sanitary Sewer Service Area for the Pell Lake Sanitary District # 1* (1996), the population projected for the sewer service area for 2010 is approximately 2.5 dwelling units per net residential acre (1,621 units total within the sewer service area of about 659 acres). Based on this projection, as well as a visual inspection of the density apparent in the orthophoto map provided as Petitioner’s Exhibit 4, the Department finds that this criteria is met.

As discussed earlier in this determination, the Department also concluded that the proposed village closely conforms with natural and man made features of the area and does not contain excessive amounts of undevelopable land within the proposed boundaries.

Determination

Therefore, considering the application of the statutory term “average” to mean average of total dwelling units across all relevant quarter-sections excluding the most densely populated one-half-square mile, and given the statutory authority to the Department to “waive these requirements to the extent that water, terrain, or geography prevents such development”, the Department determines that this criterion is met.

⁴¹ Intervenor’s Exhibit (I-1), pg 4.

Section 2(a) Tax Revenue

The standard to be applied is found in s. 66.016(2)(a), Wis. Stats., and reads 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.

This section reviews comparative levels of revenues, expenditures, and tax rates for the proposed village as well as for the town of Bloomfield. Intervenors contend that the expenditures proposed by Petitioners are quite low when compared to those found in Bohners Lake (1999). Of course, local service expenditures vary greatly across Wisconsin communities and are subject to the custom and expectations of the local populace. Because of this, the Department allows for a range of service levels and does not hold communities to fixed standards. However, comparisons are made with villages sharing similar characteristics in order to determine whether a proposed budget is generally reasonable and able to support demonstrable service needs. The following paragraphs show that Petitioners' proposed budget may be low for some categories. Low estimates are particularly significant in the case of Pell Lake because generating additional revenue may be difficult. However, using the Department's adjusted budget for the proposed village, it is clear that Pell Lake has the ability to raise sufficient revenue to a level of services similar to those currently offered by the Town, should electors of the territory so desire.

Analysis of Petitioner's proposed budget

Table 2, on page 36, portrays the budgets for the town of Bloomfield and the proposed village. Table 3, at page 37, shows revenues and expenditures for the town of Bloomfield and the proposed village. Line item expenditures and revenues from Petitioner's proposed budget and the town of Bloomfield were recategorized to make them consistent and therefore comparable. The first column represents Petitioner's proposed budget.⁴² Column two portrays the town of Bloomfield's revenues and expenditures for 1998.⁴³ Column three represents the Department's estimate of revenues and expenditures for the proposed village. Column four is the Department's estimated budget for the remainder of the Town in the event that Pell Lake were to incorporate.

Assumptions and Considerations

Column three, the Department's estimated budget for Pell Lake, assumes that the current level of service delivered to area residents will remain constant. This assumption is necessary because it allows the Department to isolate the affects of incorporation. Of course, if incorporated, the new village may choose to offer a different level of service from that currently offered by the Town. However, this is a decision that the Department cannot predict and that is separate from incorporation. Therefore, the Department's estimates are derived from the level of services currently provided by the Town. The Department did consider the possible impact of "economies of scale" before making budget estimates. Furthermore, all costs are annual estimates with a base year of 1998.

⁴² The budget is part of Exhibit P-1, provided to the Department during the legislative hearing conducted on April 5th, 2000.

⁴³ Petitioners' Exhibit 8 (P-8).

TABLE 2
Budgets: General Categories

Expenditures	Pell Lake Petitioners	Town of Bloomfield	Department's Estimates for the New Village	Remainder of the Town
General Government				
Governing Body	17,000	28,249	17,000	28,000
Clerk-Treasurer	23,930	36,102	29,000	28,000
Clerical	-	0	-	-
Legal	15,000	45,088	20,000	15,000
Custodial	-	0	-	-
Elections	5,000	2,023	2,500	2,500
Assessor & Review Board	5,500	19,166	7,500	10,000
Building Inspection	16,400	31,543	16,400	15,000
Supplies	1,000	0	5,000	-
Utilities	6,900	19,690	10,000	10,000
Rent	4,800	71	4,800	0
Insurance	20,000	36,862	24,000	20,000
Auditing/Accounting	5,000	7,400	7,000	7,400
Planning and Zoning	-	0	3,500	3,500
Board of Adjustment	-	0	-	-
Other	13,500	97,984	20,000	50,000
Public Safety				
Police	188,334	455,214	264,000	190,000
Municipal Court (excl. pros. Attorney)	19,685	33,670	19,000	15,000
Prosecuting Attorney	-	0	3,500	0
Water Patrol	-	0	-	0
Animal Control	-	0	-	0
Fire	52,250	126,948	75,000	50,000
Ambulance	-	0	-	0
Other	-	0	-	0
Highways				
Highway - General	145,248	314,399	145,000	250,000
Street Lighting	-	0	-	0
Bridge Inspection	-	0	-	30,000
Other	-	45,789	-	-
Solid Waste, Recycling	138,020	244,851	138,020	100,000
Public Health	-	0	-	0
Library	-	0	-	0
Parks and Recreation	-	0	-	0
Capital Outlay	20,000	0	20,000	0
Total	697,567	1545049	831,220	824,400
Total (excl. Solid waste)	559,547	1,300,198	693,200	724,400
Revenues				
Intergovernmental				
State Shared Revenues	81,000	121,530	81,000	67,000
State Aid Police Training	-	1,133	-	0
State Aid Recycling	14,000	21,971	14,000	8,000
Highway Aids	47,712	132,579	44,350	88,229
State Aid Fire Insurance Dues	3,500	6,587	3,500	3,000
State Aid Water Patrol	-	0	-	0
Other	11,600	5,712	11,600	6,000
Licenses & Permits	35,140	45,699	35,000	12,000
Fines & Forfeitures	112,000	181,029	112,000	70,000
Public Charges for Services	-	0	-	0
Solid Waste	124,020	239,314	124,020	100,000
Other	7,000	26,329	7,000	15,000
Subtotal				
Interest	-	173,116	-	114,256
Other Revenues	-	129,327	-	85,000
Total Revenues	435,972	1,084,326	432,470	568,485
(Excl. solid waste)	311,952	845,012	308,450	468,485
Amount to be raised by local tax levy (excluding solid waste)	261,595	581,323	398,750	255,915
Estimated equalized value	111,717,820	251,709,400	111,717,820	139,991,580
Estimated local mill rate (excluding solid waste)	2.34	2.31	3.57	1.83

a. First year transportation aids would likely be zero, because aids are based on eligible expenditures. Note: No municipality can receive aid equal to more than 85% of averaged 3-year expenditures.

TABLE 3
REVENUES AND EXPENDITURES

Revenues--Governmental Fund	PELL LAKE PETITIONERS			TOWN OF BLOOMFIELD		
	DOLLARS	PERCENT	\$/CAPITA	DOLLARS	PERCENT	\$/CAPITA
Taxes						
General Property Taxes	261,596	37.4%	87.2	572,400	35.6%	130.3
Tax Increments	-	0.0%	-	-	0.0%	-
In Lieu of Taxes	-	0.0%	-	-	0.0%	-
Other Taxes	-	0.0%	-	61,900	3.9%	14.1
Total Taxes	-	0.0%	-	634,300	39.5%	144.4
Special Assessments		0.0%	-		0.0%	-
Intergovernmental Revenues						
Federal Aids	-	0.0%	-	-	0.0%	-
State Shared Revenues	81,000	11.6%	27.0	120,400	7.5%	27.4
State Highway Aids	47,712	6.8%	15.9	132,500	8.2%	30.2
All Other State Aids	14,100	2.0%	4.7	36,300	2.3%	8.3
Other Local Government Aids	17,000	2.4%	5.7	-	0.0%	-
Total Intergovernmental Rev.	159,812	22.8%	53.3	289,300	18.0%	65.9
Licenses & Permits	42,140	6.0%	14.0	44,600	2.8%	10.2
Fines, Forfeits & Penalties	112,000	16.0%	37.3	180,300	11.2%	41.1
Public Chg. For Services	124,020	17.7%	41.3	240,300	14.9%	54.7
Interg. Chg. For Services	-	0	-	500	0.0%	0.1
Miscellaneous Revenues						
Interest Income	-	0.0%	-	33,100	2.1%	7.5
Other Revenues	-	0.0%	-	25,400	1.6%	5.8
Total Miscellaneous	-	0.0%	-	58,500	3.6%	13.3
Subtotal--General Revenues	699,568	100.0%	233.2	1,467,400	91.3%	334.1
Other Financing Sources	-	0.0%	-	140,000	8.7%	31.9
Total Revenue & Other Financing Sources	699,568	100.0%	233.2	1,607,400	100.0%	366.0
Expenditures-Governmental Fund						
General Operations & Capital						
General Government	153,430	22.0%	51.1	260,900	17.6%	59.4
Law Enforcement	188,334	27.0%	62.8	455,200	30.7%	103.6
Fire	52,850	7.6%	17.6	131,600	8.9%	30.0
Ambulance	-	0.0%	-	-	0.0%	-
Other Public Safety	19,685	2.8%	6.6	32,700	2.2%	7.4
Highway Maintenance & Adm.	130,248	18.7%	43.4	356,100	24.0%	81.1
Highway Construction	15,000	2.2%	5.0	-	0.0%	-
Road-Related Facilities	-	0.0%	-	-	0.0%	-
Other Transportation	-	0.0%	-	-	0.0%	-
Solid Waste Coll & Disposal	124,020	17.8%	41.3	244,800	16.5%	55.7
Other Sanitation	14,000	2.0%	4.7	-	0.0%	-
Health & Human Services	-	0.0%	-	-	0.0%	-
Culture & Education	-	0.0%	-	-	0.0%	-
Parks & Recreation	-	0.0%	-	-	0.0%	-
Conservation & Development	-	0.0%	-	-	0.0%	-
All Other Expenditures	-	-	-	-	-	-
Subtotal-Oper. & Cap. Expend.	697,567	100.0%	232.5	1,481,600	100.0%	337.3
Debt Service						
Principal	-	-	-	-	-	-
Interest & Fiscal Chg.	-	-	-	4,000	0.9	-
Total Debt Service	-	-	-	4,000	0.9	-
Other Financing Uses	-	-	-	-	-	-
Total Expenditures & Other Financing Uses	697,567	-	232.5	1,485,600	-	338.3
Total General Obligation Debt	-	0.0%	-	140,000	0.1%	31.9
Full Equalized Value	111,717,820		37,239.3	234,334,800		53,354.9

Source: WI Department of Revenue

It should be noted that the adjusted budget includes solid waste and recycling service, as shown by Table 2. Based on Petitioners' Exhibit P-1, this service will most likely be contracted for by the proposed village.⁴⁴ Therefore, solid waste removal will be billed separately as a special charge to residents instead of being included on the tax roll to be paid for by everyone. This means that its inclusion or exclusion makes no difference in terms of the analysis because fees collected equal pickup and disposal costs. In other words, solid waste pays for itself.

Startup costs for developing a village government are not directly addressed in this budget analysis. The village could rely on covering some startup costs from the assets distribution required of the Town under section 66.03 Wis. Stats. However, to estimate a budget that most closely aligns with reality, petitioners should be aware of the costs unique to starting up a village government. Naturally, these costs are only relevant during the early years of the village.

Petitioners' budget represents the expenditure and revenue estimates that they believe necessary and sufficient for the operation of a part-time village-style government. They base these amounts on the experiences of other villages and on interviews with organizations that are capable of providing services. Petitioners indicate that the proposed budget is meant to be a realistic projection of the costs for basic services, but that ultimately service levels are a matter for political discussion.⁴⁵

The following section describes Petitioners' budget estimates, as well as those of the Department. For some budget categories the Department's estimate is consistent with that of Petitioners' and for others it is not.

Expenditures

Governing body. Petitioners' estimated expenditure of \$17,000 should provide a governing body that is similar in quality to that presently enjoyed by town of Bloomfield residents. Few people, if any, base their decision to run for local political office on the pay the position offers. Other villages operate with governing body expenditures of \$17,000.

Clerk/Treasurer. Petitioners suggest combining the positions of clerk and treasurer and estimate a cost of \$23,930 for the position. The Town spent \$36,102 for its clerk in 1998. Funding levels for clerks in small villages range from \$23,000 to \$30,000. The Department's estimate of \$29,000 is closer to the Town's \$36,000 expenditure and is based on the assumptions that area residents will desire to both attract and retain better-trained candidates and that residents will desire the same level and quality of service currently received from the Town.

Clerical. The clerk/treasurer can perform needed clerical duties. Therefore, no cost is incurred in this category.

Legal. Petitioners estimate \$15,000 for legal services, while the Department estimates \$20,000 based on the Town's expenditure. This figure could be higher during the early years of Pell Lake's existence as a village because a framework of village ordinances may need to be drafted. Thereafter, legal expenses would relate more to implementing, and enforcing the ordinances and periodically amending them.

Custodial. Petitioners' rent expenditure to physically house the government may include custodial services. Therefore, no separate cost is entered.

⁴⁴ Petitioners' Exhibit 1, Section 4 includes a letter from Waste Management-Geneva Lakes, Inc. providing an estimate for providing garbage and recycling pick-up to Pell Lake residents.

⁴⁵ Petitioners' Exhibit 1, Position Statement.

Elections. It is assumed that the town of Bloomfield will give up the appropriate voting machines as an asset distribution. The estimate of the remaining administrative costs is \$2500, which is the same as the election administration costs the Department used for the similarly situated community of Bohners Lake.

Assessor and Review Board. Since the Town presently spends approximately \$19,000 per year on the review board and assessor, the Department estimates that the village will need to spend at least \$7500 per year to offer a similar level of service based on expenditures of other similarly situated villages. Given the population and large number of properties within the proposed village of Pell Lake, Petitioners' figure of \$5000 would not offer a level of service similar to what residents of Pell Lake presently receive from the town of Bloomfield.

Building inspection. The Department believes that Petitioners' figure of \$16,000 is reasonable and will provide a well-equipped building inspection service.

Supplies. "Supplies" refer mainly to office supplies. Petitioners' figure of \$1,000 may be low. The Department's estimate of \$5,000 is based on analysis performed as part of Bohners Lake (1999), wherein the Department examined expenditures from other villages and town's of similar size and characteristics to Bohners Lake. Because Bohners Lake is roughly similar to Pell Lake, the Department believes that an estimate of \$5,000 may be more reasonable than Petitioners' estimate, particularly because the new village will need to procure many supplies at the outset and during its first years of existence.

Utilities. Petitioners estimate of \$6,900 for utilities may be low. The town of Bloomfield spent \$19,600 for utility costs in 1998. A new village's utility cost, assuming it has use of at least one-half of the current town of Bloomfield's buildings, should be approximately \$10,000.

Rent. This cost depends upon how the physical assets of the town of Bloomfield are divided as well as arrangements made regarding payment responsibilities. These costs could vary significantly. Also, custodial and some utility costs for the administration building could potentially be included here.

Insurance. Petitioners' \$20,000 estimate for insurance may be low. The Town spent \$36,000 for insurance in 1998. The Department's estimate of \$24,000 for Pell Lake is based on the proposed village's maintaining the same per capita cost that is presently incurred by the Town.

Auditing/Accounting. Petitioners estimate \$5,000 for auditing/accounting. The Town's cost for this service in 1998 was \$7,400. The Department's estimate is \$7000.

Planning and Zoning. The town of Bloomfield, including the Pell Lake area, is currently regulated by zoning ordinances of Walworth County. The Town does have a municipal code of its own but this code is limited to matters such as government form and procedure, budget, police, fire, traffic control, and nuisances. With regard to land use, the county's code controls. Because the county's general zoning applies only to unincorporated land, incorporation of Pell Lake means that Walworth County zoning would no longer apply. General county zoning would only apply to the remainder of the Town; not to the new village. In the event that Pell Lake incorporated, it could decide to adopt a village zoning code, or it could decide not to. The majority of villages in Wisconsin have zoning codes. In fact, a desire to control lands more fully is often one of the motivating factors behind incorporation petitions. Regarding planning, there are a number of plans that affect the territory proposed for incorporation. Although the town of Bloomfield does not have a land use or comprehensive plan, the SEWRPC has developed numerous regional and functional plans for the area and Walworth County recently developed its *Walworth County Land Use Plan* (1993) which includes the Pell Lake area. In their proposed budget, Petitioners allocate \$0 for planning and zoning. Given the significant possibility that residents will desire some level of municipal direction and authority, allocating resources towards this end may yield a more accurate budget. Also, Petitioners' proposed budget

anticipates revenues of \$112,000 from fines, forfeitures, permits, licenses. However, without a code of ordinances and an administrative enforcement structure, collection of many of these revenues will not be possible. For example, without an ordinance that prohibits an activity and punishes its commission with a fine, there is no basis upon which to collect a fine. Residents of Pell Lake may also desire ordinances in order to protect the integrity of Pell Lake, especially given its importance to community identity and community social and recreation activities. The following language indicates the importance petitioners place on planning:

While the population of Pell Lake is upwards of 70% to the towns total, [sic] illustrates the need for special planning for the future. Pell Lake, its surrounding neighborhoods and conservation lands, are at risk of existence, [sic] progress will pull us all over.⁴⁶

For all of the above reasons, the Department believes that some amount should be allocated for planning and zoning service. The Department's estimate is \$3500. However, even this amount would cover only the expenses of a plan commission. It would not cover the costs of developing a comprehensive plan or implementing ordinances.

Other. The town of Bloomfield had a number of expenditures that do not fit into any of the preceding categories and hence, fell into this category. These line items are Mobile Home Tax, Payroll Tax Expense, and Uncategorized Expenses. In 1998 the Town spent \$97,984 on this "other" category. The Department estimates a cost of \$13,500 for Pell Lake, assuming that a new village would spend a fraction of the Town's expenditures based on the population and size of the Pell Lake area in relation to the Town of Bloomfield.

Police. The Pell Lake area currently receives police protection from both the Town of Bloomfield police department and the Walworth County sheriff's department. The Town police department provides service 24 hours per day, 7 days per week. The sheriff's department provides dispatch service and patrol service when town coverage is thin due to sick leave, vacation, or excess demand.⁴⁷ In 1998, Pell Lake residents requested contract service from the Walworth County Sheriff's Department in addition to the dispatch service currently provided. However, they were informed that the sheriff's department does not provide contract service.⁴⁸ A statewide review by the Department found that annual law enforcement budgets range from \$5000 to \$390,000 in villages with a similar population to that of the proposed village. Clearly, this wide range suggests that law enforcement budgets are dependent upon variables other than population, such as local circumstances and preferences. The call summary report provided by the town of Bloomfield police shows the percentage of the Town's calls/complaints taken from the Pell Lake area. The Department considers this a proxy of the percentage of the town of Bloomfield's police budget demanded by Pell Lake area residents. The call summary shows that Pell Lake residents accounted for 58% of the police calls over three years from 1995 through 1997.⁴⁹ Law enforcement expenditures for the Town in 1998 were \$455,214. The Department's estimate, obtained by taking 58% of \$455,214, is \$264,000, substantially higher than Petitioners' estimate of \$188,334.

Municipal court. Villages are not required to set up a municipal court. However, because the town of Bloomfield provides court service, this analysis assumes that residents of the proposed village will desire court service as well. This also implies that the proposed village would have a code of ordinances to enforce. The Town spent \$33,670 in 1998 on court services, excluding the costs of a prosecuting attorney. The Department believes that Petitioners' estimate of \$19,685 is reasonable. Considering the road mileage

⁴⁶ Petitioners' Exhibit 1 (P-1).

⁴⁷ Letter to the Department from Richard Lehmann, attorney for Intervenors, 8/18/00.

⁴⁸ Letter from the Walworth County Sheriff's Department to Pell Lake resident Ron Spencer, 6/23/98.

⁴⁹ *Town of Bloomfield vs. Village of Pell Lake: Some Facts About Incorporating Pell Lake*. Town of Bloomfield Exhibit I-2. Police call statistics come from the town of Bloomfield Police Department Computer Files.

and population of the proposed village relative to the Town, it seems reasonable that the new village's municipal court cost would be about two-thirds that of the Town.

Prosecuting Attorney Fees. Although Petitioners do allocate funds for a municipal court, they fail to allocate funds for a prosecuting attorney. The Department estimates the costs of a prosecuting attorney to be at least \$3,500, based on estimates done as part of Bohners Lake (1999).

Water Patrol. The Town does not provide water patrol service to Pell Lake. Therefore, the Department assumes that Pell Lake will not have a water patrol.

Animal control. Animal control is not provided by the Town. Therefore, the Department assumes that a new Pell Lake village would not provide this service.

Fire Protection. The Pell Lake area currently receives fire protection services from the Town of Bloomfield Fire Department, located next to the Bloomfield Town Hall. In the event that Pell Lake incorporates, the fire department building would fall within the new village's borders. This may result in issues related to division of assets, funding of services, and access to sanitary district hydrants or the waters of Pell Lake. The Town's fire department is staffed with 31 volunteer fire fighters, 21 of whom live in the Pell Lake area.⁵⁰ In addition to fire protection, the department also conducts semi-annual inspections of public and commercial buildings.⁵¹ The department's service district includes the entire Town,⁵² its equipment includes seven trucks devoted to fire fighting and one ambulance,⁵³ and its ISO rating is 8-9.⁵⁴ Petitioners estimate \$52,250 for fire protection service. The town of Bloomfield spent \$126,948 in 1998. Because a majority of the Town's people and buildings are located within the territory proposed for incorporation, the Department believes that Petitioners' estimate may be low, especially if it desires to maintain the current level of service provided to residents. This is particularly true given the large percentage of calls devoted to the Pell Lake area. Specifically, between 1995 and 1997, the area proposed for incorporation accounted for 59% of fire calls to the Town's fire department. The Department believes that \$75,000 is a more reasonable estimate for fire services (this figure is obtained by taking 59% of \$126,948). However, even this amount may be low. The Petitioners' estimate seems to assume a service sharing arrangement with the Town whereby the new village would benefit from the Town's fire protection equipment and personnel. In the event that such an agreement cannot be reached, Pell Lake may need to develop a fire department of its own with its own equipment. Such a scenario may mean that both Petitioners' the Department's estimates are low.

⁵⁰ Petitioners' Exhibit 1, Section 5.

⁵¹ Town of Bloomfield Municipal Code, 5.09(20(a).

⁵² Letter to the Department from Richard Lehmann, attorney for Intervenors, August 18, 2000.

⁵³ Ibid.

⁵⁴ The adequacy of fire protection in a community is commonly evaluated by using standards from the Insurance Service Office (ISO), a national office that provides municipal standards for purposes of insurance coverage. The ISO has developed a graded schedule of fire protection criteria. This schedule is used throughout the United States to establish base rates for fire insurance. Criteria considered include the following: equipment, alarm systems, water supply, fire prevention programs, building construction, and the distance from the station(s) to potential hazard areas. In rating each community, ISO assigns a numerical rating between 1 and 10, with 1 representing the best protection and 10 representing the worst. A rating of 10 essentially represents an unprotected community. Most communities have what is called a "straight rating", with a single numeric figure indicating the level of fire protection community wide. The Town of Bloomfield has a "split rating". Its split rating of 8-9 means that those residents who live within 5 road miles of the fire department have a rating of 8 while those residents who live within 5-6 miles have a rating of 9. However, because of the newly developed facilities of the sanitary district, this rating is probably no longer accurate. Since one of ISO's grading criteria is availability of water, a revised rating may be significantly higher, at least for those areas within and proximate to the sanitary district. Instead of hauling water by truck to a fire site, water may now be accessed from hydrants. ISO regularly rates communities every 15 years. However, a community may also petition ISO for a revised rating in the event of a change in circumstances, such as development of a municipal water source.

Ambulance. The town of Bloomfield provides no separate funds for an ambulance service. Therefore, the Department assumes that if incorporated, residents of the proposed village will also not desire separate ambulance service. This is normal in villages that are the size of the area proposed for incorporation. For example, the villages of East Troy and Genoa City do not allocate specific funds for ambulance service.⁵⁵

Highways. Of the 83.7 miles of road in the town of Bloomfield, 28 miles are within the area proposed for incorporation. Local roads within the Pell Lake area are maintained by the town of Bloomfield's highway department. In 1998, the Town spent \$314,456 in connection with its highway department. Of this, the Pell Lake area accounted for \$104,856.⁵⁶ Area county and state highways are maintained by the Walworth County Highway Department. Specifically, the county maintains CTH H, which runs along the western boundary of the proposed village, as well as USH 12, which runs along the northeastern boundary.

Incorporation of Pell Lake would not alter the county's role. It would continue to maintain state and county roads within the area.⁵⁷ Substantial improvements have been made recently to local roads by the Town and the sanitary district as part of the sanitary district's other infrastructure efforts. Improvements include blacktopping and installation of curbs, gutters, and stormsewers. In the event that Pell Lake incorporates, the area's local roads will no longer be maintained by the town of Bloomfield (unless the new village were to specifically contract for service). Instead, Pell Lake may need to establish a department of its own. To this end, Petitioners propose assigning the work of road maintenance to a village public works department comprised of two employees. Petitioners propose a budget of \$145,248.40, a figure which is consistent with the Department's estimate for street and highway services.

Solid waste, recycling. Pell Lake residents currently receive solid waste service from a contractor hired by the Town. In 1998, the Town spent \$244,851 on solid waste and recycling. Petitioners estimate \$138,020 for solid waste and recycling based on information they received from "Waste Management – Geneva Lakes, Inc.", a private waste management company in the area. The Department believes this estimate is reasonable. It is important to note that the fees charged for solid waste and recycling equal the cost of providing the service. The service is "self-contained" in that it does not require funds from general revenues. Consequently, inclusion or exclusion of solid waste pickup and disposal as a local government cost does not have a significant bearing on overall finances and taxes of the proposed village.

Library. There is no public library in the town of Bloomfield. Instead, town residents receive library services from member libraries of the Lakeshores Library System, which includes all municipal libraries in Walworth and Racine Counties.⁵⁸ The Lake Geneva Public Library and the Genoa City Public Library are the member libraries most frequently utilized by town of Bloomfield residents because these are the libraries nearest them. In fact, the town of Bloomfield has a representative on the Lake Geneva Library Board because of the extent of Town residents' use of that library.⁵⁹ Because the Town does not have a library of its own, its residents contribute to the Lakeshores Library System. In 1999 they contributed \$11.56 per capita. In the event that Pell Lake were to incorporate, it could develop a library of its own or it could continue utilizing the libraries in Lake Geneva and Genoa City.

Parks and Recreation. Park and recreational facilities available to residents and visitors to the Pell lake area include the Veterans Memorial Park which is located in the "core" area of the proposed village and an

⁵⁵ DOR, *County and Municipal Revenues and Expenditures 1998* (February, 2000).

⁵⁶ This figure is based on Pell Lake's percentage of total road miles multiplied by the Town's total highway budget for 1998.

⁵⁷ Personal Communication with Diane Strunk, of the Walworth County Highway Department, 8/2/00.

⁵⁸ Personal communication with Linda Bendix, Director of the Lake Geneva Public Library, 10/25/00.

⁵⁹ Personal communication with Bernie Bellin, Director of Lakeshores Library System, 10/25/00. According to Bellin, when 12% or more of a member library's circulation comes from a particular municipality, that municipality is then given representation on the library board.

undeveloped 13 acre area in the northwest corner of the town call McKay Park that consists mainly of wetlands. The town of Bloomfield's park and recreation budget is \$0. Therefore, the Department assumes that the proposed village will spend the same amount. However, it is worth noting that many park-related tasks that might normally be performed by a parks and recreation department are currently being done by area citizen groups. Also, petitioners indicate that a public works department will be responsible for maintenance of village parks⁶⁰, however, they fail to allocate any funds for parks in their proposed budget.

Capital outlay. Petitioners' estimate of \$20,000 for capital outlay is consistent with the Department's estimate.

Revenues

Shared revenue aid. Petitioners estimate of \$81,000 for shared revenue aid is consistent with the Department's estimate, which was calculated by the Wisconsin Department of Revenue, Division of State and Local Government.

State fire insurance dues. Petitioners' estimate of \$3,500 is consistent with the Department's estimate.

State police training aid. Petitioners' give no estimate for police training aids. However, this omission is of slight consequence because any state police aid would most likely be small within the context of the overall budget.

State water patrol aid. No money is currently awarded for state water patrol aid. It is unclear whether the proposed village would be eligible for such aid in the future.

State recycling aid. The Department believes that Petitioners' estimate of \$14,000 from state recycling aid is accurate.

State highway aid.⁶¹ In 1998, the town of Bloomfield received \$1,584 per mile. The Department assumes that Pell Lake would receive the same rate. This amounts to \$44,351, close to Petitioners' \$47,712 estimate. Additionally, it is possible that the road improvement projects undertaken by the sanitary district may make more roads eligible for state aids.

Licenses and permits. Charging for licenses and permits on a similar scale as the Town would net approximately \$35,000. However, Pell Lake may need to develop a framework of ordinances before it can begin collecting fees. Such ordinances would describe the various activities for which licenses and permits are necessary.

Fines and forfeitures. Petitioners estimate a revenue of \$112,000 from fines and forfeitures. The Town collected \$181,000 from these sources in 1998. The Department finds Petitioners' estimate to be reasonable because \$112,000 is approximately 60% of the Town's 1998 revenue from fines and forfeitures. This is proportional to Pell lake's population as a percentage of the Town's total population. However, as with licenses and permits, Pell Lake may need to develop a framework of ordinances before it can begin collecting this revenue source. Such ordinances would describe the conduct punishable through fines and forfeiture.

⁶⁰ Petitioners' Exhibit 1, Section 2.

⁶¹ Highway aids are paid on the basis of eligible average costs incurred over 3- and 6-year periods. Two years are required before eligible costs can be fully considered. However, no municipality can receive more than 85% of average 3-year costs. Thus, costs incurred during the first year of incorporation would be eligible for aid following year two, subject to the 85% cap.

Solid waste. The Department finds that Petitioners' estimate of \$124,000 is reasonable.

In summary, analysis of Petitioners' proposed budget when compared to the Department's estimates reveals that some, but not all, of the expenditure estimates may be low. All of Petitioners' revenue estimates are consistent with those of the Department.

Property tax base

The total estimated equalized value of property in the area proposed for incorporation is \$111,717,820.⁶² Graph A, on page 45, compares this value with adjacent villages. The graph shows that Pell Lake's equalized value is on the low side, equal to that of the village of Walworth but lower than the villages of East Troy, Union Grove, Waterford, Williams Bay, Twin Lakes, and Paddock Lake. Graph B, on page 46, compares Pell Lake's 1998 per capita equalized value to that of adjacent municipalities. The graph shows that, like total equalized value, Pell Lake's per capita equalized is low, lower than the state average (\$47,569 - 1998, \$50,536 - 1999, \$53,921 - 2000)

The town of Bloomfield's estimated equalized value is \$251,709,400. Removing the area proposed for incorporation from the Town reduces its estimated equalized value to \$139,991,580.

Property tax rates

Table 2, at page 36, indicates that Petitioners estimate a local mill rate of 2.34⁶³ while the Department estimates a higher rate of 3.57. The Department's rate is higher because its overall budget estimate is higher, \$831,220 compared to Petitioners' estimate of \$697,567. Graph C, on page 47, compares the local mill rate of Pell Lake to that of nearby villages. The graph shows that both Petitioners' and the Department's estimates are quite low in comparison to the villages of East Troy, Union Grove, Waterford, Walworth, Williams Bay, Twin Lakes, and Paddock Lake, all of which have rates ranging from \$4.8 to \$6.4. Graph C also shows that the town of Bloomfield's local mill rate of \$2.31⁶⁴ is the lowest rate depicted. It is also the only Town depicted.

The reason for the low mill rates may be due to increased value in property. Generally speaking, municipalities with rapid increases in full-equalized value show the lowest amount of increase in local mill rates. This is because increased value allows for more revenue, despite a constant mill rate. Therefore, the rapid growth in property values have permitted a general reduction in property tax rates among Pell Lake area municipalities.

As indicated above, the Department's estimate of Pell Lake's local mill rate is higher than Petitioners' estimate. In fact, the Department's estimate represents a 54% increase from that amount which residents presently pay. Nevertheless, it is important to consider that the Department's estimate is still substantially lower than the rates of adjacent villages. It is also important to consider the local tax rate in context with the total mill rate that residents pay. A total mill rate differs from a local mill rate in that it also includes assessments for elementary school, technical college, county, and others. The total property tax mill rate for the town of Bloomfield was \$22.58⁶⁵ while the Department's estimate for the proposed village is \$23.84.⁶⁶ Both of these are consistent with adjacent communities, as shown by Graph D on page 48. The average

⁶² Wisconsin Department of Revenue.

⁶³ Petitioners' Exhibit 1, Section 4.

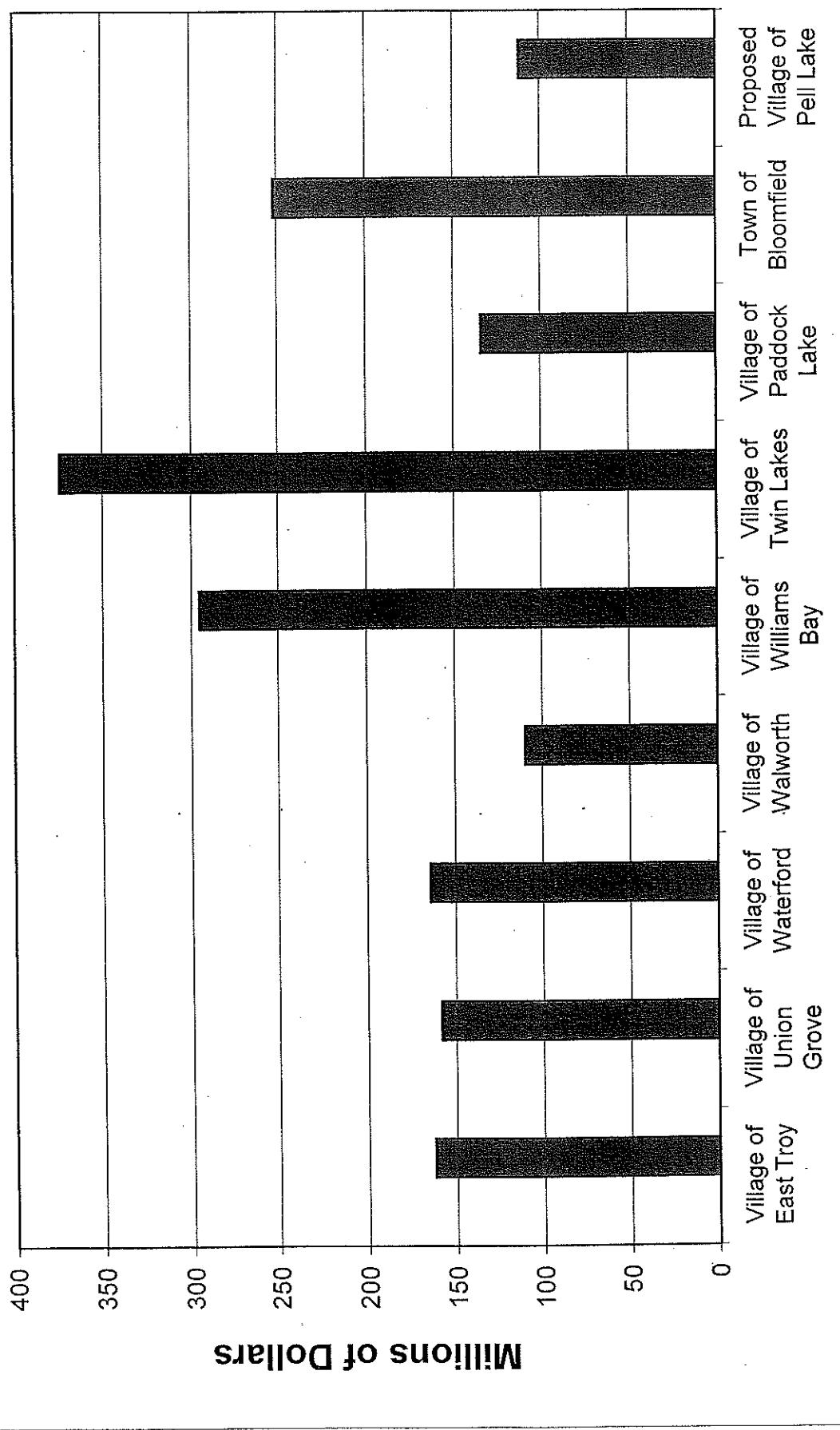
⁶⁴ Calculated by the Department from Exhibit P-8, Town of Bloomfield's 1998 Year End Financial Statement.

⁶⁵ Wisconsin Department of Revenue, *Town, Village, and City Taxes 1998: Taxes Levied 1998—Collected 1999*.

⁶⁶ The difference in mill rates (3.57 minus 2.31) equals 1.26. This difference is added to the Town of Bloomfield's total mill rate giving the estimated total village mill rate of 23.84.

Graph A

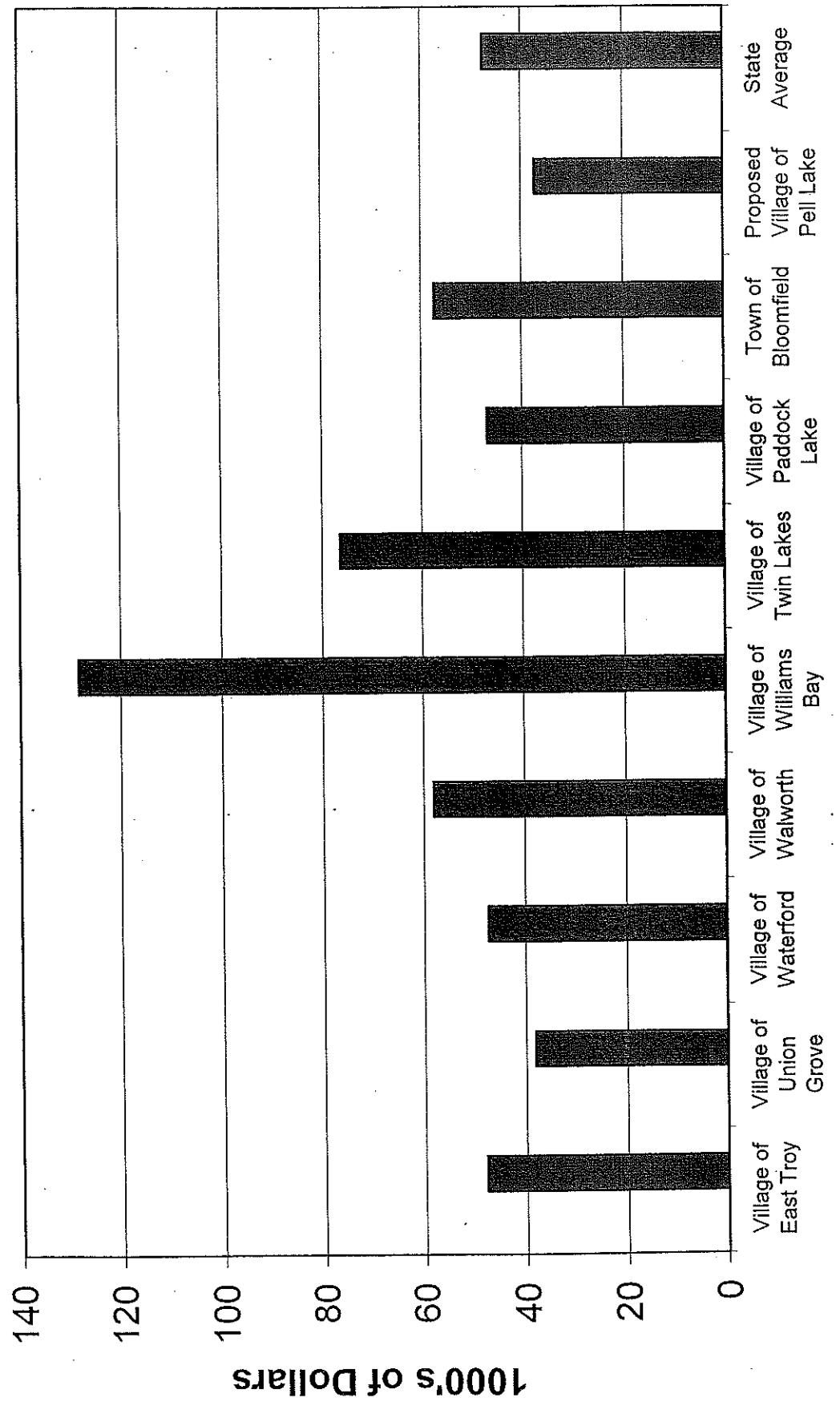
Total Equalized Value 1998



Source: Wisconsin Department of Revenue

Graph B

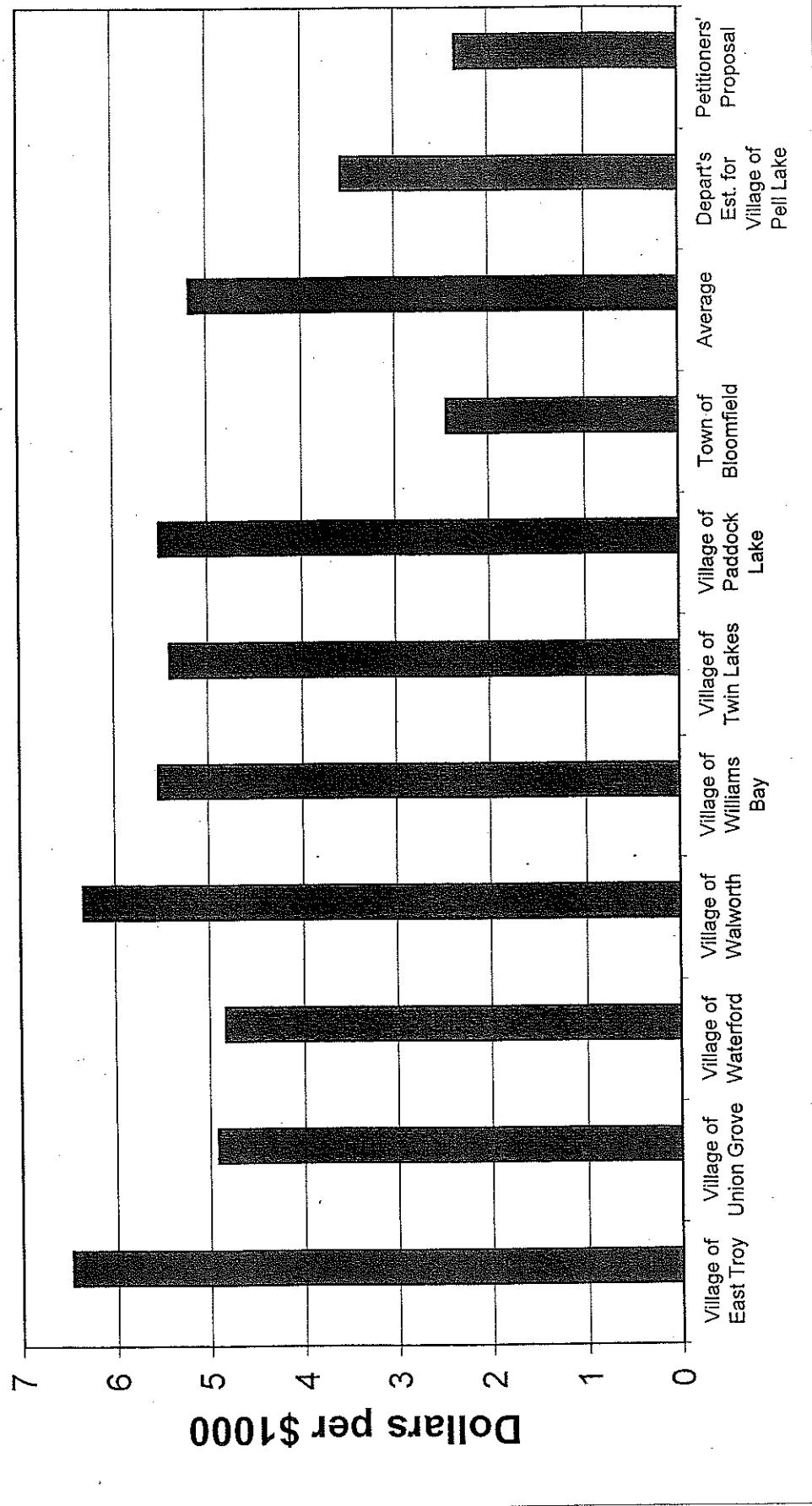
Per Capita Equalized Value 1998



Source: Wisconsin Department of Revenue

Graph C

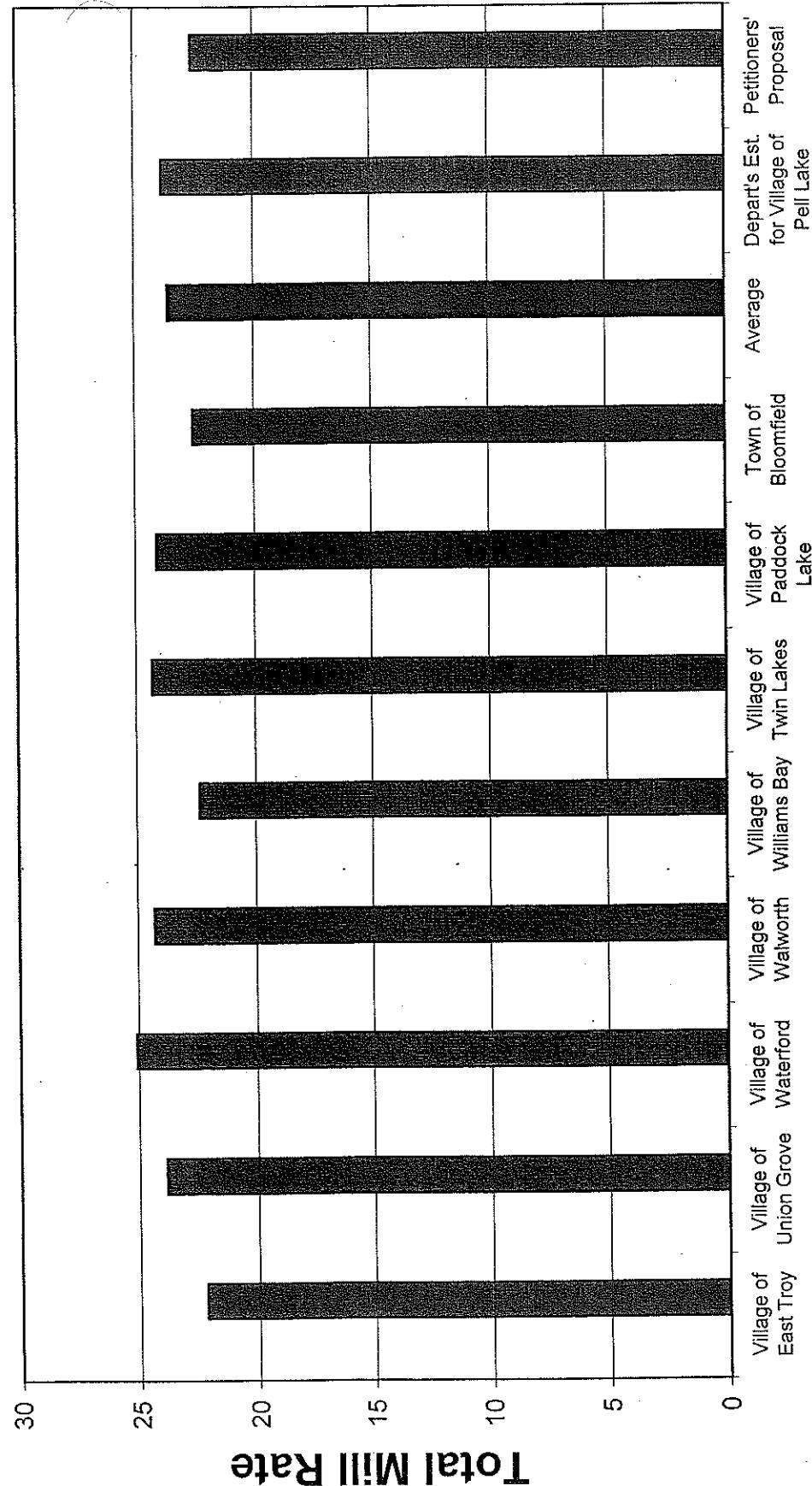
Local Millrate Comparison in the Pell Lake Region 1997



Source: Wisconsin Department of Revenue

Graph D

1998 Total Millrate Comparison in the Pell Lake Region



Local Unit of Government

Source: Wisconsin Department of Revenue

total mill rate for these communities is \$23.63, very close to that of Pell Lake. Graph E, at page 50, also illustrates the difference in the total mill rates between the town and the proposed village. This difference represents a total property tax rate increase of only 5.3% (assuming that Pell Lake residents choose to maintain the present level of services). Specifically, the difference amounts to \$1.26 per \$1000, or an increased tax burden of \$126 per year on a \$100,000 home.

Intervenor's argue that Pell Lake has insufficient tax base to raise the revenue necessary to provide services at a favorable tax rate, particularly when compared to Bohners Lake (1999). The Department disagrees. First, the base numbers the Intervenors use are different than Department's estimates. For example, Intervenors estimate a total equalized value of \$95,650,000, a budget of \$1,000,000 and a local mill rate of \$6.28. These estimates are all less favorable for the proposed village. Bohners Lake relied on property taxes to carry 60% of its costs, Pell Lake relies on property taxes to carry only 48% of its costs. Pell Lake, mirroring the town of Bloomfield, prospectively relies on fines, forfeitures, licenses, and permits much more than did Bohners Lake. Third, while Pell Lake's equalized value is slightly lower than state average, its mill rate is also low. In other words, it does not seek to raise as much revenue through property tax as some communities. Because of their reliance on fines, forfeitures, licenses, and permits, Petitioners' mill rate, as estimated by the Department, is almost half that estimated by Intervenors.

Assessments and fees

In addition to responsibility for municipal taxes, homeowners in the Pell Lake area have recently been assessed with costs associated with the Pell Lake Sanitary District. There are two assessments, one for water improvements and the other for sewer improvements. The first assessment, in place since 1995, is \$4,379 per parcel. This is the cost for a property with 100 feet of frontage (costs decrease proportionally for less frontage. For example, 80 feet would be assessed 80%). Assessment payments are \$292 annually for the first 20 years and \$201 for the next 20 years. The second assessment, in place since 1998, is \$2,600. Assessment payments started at \$175.50 in 1998 and will decrease to \$135 by 2017. The total annual cost of assessments in 1999 for a property with 100 feet of sewer frontage is \$464. In addition to assessments, the sanitary district also imposes user charges. User charges for water and sewer amount to \$126.60 per quarter for a home with typical water usage (12,000 gallons per quarter), or \$506.4 per year. Therefore, in total, a typical homeowner located within Pell Lake Sanitary District No. 1 paid \$970.40 in sewer and water assessments and user fees in 1999. As indicated earlier, all of the assessed property lies within the territory presently proposed for incorporation. Table 4, below, shows Pell Lake's sewer and water charges in relation to those of other area communities. The table shows that the rates charged to residents within the Pell Lake Sanitary District compare favorably.

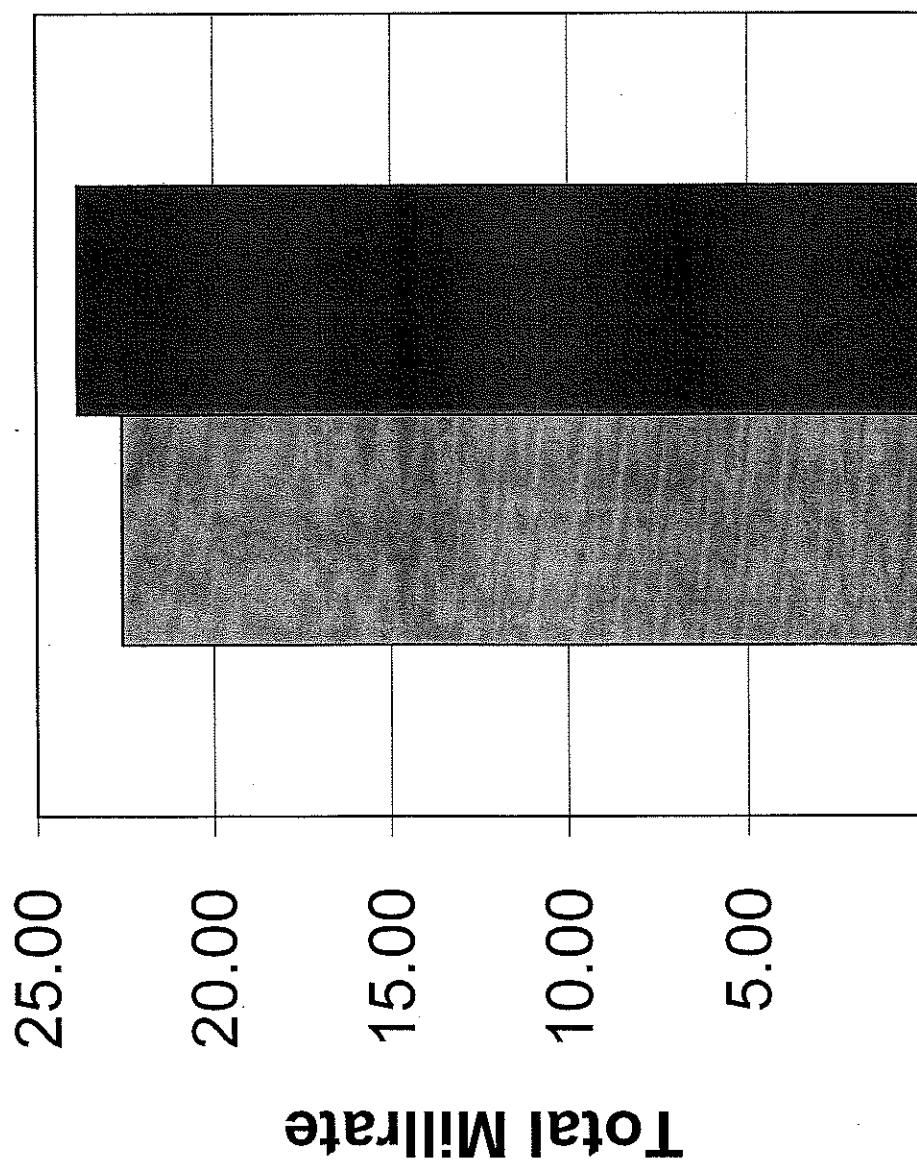
Table 4 - Area Sewer and Water Charges

Municipality	Lake Geneva	Genoa City	Pell Lake	Lake Como	Williams Bay
Water Service Charge	\$12.60	\$17.00	\$18.00	\$30.00	\$29.00
Water Usage	\$22.08	\$31.20	\$33.60	\$45.84	\$42.24
Sewer Service Charge	\$15.25	\$20.00	\$42.00	\$17.31	\$28.24
Sewer Usage	\$34.32	\$46.20	\$33.00	\$49.56	\$60.24
Total Per Quarter	\$84.25	\$114.40	\$126.60	\$142.71	\$159.72
Water Usage Rates/1000	\$1.84	\$2.60	\$2.80	\$3.82	\$3.52
Sewer Usage Rates/1000	\$2.86	\$3.85	\$2.75	\$4.13	\$5.02

Source: Pell Lake Sanitary District

Graph E

Total Millrate Comparison Between Pell Lake and Town of Bloomfield



Source: Wisconsin Department of Revenue

Pell Lake's sanitary district was designed to also serve the surrounding communities of Powers Lake and Genoa City. If these communities desire sewer and water service in the future and additional infrastructure becomes necessary, those area residents will most likely be assessed a fair share of the cost of constructing and maintaining this infrastructure. The cost will most likely not fall on Pell Lake residents.

Asset distribution

Another important issue for Pell Lake, in the event that it successfully incorporates, is asset distribution. The equalized values of the Pell Lake area represent approximately 42% (\$111,717,820) of the total \$262,361,100 (1999) equalized value for the town of Bloomfield.⁶⁷ Thus, 42% of any assets and liabilities of the town of Bloomfield could be subject to apportionment under section 66.03, Wis. Stats. Asset distribution could result through in-kind or cash payments, or exchanges for services received over a period of time mutually determined by the two communities. Typical items included in apportionment are local tax levy proceeds prorated for the remaining tax year, town assets such as bank accounts, state grants and aids (such as highway aid), existing machinery and equipment, as well as any outstanding debt or trusts. Should Pell Lake incorporate, the assets it would acquire through this process might mitigate to some extent the startup costs involved in creating a new village government.

Determination

The proposed budget submitted by Petitioners details the services that might be provided by the new village as well as the costs for those services and the revenues anticipated to be available. Petitioners propose very basic services for which expenditures are kept to a minimum. With regard to several service categories, the Department's cost estimates for basic services are higher than Petitioners' estimates. As a result, the Department's estimated budget is higher than Petitioners' budget. Specifically, the Department estimates a budget of \$831,220 (say \$830,000) and a mill rate of 3.57 while Petitioners estimate a budget of \$697,567 and a mill rate of 2.34. However, the possibility that Petitioners' estimates may be low is not fatal to satisfying the standard found in section 66.016(2)(a), Wis. Stats. The area proposed for incorporation does have the fiscal potential to raise the revenue necessary for basic municipal services. The Department's estimated mill rate for the proposed village is higher than residents currently pay the town; however, if imposed, the village's rate would be considered low compared to similar nearby villages. Nevertheless, while the proposed village does have the potential to raise sufficient additional revenue to operate a village-style government, these taxes would be in addition to existing sewer and water assessment costs and user charges. As indicated above, an area property owner with 100 feet of sewer line frontage is already subject to almost a thousand dollars annually for sewer and water costs. Nevertheless, it is the Department's conclusion that the territory proposed for incorporation does meet the standard set forth in section 66.016(2)(a), Wis. Stats.

Section 2(b) Level of Services

The standard to be applied is found in section 66.016(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 s. 66.014(6), Wis. Stats.

⁶⁷ Personal communication with Keith Seeley, Wisconsin Department of Revenue, and Petitioner's Exhibit 1, Section 3.

Because no resolution of intent to annex the Pell Lake territory was filed by a contiguous municipality, this section is not applicable.

Section 2(c) Impact on the Remainder of the Town

The standard to be applied is found in section 66.016(2)(c), Wis. Stats. and is as follows:

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

Physical Effects of Proposed Village Boundary and Shape

The proposed village of Pell Lake is located nearly in the center of the town of Bloomfield. Incorporation would leave a hole through its center. The petitioned territory is a fairly compact area of urban development surrounded by a predominantly rural town with substantial wetlands, woodlands, and agricultural uses. The boundaries of the proposed village primarily encompass the developed territory surrounding Pell Lake, although there are tracts of farmland in the southeastern part of the territory. The territory includes approximately 10% of the town of Bloomfield's total land area but over half its population.

Public Services

Regarding service issues, the proposed village boundary includes the entire Pell Lake sanitary sewer service area and parts of two school district boundaries. As mentioned earlier, upon incorporation the village would absorb the sanitary district and assume responsibility for its debts, obligations, and facilities. The boundaries of the school districts would remain unchanged.

In terms of fire service, if Pell Lake incorporates, the village may acquire the town's fire station. Currently, this fire station serves the entire civil township. However, there is the possibility that the town and proposed village would choose to develop and adopt a mutual aid agreement. The agreement could be based upon the county-wide mutual aid agreement provision and could create a situation where service would stay the same both inside and outside the proposed village boundary. Currently, pumper trucks for the town of Bloomfield fire department have used water pumped from Pell lake. However, with the establishment of a municipal water system, this may no longer be necessary.

The area proposed for incorporation currently receives police services from the town of Bloomfield police department and from the County Sheriff's office. As mentioned earlier, many of the town police department's calls are from the Pell lake area. Therefore, incorporation would result in fewer calls and possibly a reduced police budget. It is also possible that the new village would seek to enter into a service sharing agreement for police protection with the Town.

Overall, the territory proposed for incorporation is quite regular and straightforward and the Department, in consideration of the testimony and information provided and collected, believes that incorporation would not necessarily lead to permanent irregular boundaries nor lead to difficulties in delivery of services to the remainder of the town. Incorporation would not immediately result in parts of the Town being cut off from other parts.

Land Use Effects

As previously noted, the area proposed for incorporation consists predominantly of medium density urban residential development.⁶⁸ This development is concentrated around the lake and appears to be contained by natural boundaries such as wetlands and developable soils, as well as by man made boundaries such as USH 12 and CTH H. The majority of the developed land within the Pell Lake area is within the boundaries of the sanitary district and the boundaries of the proposed village are substantially the same as those of the Pell Lake Sanitary District, with the exception of the southeast corner. This urbanized area is separated from surrounding municipalities and urbanized areas by substantial areas of wetlands, woodlands and prime agricultural lands that are unlikely to be developed. Thus, incorporation does not appear to pose substantial risks of inconsistency in the near future with land use plans for the area prepared by Walworth County and the SEWRPC.

The town of Bloomfield currently operates under the Walworth County zoning ordinance. One effect of incorporation would be to remove the area from the jurisdiction of the county ordinances.⁶⁹ The proposed village might develop its own code of ordinances and it could also conceivably propose extraterritorial zoning for town areas lying within 1.5 miles of its corporate borders.

Another potential effect is annexation. Since incorporated municipalities have the ability to annex territory from unincorporated areas, the town of Bloomfield has expressed concern that the creation of a new municipality located in the center of the Town would result in the erosion of Town boundaries by annexations from the center. The Town is already subject to annexation risk from the edges by property owners petitioning for annexation to Lake Geneva and Genoa City. However, previous incorporation determinations by the Department have allowed even larger portions of land and tax base to be removed from a town where it is still possible for the town to access and serve the remaining portions of the town. An examination of the Department's past determinations is instructive on this point. For example, in Stone Bank, the Department stated that past determinations regarding isolated villages have held that physical impact is minimal if the "territory contains no islands of town land and would not cut off or isolate any area of the town, nor would it prevent direct access by the town to any such area for road maintenance or other purposes."⁷⁰ When some problems in providing services to remaining town lands are noted, past determinations have looked for mitigating factors.⁷¹ In Stone Bank, the Department cites its previous decisions in Plover (1971) and Delavan Lake (1989) where it found acceptable, for this particular criterion, proposed incorporations which would create a "horseshoe shaped" town remainder in one case and split the remaining town in half in the other case. In both cases, the Department held that the effect of these incorporations was mitigated by service agreements, division of assets, sharing of staff, and other similar agreements which allowed the local governments to continue to serve the residents of the area in cooperation with each-other.

In addition, the Department also notes that the Town of Bloomfield has also entered into an intergovernmental agreement with Genoa City that fixes the boundaries for growth through the year 2010. This was discussed previously in this Determination. The Town's fears that annexations from the proposed village and from surrounding municipalities would cut it in half appear to be unlikely, at least in the near future, and is not per se a barrier to incorporation.

⁶⁸ SEWRPC, *A Regional Land Use Plan for Southeastern Wisconsin - 2010* (1992). Land Use Plan Map 2010.

⁶⁹ Except for specific county ordinances regulating shoreland, floodplain, and wetland. These ordinances would continue to be administered by the county until such time as the proposed village adopted and administered ordinances as strict as the county's and that also complied with Wisconsin Department of Natural Resources administrative codes.

⁷⁰ Stone Bank (1995), pp 61-62.

⁷¹ Powers Lake, 1992.

Fiscal Effects

Revenues

Approximately 3000 permanent and seasonal residents, or 70% of the town's population would become residents of the new village. Therefore incorporation prospectively leaves 30% of the population in the town along with 60% of the property tax base. This is significant since slightly more than half of general government operations in the town are funded by the local property tax. The remaining general government operations are primarily supported by state shared revenue and aids, and charges for services (licenses and permits, fines, forfeitures and penalties, public charges for services and interest income).⁷²

The town of Bloomfield's per capita property value in 1998 was \$57,310. This is the fourth highest per capita property value of eight area municipalities that were selected for comparison. The removal of the Pell Lake area would lead to an increase in per capita property value for the town, since the estimated per capita value for Pell Lake area is only \$37,239. It is apparent from Graph A, at page 45, that property values in the town of Bloomfield are increasing as fast as those in the other municipalities portrayed. Graph B, at page 46, shows that property is also increasing in per capita value. However, since the town's per capita property value exceeded the statewide average figure in 1998 of \$47,584, and since a loss of population will cause it to rise even higher, the town does not currently, nor will it in the foreseeable future, receive "aidable" revenues. State highway aids are not as affected by removal of the territory however since they are subject to a different formula than per capita aid payments.

State shared aids (primarily the per-capita aid payment) represents a declining percent of total revenue for Bloomfield, falling from 12% to 7% from 1992 to 1998. The town of Bloomfield has an above average rate of population increase in the 1990's compared with other comparable towns and villages in Walworth County. Shared aids have also fallen in actual dollars. By law, state aids will not fall by more than 5% per year.

Road mileage transferred from the town equals 28 miles (25%) of the current roads.⁷³ State highway aids have ranged from 13% to 8% of total revenue for Bloomfield. State highway aids, because they are subject to a different formula than per capita aid payments, are not affected by population loss but by changes in road mileage. Thus, incorporation would result in a decrease in state highway aids of approximately 25%.

Expenditures

The total reduction in general operations expenses for the town of Bloomfield is estimated by the Department to be approximately \$720,649, or a 47% decline. This is shown in Table 2, page 36. Some of the personnel costs, such as sheriff's patrol, and highways are not subject to simple percentage reductions, but could be subject to participation by Pell Lake. Table 2 portrays the Department's estimate of likely reductions in general revenues of approximately \$515,515, also about a 47% decline

Incorporation would relieve the town of providing road repair and maintenance services to the 28 miles of road located within the proposed village. Incorporation could also prospectively relieve the town of some police service expenses. For example, the town of Bloomfield Police Department reported that 56% of the

⁷² Town of Bloomfield 1998 Budget.

⁷³ Town of Bloomfield vs Village of Pell Lake: Some facts about incorporating Pell Lake. Town of Bloomfield. Exhibit I-2.

town's calls/complaints came from the Pell Lake area in 1996.⁷⁴ If the village area were to incorporate, the town Police Department would experience roughly 56% fewer calls and its resource expenditure would likely decrease by approximately the same percentage to an estimated \$190,000. Total town expenditures would fall to an estimated \$824,4000.

Tax Rate

Residents remaining in the town of Bloomfield would most likely experience property tax decreases if Pell Lake incorporates. The town's expenditures could be reduced by an estimated \$720,649. We estimate revenues in the remainder of the town would fall by \$515,515 (say \$515,000). In order to maintain a similar level of service in the remainder of the town, as now supplied to Bloomfield residents, the amount that would need to be raised, using the 1998 general property tax rate, would be approximately \$256,000. The town of Bloomfield's local mill rate is estimated to fall by \$0.48 per \$1000, from \$2.31 to \$1.83 per \$1000, which is a drop of 20%. This leaves the remainder of the town of Bloomfield in very good financial health. Therefore, with respect to the total property tax rate (local, school district, county, technical college, etc.) the change is only 2%. Instead of paying \$2,258 in property taxes, a town resident with a home valued at \$100,000 would pay \$2,210, for a potential savings of \$48 per year.

Determination

The Department concludes that overall, the incorporation of Pell Lake would likely have minimal effect on the remaining town's land use, public services or fiscal condition. In fact, the Town may benefit from incorporation in some respects. Incorporation may cause the town to seriously reconsider what level of services it will continue providing to its residents. The Department recognizes the difficulty of changing long-standing personal and working relationships. In terms of fire service, the town might consider creating a mutual aid agreement with the proposed village so that the two could continue to share the fire station and its resources along with associated fire personnel. Police services could also potentially be dealt with in a similar manner.

The area proposed for incorporation includes the entire Pell Lake Sanitary Sewer District, thereby potentially removing one commission from town oversight. In terms of land use, the proposed boundary was drawn to be compact. Finally, the proposed incorporation would appear to have small positive effect on the taxes of town residents, given an estimated potential 20% decrease in property taxes. This translates into a potential \$48 per year increase for a town home valued at \$100,000.

Therefore, after considering the potential impact of incorporation upon the remainder of the town, and reviewing the various exhibits, briefs, and hearing tapes, the Department determines that petitioners have met this standard.

Section 2(d), Impact upon the Metropolitan Community

The standard to be applied is found at section 66.016(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

⁷⁴ *Town of Bloomfield vs Village of Pell Lake: Some facts about incorporating Pell Lake.* Town of Bloomfield. Exhibit I-2.

that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

The “metropolitan community” is defined in section 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 section is inapplicable to the present case because Pell Lake filed for incorporation as an “isolated community.”

NOTICE OF APPEAL INFORMATION

NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW THE TIMES ALLOWED FOR EACH AND THE IDENTIFICATION OF THE PARTY TO BE NAMED AS RESPONDENT

As required by s. 227.48 (2), Stats., the following notice is served on you as part of the Department's decision:

Any party has a right to petition for a rehearing of this decision within 20 days of service of this decision, as provided in s. 227.49 of the Wisconsin Statutes. The 20-day period commences the day after personal service or mailing of this decision. (Decisions of the department are mailed the day they are dated. In the case of an oral decision, personal service is the oral pronouncement of the decision at the hearing.) The requirements and procedures of s. 227.49 should be followed in petitions for rehearing. The petition for rehearing should be filed with the Department of Administration. Nevertheless, an appeal can be taken directly to circuit court through a petition for judicial review. It is not necessary to petition for a rehearing.

Any party has a right to petition for a judicial review of this decision as provided in s. 227.53 of the Wisconsin Statutes. The requirements and procedures of s. 227.53 should be followed in petitions of judicial review. The petition should be filed in circuit court and served upon the Department of Administration within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing. The 30-day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of law of any petition for rehearing. (Decisions of the department are mailed the day they are dated. In the case of an oral decision, personal service is the oral pronouncement of the decision at the hearing.) The petition for judicial review should name the Department of Administration as respondent.

This notice is part of the decision and incorporated therein.

Secs. 227.49 and 227.53, Stats. are hereby reproduced in their entirety

227.49 Petitions for rehearing in contested cases.

(1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

- (a) Some material error of law.
- (b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.49 - ANNOT.

History: 1975 c. 94 s. 3; 1975 c. 414; 1977 c. 139; 1979 c. 208; 1985 a. 182 s. 33t; Stats. 1985 s. 227.49.

This section does not require service of a petition for rehearing within 20 days of service of the order; only filing. DOR v. Hogan, 198 W (2d) 792, 542 NW (2d) 148 (Ct. App. 1995).

227.53 Parties and proceedings for review.

(1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and 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. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board, the credit union review board, the savings and loan review board or the savings bank review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1. to 5.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(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. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.
2. The banking review board, the division of banking.
3. The credit union review board, the office of credit unions.
4. The savings and loan review board, the division of savings and loan, except if the petitioner is the division of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.
5. The savings bank review board, the division of savings and loan, except if the petitioner is the division of savings and loan, the prevailing parties before the savings bank review board shall be the named respondents.

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the credit union review board, the savings and loan review board and the savings bank review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the

person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.

227.53 - ANNOT.

History: 1971 c. 243; 1975 c. 94 s. 3; 1975 c. 414; 1977 c. 26 s. 75; 1977 c. 187; 1979 c. 90, 208, 355; 1985 a. 149 s. 10; 1985 a. 182 ss. 37, 57; Stats. 1985 s. 227.53; 1987 a. 27, 313, 399; 1991 a. 221; 1995 a. 27; 1997 a. 27.

[From WisLaw™ March 1, 1998 Release. Unofficial text from Wisconsin Statutes and Annotations, 1995 – 96. Updated through 1997 Wis. Act 60, being all legislation enacted and all Supreme Court Rules adopted as of March 1, 1998.]

DEPARTMENT CONTACTS MADE DURING RESEARCH AND ANALYSIS
(Including contacts cited in footnotes.)

Kathy Aron, Aron and Associates, Inc., May 26, 2000.

Ray Banks, Roads Supervisor for the town of Bloomfield, June, 2000.

Bernie Bellin, Director of the Lakeshore Library System, October 31, 2000.

Catherine Bleser, Bureau of Endangered Resources, WI Department of Natural Resources, July 12, 2000.

Frank Chesen, President of the PLSD Lake Management and Wetland Rehabilitation Committee, May 26, 2000

Richard Dexter, State Historical Society of Wisconsin, July 10, 2000.

Philip Evenson, Executive Director, Southeastern Wisconsin Regional Planning Commission (SEWRPC) May 29, 2000.

Neil Frauenfelder, Planning Manager, Walworth County Land Management Department, May, 2000.

Jim Marquardt, Utility Director of the Pell Lake Sanitary District No. 1 (PLSD), August 1, 2000.

Bill Markut, Director of the Pell Lake Sanitary District No. 1 (PLSD), June, 2000.

John McDougall, GIS Manager, SEWRPC

Keith Seeley, Department of Revenue

Eileen Stefanski, Treasurer, PLSD, June, 2000.

Chuck Sommers, Baxter and Woodman, Inc. (Project Engineer for PLSD), August 28. 2000.

Diane Strunk, Walworth County Highway Department, August 2, 2000.

Derrick Thomas, ISO representative, June, 26, 2000.

Jeff, Thornton, Principal Planner, SEWRPC, May 29, 2000.

BIBLIOGRAPHY

Ray Banks, Town Roads Foreman, Correspondence and attachments to the Department sent June 20, 2000.

Larry Hudec, Attorney for the Petitioners, Correspondence to the Department dated August 30, 2000.

Richard Lehmann, Attorney for the Intervenors, Correspondence to the Department dated August 18, 2000

Kirt Ludwig, Attorney for the Pell Lake Sanitary District (PLSD), Correspondence to the Department dated August 29, 2000.

Pell Lake Sanitary District, Pell Lake Sanitary District No. 1 Audited Financial Statement and other materials provided to the Department by Bill Markut, dated June 7, 2000 and electronically accessed by the Department from the Pell Lake Sanitary District website: <http://home.genevaonline.com>.

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SEWRPC, Regional Water Quality Management Plan 2000: Pell Lake Area And Powers-Benedict-Tombeau Lakes Area, Kenosha and Walworth Counties, (December, 1994)

SEWRPC, A Regional Land Use Plan For Southeastern Wisconsin: 2010, (January, 1992)

SEWRPC, A Regional Land Use Plan for Southeastern Wisconsin: 2020, (December, 1997)

SEWRPC, Sanitary Sewer Service Area For The Pell Lake Sanitary District No. 1, (June, 1996)

SEWRPC, Digital computer-generated plots for town of Bloomfield, Township 1 North, Range 18 E (1995 land use, land zoned as A-1 Prime Agricultural Land, soil suitability for residential development with sanitary sewers, and environmental corridors) dated July 28, 2000.

An Inventory of Land Use Plans in Wisconsin (1998), by Brian Ohm and Erich Schmidtke. University of Wisconsin-Extension Report Series Report No. 98-3.

Walworth County Land Management Department, Correspondence and map provided to the department by Neil Frauenfelder, Planning Manager, dated May 23, 2000.\

Wisconsin Bureau of Aeronautics, Correspondence and attachments provided to the Department by Jerry Sieling, dated August 23, 2000.

* Although not all of these items are cited directly in footnotes within the text, they should be considered part of the record of decision in this matter, as they form the background so necessary for considering the situs, structure, and intergovernmental relationships within the region. This list does not include material submitted to the department and all parties as a listed exhibit.

ACKNOWLEDGEMENTS

I would like to gratefully acknowledge the research and drafting assistance provided by Municipal Boundary Review personnel Robert Zeinemann, Laura Yaffe, and Erich Schmidtke who persevered, despite the constant distractions of several pending incorporations, analysis of pending legislation, the review of intergovernmental agreements, and other assigned duties. Robert Zeinemann, Erich Schmidtke and I were present at the legislative hearing at the Town of Bloomfield Town Hall on April 4, 2000. Laura Yaffe reviewed the hearing tapes. All of these individuals have participated in site visits to the territory proposed for incorporation.

George Hall, Director
Municipal Boundary Review