
STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY

In Re:

**THE INCORPORATION OF THE
TOWN OF WAUKESHA, WAUKESHA
COUNTY, WISCONSIN, AS THE
VILLAGE OF WAUKESHA**

Case No. 99 CV 1462

vs.

**CITY OF WAUKESHA,
ROBERT SMART, and
CITY OF BROOKFIELD,**

Intervenors.

DETERMINATION OF THE WISCONSIN DEPARTMENT OF ADMINISTRATION

April 17, 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.

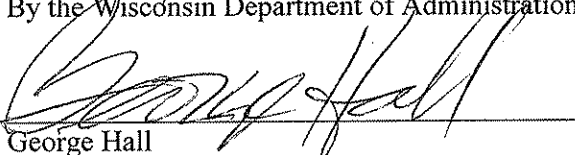
In summary, it is the DETERMINATION OF THE DEPARTMENT OF ADMINISTRATION that, when considering the petition submitted to the Circuit Court by the petitioners, under Section 66.016, Wis. Stats.:

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

All of the above is discussed in greater detail in the body of the Determination. The Determination of the Department to the Circuit Court, as prescribed by s. 66.014(9)(e)2, Wis. Stats., is as follows:

Having failed to meet one or more applicable standards for incorporation as set forth in s. 66.016, Wis. Stats., the Department finds that the petition as submitted shall be dismissed.

Dated this 14th day of April, 2000.
By the Wisconsin Department of Administration:


George Hall
Director of Municipal Boundary Review
Wisconsin Department of Administration


Mark Saunders
Deputy Counsel
Wisconsin Department of Administration

Cc:

Judge Kathryn W. Foster, Waukesha County Circuit Court
Attorney James Hammes, Town of Waukesha
Attorney Julie Gay, City of Waukesha
Attorney Suzanne K. Schalg, City of Brookfield
Philip P. Gasser, Petitioners' Representative
Michael Laska, Petitioners' Alternate Representative
Mayor Carol J. Lombardi, City of Waukesha

Mayor Kathryn C. Bloomberg, City of Brookfield
Chairman Rodney T. Stillwell, Town of Waukesha
Attorney F. Thomas Creeron, III, Assistant Attorney General, Wisconsin Department
of Justice
Clerk Barbara Hartung, Town of Brookfield
Clerk Kris Schmidt, City of Brookfield
Clerk Thomas Neil, City of Waukesha
Clerk Sandra Salbashian, City of Pewaukee
Clerk William Bowers, City of New Berlin
Clerk Barbara Whitmore, Town of Genesee
Clerk Katherine Wilson, Town of Mukwonago
Clerk Marilyn Gauger, Town of Vernon

The following analysis and findings relate to the “Standards to be applied by the Department of Administration,” found in §66.016, Wis. Stats.

Section 1(a) Homogeneity and Compactness

The standard to be applied is found in §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.

In addition to the statutory factors cited above, Pleasant Prairie v. Department of Local Affairs & Development¹ also allows the Department to consider land-use patterns, population density, employment patterns, recreation and health care customs.² Thus, Pleasant Prairie gives the Department flexibility. However, this flexibility applies to consideration of these additional non-enumerated factors rather than flexibility in elimination, removal or reduction of an enumerated factor.

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

The Metropolitan Waukesha area, including the city of Waukesha and the proposed incorporated area, is located in central Waukesha County, as shown on Map 1, at Appendix A. The area proposed for incorporation partially surrounds the city of Waukesha, or abuts the city of New Berlin, and the towns of Vernon, Mukwonago, Genesee and Brookfield, as well as the recently incorporated city of Pewaukee. Waukesha County is one of the fastest urbanizing areas in the State. The 1999 population of the town of Waukesha was estimated by the Department of Administration, Demographic Services Center to be approximately 8,333 residents. This represents a 10.1% increase from the 1990 census count for the Town of 7,566 residents.³ Based on projections by the Demographic Services Center, the population of the Town is expected to grow to 10,083 by the year 2010.⁴

Surface Geology and Groundwater

In general, the topography of the planning area is level to gently rolling, with low-lying areas associated with perennial stream valleys or wetland areas. This area was glaciated approximately 13,000 to 20,000 years ago. The bedrock in this area consists of Precambrian crystalline rocks, Cambrian sandstones and dolomite, Ordovician dolomite, sandstone and shale, and Silurian dolomite. The majority of the town is between 750-850 feet above sea level. An elevated ridge system passes through the eastern portion of the Town and has

¹ Pleasant Prairie v. Department of Local Affairs & Development, 108 Wis.2d 465 (Ct.App. 1982).

² *Ibid*, at pg. 337.

³ Petitioners Exhibit 8. Town of Waukesha Population Statement (1993-1998)

⁴ *Town of Waukesha Master Land Use Plan* (1994), pg. 26

elevations between 850- and 1050 feet above sea level.⁵ A layer of glacial till, sand and gravel overlays the bedrock. This layer varies in depth from 15 to 205 feet at the municipal wells.

The groundwater in Waukesha County moves within two distinct systems. A shallow water table system and a deep artesian system. The deep artesian system is separated from the surface and the water table by a relatively impermeable layer of shale and includes all the bedrock (which is mostly sandstone) between this shale layer and the crystalline Precambrian basement rocks. In portions of the western one-third of the county, some of this layer is overlaid directly by glacial deposits, without any confining layer of shale.

Three aquifers provide groundwater recharge for the Waukesha area. An understanding of these aquifers and the watershed characteristics of this area is important in planning for the sanitary sewer, water, and stormwater drainage needs for the metropolitan area. The shallow groundwater table consists of a sand and gravel glacial drift aquifer and a Niagara dolomite aquifer. The deep artesian system consists of a sandstone aquifer. The sandstone aquifer produces the highest yield, and large water users, such as the City of Waukesha, generally pump from the deep sandstone aquifer. Smaller municipal and domestic users generally use the shallower Niagara and glacial drift aquifers. Most of the territory comprising the city and town of Waukesha is located in an area with moderate to high potential for contamination of the groundwater in the shallow aquifers. High water demands in the rapidly developing Waukesha County area have resulted in radium contamination levels in municipal water that exceed levels recommended by the Department of Natural Resources. Further discussion of groundwater quality and vulnerability to contamination will follow in the “Urban Services” section.

Soils

An examination of the soil characteristics of an area is important for a number of reasons. Soils influence vegetation and wildlife present in an area. They determine how much rainfall or snow melt will flow into rivers, lakes and wetlands and how much will infiltrate into the ground. They also determine the feasible location of residential and commercial development. The soil characteristics for the Waukesha area were detailed in the *Land Use Plan for the City of Waukesha Planning Area: 2010* (hereinafter referred to as the “City’s land use plan”).

The majority of the soils in the vicinity of Waukesha are from the Lapeer or Miami series. These soils are comprised of sandy loam and glacial till. The permeability of these soils is estimated to be 2 to 4 inches per hour. Soils along the Fox River and along area streams are from the Abington, Clyman, Elba, Homer, Keowns and Matherton series. These silt loam soils are deposited on outwash terrace plains, loess plains, lowlands, and depressions. The permeability of these soils is estimated to range from 0.05 to 0.1 inches per hour.⁶ A Soil map, Map 2, at Appendix A, shows that substantial sections of the town of Waukesha contain soils that are unsuitable for development using on-site sewage disposal systems, or, with public sanitary sewer services.⁷

⁵ SEWRPC, *Waukesha County Agricultural Soil Erosion Control Plan* (1988), pg. 5

⁶ *A Study of Groundwater Resources & Supply Alternatives – Waukesha Water Utility, Waukesha, Wisconsin* (1993), pgs. 2-5

⁷ SEWRPC, *A Land Use Plan For the City of Waukesha Planning Area: 2010* (1993), pgs 47-50

The Southeastern Wisconsin Regional Planning Commission (SEWRPC) revisited the issue of prime agricultural land in Waukesha County in its *Development Plan for Waukesha County Wisconsin* (1996) (hereinafter referred to as the County's development plan"). SEWRPC established new criteria for prime agricultural land regarding agricultural soil capabilities and farm size. Under these new criteria no prime agricultural land was identified in the town of Waukesha.⁸

Watersheds

The Waukesha metropolitan area is located within the Fox River Watershed. The majority of the territory proposed for incorporation falls within portions of 5 sub-watersheds in this system. Roughly, the western portion of the town falls within the Pebble Creek and the Genesee creek sub-watersheds. The central and southeast portions of the town fall within the Middle Fox River and the Pebble Brook sub-watersheds. And isolated sections of the town to the northeast are in the Poplar Creek sub-watershed.⁹ See Map 3, at Appendix A.

The town of Waukesha is one of the municipalities designated by the Wisconsin Department of Natural Resources (DNR) to participate in the Municipal Storm Water Discharge Program along with the city of Waukesha, under N.R. Chapter 216, Wisconsin Administrative Rules. The other communities designated to participate were the city of Pewaukee, the village of Pewaukee, the village of Sussex,, and the towns of Delafield, Lisbon, Waukesha and Brookfield. The DNR issued a letter, dated February 8, 2000, designating these communities based on an evaluation of municipal storm water data for the Upper Fox River Watershed. These communities were found to have a significant impact on stormwater flowing into the city of Waukesha. The selection of these communities was based on 6 factors and criteria. These criteria include; physical interconnection to the city of Waukesha's storm sewer system, distance from the city of Waukesha, the quantity and nature of pollutants discharged into the watershed, the nature of the receiving water, the development potential of the community, and the population density. Communities scoring above 40 points out of 100 were designated to obtain a Water Pollutant Discharge permit by the DNR. As indicated by Table 1, at page 6, the town of Waukesha received a total score of 48 but received the maximum score available on two of the criteria; connection to the city of Waukesha and distance from the City. The Town also received the second highest score available regarding the effect of stream/lake classification. This analysis demonstrates the degree to which the Town and the City share mutual issues regarding watershed protection and storm water management. The City has completed an independent pre-application preparation process with the DNR and is now working towards a final permit, while the Town is expected to complete its pre-application process by August, 2000.¹⁰

⁸ SEWRPC, *A Development Plan for Waukesha County, Wisconsin* (1996), pg. 361.

⁹ SEWRPC, *A Land Use Plan For The City of Waukesha Planning Area: 2010* (September, 1993), pg. 55

¹⁰ Personal communication with Paul Day, Engineer for the city of Waukesha, and Tony Fischer, with the Department of Natural Resources (DNR), March 16 & 20, 2000.

TABLE 1
Water Pollution Discharge Program
Designation Factors and Criteria

Designation Factor	Criteria	Data	Units	Max Points	Town of Waukesha	# of Points Given
1	Connection to the City of Waukesha	Municipal Border Connection	Yes/No	10	Yes	10
2	Distance from the City of Waukesha	Border to Border stream length Miles	Miles	10	0	10
3	Industrial Discharges	Industrial Land Use	Acres	5	9	0
	Urban Non-Point Source Load Estimation	Model Results	Lbs/yr	35	102,602	9
4	Streams/Lakes Classification	Stream/Lake Data	Class	10	WWSF/CWC*	9
5	Development Potential	Development Potential Acres	Acres	20	311	10
6	Population Density	Total Population Density	Pop/miles	10	294**	0
Total Points				100		49

* WWSF = Warm Water Sport Fishery Community; CW = Cold Water Community

** Population Density = (Total Pop)*(Residential Acres in U.F. Watershed/Total Residential Acres)/Sq miles in U.F. Watershed

Source: WiDNR and SEWRPC

In addition, the city of Waukesha completed a stormwater management study in 1995 that covered the Frame Park Creek sub-watershed and included parts of the Town of Waukesha in the northeast corner of the Town, adjacent to STH 59/164. The city of Waukesha has hired a consulting firm to prepare a storm water management plan and a storm water ordinance. This plan will include estimates of storm water quality and quantity coming from outside the City, including parts of the town of Waukesha, in order to evaluate the adequacy of the City's storm water facilities and future development needs. This plan is expected to be completed sometime in 2001.¹¹

Critical Species and Habitat

The State Bureau of Endangered Resources, Wisconsin Department of Natural Resources has identified a variety of species and habitats within the town of Waukesha that are listed on the Natural Heritage Inventory data base as either endangered, threatened or of state special

¹¹ Personal Communication with Paul Day, Engineer for the city of Waukesha, March 16, 2000

concern.¹² The following species have been observed within the territory proposed for incorporation:

State Endangered Species

Prenanthes asperia (rough rattlesnake root)
Acris crepitans blanchardi (Blanchard's cricket frog)
Luxilus Chrysocephalus (striped shiner)

State Threatened Species

Thamnophis butleri (Butler's garter snake)
Emydoidea blandingii (Blanding's turtle)
Aster Furcatus (forked aster)
Thamnophis butleri (Butler's garter snake)
Cypripedium candidum (small white lady's slipper)
Gentiana alba (yellow gentain)

State Species of Special Concern

Erimyzon sucetta (lake chubsucker)
Sollidago ohioensis (Ohio goldenrod)
Agrimonia parviflora (swamp agrimony)
Gentainopsis procera (lesser fringed gentain)
Ptelea trifoliata (water ash)

In addition to these species, several areas are identified as having significance as containing the remaining examples of rare natural ecosystems. These areas do not have any specific legal protection status but many of the previously mentioned endangered, threatened and rare plant and animal species were observed in these areas. These areas include Fosters Woods (Southern Dry Forest), Mill Creek (Bird Rookery), Falk Woods and Fen (Calcareous Fen and Southern Mesic Forest), Pebble Creek Railroad Prairie (Mesic Prairie), Minooka Park Woods (Southern Dry-Mesic Forest).

As discussed in further detail in the "Metro Impact" section of this determination, SEWRPC and Waukesha County has reviewed the master land use plan prepared by the town of Waukesha and found that this plan is insufficient to protect upland environmental resources.¹³

Environmental Corridors, Wetlands and Natural Areas

Map 4, at Appendix A, shows the environmental corridors in the Waukesha Area. Environmental corridors are defined as linear areas in the landscape containing concentrations of high-value wetlands, woodlands, wildlife habitat areas, as well as major bodies of surface water, floodplains and shorelands. These areas are of critical environmental, ecological and recreational value. The primary and secondary environmental corridors in the Waukesha area are generally located along the major perennial streams, including the Fox and Pewaukee Rivers, Mill Creek, Pebble Creek and Pebble Brook, as well as large wetland areas associated

¹² Information provided to the Department by Elizabeth Spencer, WDNR Bureau of Endangered Resources. April 6, 2000

¹³ Personal communication with Bill Stauber, Chief Land Use Planner, Southeastern Regional Planning Commission, March 20, 2000.

with these and other smaller streams. These primary environmental corridors contain the best remaining woodlands, wetlands, prairies and wildlife habitat available in the Waukesha area. Waukesha County has identified several of these corridors as sites for future park and recreational uses and as important connectors between larger resource areas.

In addition to the primary and secondary environmental corridors, other small concentrations of natural resource base elements exist which are isolated from the environmental corridors by urban development or agricultural uses. These areas may provide the only wildlife habitat available in the area and often provide good locations for local parks and nature areas. *Scientific* and *natural* areas are defined by the City's land use plan as tracts of land or water so little modified by human activities they contain intact native plant and animal communities believed to be representative of the pre-European settlement landscape. Many of these are either publicly owned or fall within the conservancy areas of the Town's land use map. However at least two of these are located in areas zoned for residential development.

Within the town of Waukesha, at least 2 Natural Area Sites of Countywide or Regional Significance have been identified and 6 Natural Area Sites of Local Significance are at least partially located within the Town.¹⁴

Natural Areas of Countywide or Regional Significance

Fosters Woods	89 Acres north of CTH "I" and southeast of the Fox River.
Falk Woods and Fen	306 Acres west of STH 164 and south of Pebble Brook.

Natural Areas of Local Significance

Minooka Park Woods	89 Acres along the northeast boundary of the Town.
Fox River Woods	411 Acres located just east of the Fox River at the southern boundary of the Town.
Vernon Mesic Prairie	6 Acres located northwest of the intersection of CTH "XX" and the Wisconsin Central Railroad line.
Pebble Creek Railroad Prairie	7 Acres located along the Wisconsin and Central Railroad line and Pebble Creek.
Pebble Creek Wetlands	60 Acres located along Pebble Creek and CTH "DE".
Browns Fen	2 Acres located along the northwestern boundary of the Town

Regarding development within environmental corridors, SEWRPC discusses development guidelines in its planning report, *Sanitary Sewer Service Area for the City of Waukesha and its Environs*. SEWRPC states:

[C]ertain land uses requiring sanitary sewer service could be properly located in the primary environmental corridors, including park and outdoor recreation facilities, certain institutional uses, and in some cases, extremely low density residential development at a density not to exceed one housing unit per five acres of upland corridor land."¹⁵

¹⁴ SEWRPC, *A Development Plan For Waukesha County Wisconsin* (1996), pg. 87. Map 29

¹⁵ SEWRPC, *Sanitary Sewer Service Area for the City of Waukesha and its Environs* (March, 1999), pg. 19.

However, according to the town of Waukesha's zoning map, land south of Lawnsdale Road and east of Big Bend Road is classified for residential development under the zoning district *Residential Estate* (RE). RE districts require a minimum lot size of 3 acres, 2 less than that recommended by SEWRPC. The Town's land use plan may fail to protect upland environmental resources. This will be discussed further in the "Metro Impact" section of this determination.

Ambient Air Quality

The federal government has established minimum air quality standards which are intended to protect human health, as well as prevent damage to vegetation, real and personal property, and improve visibility. Emissions standards for specified pollutants have been set forth in the Clean Air Act Amendments of 1990. Based upon these standards, non-attainment areas - areas having ambient air quality conditions that do not meet the federal standards - have been identified. According to these standards, all of Waukesha County has been designated as, and continues to be, an ozone non-attainment area. Ozone levels are measured at Carroll College in the city of Waukesha. The number of exceedence days at this site place Waukesha County in the "severe" non-attainment classification.

A non-attainment designation requires that new development and industry follow the ambient air quality standards of the federal government. This designation affects the types of development and transportation projects recommended within Waukesha County¹⁶, including the area proposed for incorporation.

Because the Town's land use and transportation planning is inconsistent with regional and county plans, as well as with plans of surrounding communities, the Department has concerns that incorporation may hinder the attempts of these other jurisdictions to successfully improve air quality.

Historical, Archaeological or Architecturally Significant Resources

Objective No. 9 in the City's land use plan recommends the following:

Intensive historic surveys should be conducted in the towns within the planning area. Historic sites, buildings and structures identified through such surveys should be protected through the establishment of a Town Landmarks Commission or other effective means.¹⁷

The City's land use plan indicates the presence of several architecturally significant resources within the area proposed for incorporation. Eighteen structures within the Town are listed on the Wisconsin Inventory of Historic Places. These include mainly residences, a barn and a school. In addition, 10 residences located along East Broadway have been placed, or proposed for addition, on the National Register of Historic Places.¹⁸

¹⁶ SEWRPC, *A development Plan for Waukesha County, Wisconsin* (1996), pg. 54.

¹⁷ SEWRPC, *A Land Use Plan For the City of Waukesha Planning Area: 2010* (1993), pgs 251-292.

¹⁸ Ibid, at pg. 172.

Review of the Town's land use plan and zoning code shows that it contains no requirements regarding the identification or protection of historical, archeological or architecturally significant resources. Nor has the Town established or delegated authority to any commission or other organization for the protection of these resources.

Transportation

Map 5, at Appendix A, shows the transportation network serving the Town. The transportation network that serves the town territory consists mainly of a series of county and state highways that circulate traffic through the metropolitan region. The town of Waukesha has constructed local streets to circulate traffic within isolated developments but relies primarily on the roads maintained by the county and state to circulate traffic through the Town, from one development to another. There are only three east-west routes that go through the Town and two of these routes also go through the city of Waukesha. Sunset Drive, maintained by the city of Waukesha, connects with County Highway (CTH) "D" and provides access to the northern parts of the Town but requires travel through the City. One can also travel in an east-west direction by traveling on CTH "Y" or "D", which connect to Broadway Avenue/Madison Street and a network of roads that circulate traffic through the city of Waukesha and connects the eastern and western portions of the Town. A proposed transportation improvement project, recommended by SEWRPC in its *Regional Transportation System Plan for Southeastern Wisconsin 2020*, will connect State Highway (STH) 59 with CTH "TT" to form a beltway around the southern edge of the City.¹⁹ STH 59 also continues west and provides access to development in the western portion of the Town. CTH "I" is the only east-west route that travels exclusively through the Town. County Highways "X", "XX" and "Y" are all oriented in a north-south direction and provide direct access to the city of Waukesha. STH 164 also runs in a north-south direction through the Town but appears to provide access only at Lawnsdale Road/ CTH "Y" and Glendale Road. The only local collector that appears to travel in a north-south direction through the town is Big Bend Road. It is also possible to travel north-south along the Town boundaries. One can travel along the western boundary of the Town on Townline road and along the eastern boundary along Springdale Road.

The Town relies heavily upon state, county and federal highways for its transportation needs.²⁰ The existing transportation network is designed to lead inwards to the city of Waukesha. It is akin to the way spokes on a wheel lead in towards the hub. The road facilities are not designed to provide direct circulation within the Town. Because development in the Town is organized around the existing transportation network, the Town's development pattern does not possess an internal sense of coherence or sense of interrelationship. In fact, a visual inspection of the Town by the Department revealed that many of the local streets serve individual developments and form dead ends and cul-de-sacs without providing any connection to other development in the Town. In addition, there are no sidewalks, bike lanes, or public transportation opportunities that allow residents to reach various parts of the town. In fact, according to the Waukesha

¹⁹ SEWRPC, *A Regional Transportation System Plan for Southeastern Wisconsin: 2020* (December, 1997), pg 206

²⁰ According to data provided by Joanne Lazarz, WI Department of Transportation, approximately 27.6 miles of urban and rural arterials and collector roads within the town of Waukesha are maintained by the county and the state while about 1.5 miles of arterials and collector roads are maintained by the Town.

Metro Transit, the dispersed nature of development in the Town, the lack of sidewalks, and the unconnected streets make provision of transit economically unfeasible.²¹

In addition, the lack of sidewalks has created some dangerous conditions in areas where residential developments are adjacent to major transportation corridors. For example, Rose Glen Elementary School is located adjacent to STH 59 but there is no other means by which to approach the school except automobile. There are no sidewalks, shoulder lanes or crosswalks to allow foot or bicycle access. It is possible to approach the school from the residential developments behind the school, however there are no sidewalks in these subdivisions and they are bordered on the other side by CTH “X”. With the exception of the residents living in the residential area immediately behind the school, there is no safe access to the school other than by automobile or school bus.

SEWRPC’s *Regional Transportation System Plan for Southeastern Wisconsin 2020* recommends transferring the jurisdiction of several county trunk highways within the Town of Waukesha to local trunk highways or local non-arterials. The recommended roads include sections of CTH “Y”(Racine Road), CTH “D”(Broadway and Sunset Drive), CTH “U”(Guthrie Road) and CTH “I”. In addition, The Waukesha Co. Development Plan shows that sections of STH 59 and 164 carry an arterial volume that is over capacity.²² The regional transportation plan also recommends expanding sections of these routes, as well as CTH “X”, CTH “D”, and CTH “Y” to accommodate 4 lanes of traffic.

The town of Waukesha itself has annual expenditures for roads and highways of approximately \$175,000.00.²³ The town asserts that it has a long range monitoring and replacement schedule in place for roadway improvements. These expenditures are discussed further in the “Services” section.

Alternative regional transportation systems include railroad tracks owned by Wisconsin and Southern Railroad and Wisconsin Limited, as well as a regional airport called *Crites Field*, located on the northern edge of the city of Waukesha.

Political Boundaries

The town of Waukesha is located in the middle of Waukesha County. The Town is bordered on the east by the town of New Berlin. The southern boundary of the town is contiguous with the towns of Vernon and Mukwonago. On the western boundary, the Town is bordered by the town of Genesee. The city of Waukesha extends into the Town from the North and is surrounded by the town on three sides. The northern boundary of the town is also contiguous with the town of Brookfield and the recently incorporated city of Pewaukee. Map 6, at Appendix A, shows the Town territory in the context of its surrounding municipalities.

The town of Waukesha surrounds the southern part of the city of Waukesha on three sides. Since 1990, the city of Waukesha has completed several substantial annexations (100 acres or more) to the southwest of the city and in the northeast section of the town (PLS sections 1 and 12) east of STH 59/164. A series of annexations by the City has left a portion of Town territory isolated from the remainder of the Town along STH 59 and STH I64 to the east of the

²¹ Memo from Robert Johnson, Transit Director for Waukesha Metro Transit, to City Attorney Kurt Meitz dated December 10, 1999.

²² SEWRPC, *A development Plan for Waukesha County, Wisconsin* (1996), pg 141.

²³ Town of Waukesha Incorporation Data (February, 2000), pg. 3

City. A large portion of the southwestern portion of the Town consists of marsh and wetlands associated with the Fox River, commonly identified as the Vernon Marsh (including the Vernon Marsh State Wildlife Area). In combination, these natural and man-made features separate the remaining Town territory into roughly 3 separate areas for purposes of describing the territory proposed for incorporation.

The Western portion of the Town can be described as the territory directly north and west of the Vernon Marsh, including agricultural lands surrounding the marsh area. This portion of the Town contains substantial residential development in the northern half and mainly agricultural uses in the southern half. The Glacial Drumlin State Trail and the Reitzer Nature Center are located in PLS sections 6 and 7 of the Town. There is some commercial highway development along STH 59 at the western boundary of the Town along Townline Road, as well as along the boundary with the City where STH 59 intersects with CTH "D". A residential development is connected to the rest of the town by a corridor along the Wisconsin and Southern Railroad line/Glacial Drumlin Bike Trail.

The southern boundary of the city extends south into the northwest 1/4 of PLS 29 between CTH "X" and River Road/CTH "H" at the southwest corner of the City and borders Sunset Drive, north of STH 59, in the southeast corner of the City. The City limits extend south of STH 59 between Saylesville Road/CTH "X" and Big Bend Road except for a narrow corridor along Center Road connecting the Town Hall and fire station to the remainder of the town. The City also extends south to the southern edge of PLS section 13. The City/Town boundary on the east side of the City is irregular and fragmented. Town territory includes sections along Milky Way Road, portions of Waukesha County's Minooka Park, and several residential parcels connected to the remainder of the town by a corridor along Racine Avenue/CTY "Y". The City's boundaries extend all the way to Springdale Road and the boundary with the town of New Berlin in PLS section 12. The Central portion of the Town is predominantly zoned residential. Substantial conservancy land extends along Pebble Brook, Red Wing Creek and Mill Creek. Some commercial development has occurred along s. East Avenue/STH 164. Some commercially zoned territory along the intersection of STH 59 and 164 has been annexed into the City in the last 5 or 6 years.

A section of Town territory in the northeast of the Town has become physically isolated from the remainder of the Town by a series of annexations by the City. A string of isolated properties, strung together by corridors, remains. These corridors run along state and county roadways. The territory extends south from the northern town line along Springdale Road to CTH "D"/Broadway. A small residential Town area is located just south of CTH "D" at the town line. A corridor along Broadway/ CTH "D" links commercial and public property directly northeast and northwest of the intersection of CTH "D" and STH 59/164, as well as residential property directly southwest of this intersection and residential property north of CTH "D". The City has annexed property directly east of the intersection of STH 59/164 and CTH "Y" but surrounding town territory extends eastward and north along STH 59/164. This territory contains both commercial property and land zoned for conservancy.

In addition to the isolated Town segment discussed above, three other physically isolated town islands remain in the city of Waukesha. The largest is located along Sunset/CTH "D" and its intersection with the Wisconsin Central Railroad line. A second is located north of the Fox River along Genesee Rd/ CTH "X". The third is residential property located directly west of CTH "X" along Harris-Highland Drive.

Urban Service Area boundaries

The urban service boundary for the area is shown on Map 7, at Appendix A. It includes the boundaries of both the sewer and water districts. This boundary includes substantially all of the town of Waukesha, with the exception of the Vernon Marsh area in the Southwest corner of the town and a small section along the western boundary of the Town between Saylesville Road and Genesee Road.²⁴ Most of these excluded lands contain environmental corridors. With regard to sewer and water, the City asserts that it has the capacity to serve Town areas included within the service boundaries. This aspect will be discussed in more detail in the “Services” section of this determination.

Schools

The Waukesha School District serves the city of Waukesha and the entire town of Waukesha. Map 8, at Appendix A, shows the boundaries for the Waukesha school district. The Waukesha school district operates 22 public schools including 2 high schools, 3 junior schools and 17 elementary schools.²⁵ Presently, only one elementary school, Rose Glen Elementary, is located in the Town. Rose Glen Elementary School is located on Brookhill Drive, west of the intersection of Saylesville Road and STH 59. The West High School property, which opened during the 1993-94 school year, was annexed from the Town into the City. It is located on the east side of Saylesville Road just north of its intersection with River Road. Approximately 1,687 students from the town of Waukesha attend schools in the Waukesha School District.²⁶ Rose Glen Elementary School has a student population of 682 students and approximately 511 of these students are from the town of Waukesha.²⁷ The City allows residents within the school district boundaries to participate in activities sponsored by the city parks and recreation department. This is discussed further in subsequent paragraphs regarding shopping and social customs.

The determination of school district boundaries is an entirely separate process from municipal governance. However, as the Department noted in its determination in *Pewaukee* (1991), schools nonetheless have an impact in molding community allegiance through scholastic, social and recreational activities. In this case, the majority of the schools and school activities are located within the city of Waukesha. The intervenors assert that this would tend to strengthen the links between the Town and the City, saying the following:

As the Supreme Court has recognized that the existence of a uniform school system is characteristic of homogeneity, homogeneity here is with the City of Waukesha where virtually all public schools are located and not in the Town.²⁸

²⁴ See Sanitary Sewer Service Area Map submitted by the City – (Map 4: City of Waukesha Sanitary Sewer Service Area as Defined in SEWRPC Community Assistance Planning Report # 100 As Amended.)

²⁵ The Location of all schools within the district is shown on Map 26 and Table 27 in *A land Use Plan for the City of Waukesha Planning Area* (1994), pgs 93-94

²⁶ Personal communication with Bob Bucholtz, Business Services Director for the School District of Waukesha, March 10, 2000.

²⁷ Personal communication with Gary Webber, Principal Rose Glen elementary school, April 5, 2000

²⁸ City of Waukesha Position Paper, pg. 3.

The City's land use plan identified three potential new elementary school sites in neighborhoods in the town of Waukesha that currently do not have an elementary school and that are expected to experience additional residential growth. These sites are located in the southeastern portion of the Town, north of the subdivisions developed in the Mill Creek area and in the area east of the new High School, which is experiencing growth from several subdivisions approved in the early 1990's.²⁹ A site was also identified west of CTH "TT", which is also expected to develop within the planning period. The Waukesha School District currently owns two sites that are intended for future development needs. One site is located at the intersection of CTH TT and McArthur Road. A second site, located at the intersection of STH 164 and Glendale Road, has been declared surplus. However, despite this language, the school district has no current plans to expand existing facilities or to build any new facilities.³⁰

Shopping and Social Customs

As discussed in both the "Transportation" and "Land Use" sections of this section, what commercial, institutional or recreational development exists is scattered throughout the Town. There is no identifiable concentration of facilities or businesses within the Town that offer an opportunity for residents of the town to meet and socialize with one another. While an identifiable "core" is not a specific requirement for an urban village, the lack of one does impact the ability of a community to develop internal social and shopping customs.

The majority of the parks and open space facilities within the Town are land and facilities owned and maintained by either the State of Wisconsin or Waukesha County. Facilities developed for recreational uses, including passive recreation, nature education, walking, hiking, biking, are; Reitzer Nature Center (338 Acres within the towns of Waukesha, Genesee, and Delafield), the State owned Glacial Drumlin Trail, and the County owned Minooka Park (297 Acres within the cities of New Berlin and Waukesha and the town of Waukesha). Minooka Park contains camping facilities, playing fields, a swimming beach and other recreational facilities. Unimproved facilities that provide aesthetic value, recreational opportunities, and bird or wildlife viewing include; the Vernon Marsh State Wildlife Area (3,634 Acres in the towns of Vernon, Mukwanago and Waukesha) Fox River Park (120 Acres), and an undeveloped county Parcel identified as the Wizenreid-Kuhtz property (207 Acres in the town of Waukesha). The city of Waukesha also maintains approximately 40 park and open space sites comprising about 800 acres. These park sites serve town residents in the town islands and other portions of the Town. The town of Waukesha owns and maintains 12 acres identified as Town Hall Park that provides opportunities for passive recreation, picnicking and has some limited playground equipment.

The one exception to state and county ownership of facilities is Town Hall Park, which is owned and maintained by the town of Waukesha. Town Hall Park serves as a much needed neighborhood park. A neighborhood park is typically between 5 to 24 acres and provides for the passive and active recreational needs of surrounding residents. The service radius for neighborhood parks is governed by density of development in the vicinity. However, as a general standard, SEWRPC has established a service radius of .75 miles distance one way. This means that residents should not have to walk further than .75 miles to reach a

²⁹ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 217.

³⁰ Personal communication with Bob Bucholtz, Business Services Director with the Waukesha School District. March 10, 2000.

neighborhood park.³¹ A review of the park facilities available in the Town indicates that there are a lack of neighborhood parks, particularly for residents in the southern part of the Town. This issue will be discussed further in the “Services” section of this determination.

The Town does not have its own recreation department. Instead, Town residents may participate in programs offered by the city of Waukesha Parks and Recreation Department. The City supports a variety of programs for kids, adults, team sports, and senior programs. Town residents pay a fee of \$10.00 to participate in most program activities. This fee may be less where the cost charged to city of Waukesha residents is less than \$10.00. Activities which are held at Waukesha School District facilities are open to Town residents for no additional charge. These include basketball and volleyball, as well as some swimming programs. The City Parks and Recreation Department estimated that approximately 6% of program users are from the town of Waukesha. While one elementary school in the Waukesha School District is located in the town of Waukesha, the City Parks and Recreation Department indicated that no programs are held at this site.³² School facilities are also used for scouting and 4-H club meetings, as well by several adult and youth athletic leagues.³³

The City has asserts the following with regard to shopping and social customs in the Town:

There is no evidence that the residents of the Town are internally oriented with respect to such matters as shopping, worship, recreation, and health care. Civic clubs, movie theaters, libraries, service organizations are all located within the City of Waukesha. This is evidence that the residents of the Town are externally oriented. This further detracts from a finding of homogeneity.³⁴

The Town does not rebut this assertion. Regarding shopping and employment, a great deal of the shopping and employment opportunities are in or around the city of Waukesha.³⁵ Table 2, on page 24 shows that only 4.67% of Town lands are classified as being appropriate for commercial or industrial development. The opportunities that are located in the Town are adjacent to the City. Clearly, Town residents are largely dependent for shopping and employment on surrounding metropolitan areas such as the cities of Waukesha, Brookfield, or Milwaukee.

Regarding social organizations, the Department made a formal written request to the petitioners for information regarding a list of existing organizations and a description of membership and activities, as well as specific community-wide events that would tend to provide evidence of a unique and independent community identity. In response to this request, the Petitioners identified approximately 8 religious institutions located in the Town. It is not possible for the Department to determine the extent to which these institutions contribute to a sense of community identity since no information has been provided regarding the number of congregants, or the activities sponsored by these institutions, or use of church facilities. Petitioners also indicated that the only fraternal or business organization that meets regularly is the Waukesha Area Chamber of Commerce-Southside Business Council. Again, it is unclear how many members participate in this organization, whether members are residents of the

³¹ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area 2010* (1993).

³² Personal communication with the Waukesha Parks and Recreation Department staff, March 10, 2000

³³ Personal communication with Gary Webber, Principal of Rose Glen Elementary School, April 4, 2000.

³⁴ City of Waukesha Position Paper (December, 1999), pg 3

³⁵ SEWRPC, *A Development Plan for Waukesha County Wisconsin* (1996), Map 3 on pg. 33.

Town or own businesses in the Town, or other information that would indicate the extent to which this organization contributes to a sense of community coherence within the Town.

Summary of Current Land Uses

The land use pattern in the Town is comprised largely of agricultural and open space lands, and low density residential. Commercial, industrial, institutional, and public uses are limited. Table 2, given below and Table 3 on page 17 provide the land use classification and current land use acreages and percentages for the various land uses. The land use classification shown in Table 2 refers to amount of the Town's land that is zoned for each use. It is the potential acreage, under the current ordinance, for each type of land use. On the other hand, Table 3 refers to the existing land use (for example, the current acreage devoted to residential land use).

TABLE 2
Land Use Classification for the
Town of Waukesha³⁶

Type of Use	Acreage	Percentage
Residential	7565.00	52.75%
Commercial	653.00	4.55%
Industrial	16.66	.12%
Agricultural	3337.00	23.27
Conservancy	1594.00	11.12%
Public	1175.00	8.17%

Source: town of Waukesha Land Use Plan

Tables 2 and 3 show that land use in the Town is largely residential and agricultural.

Significantly, regarding residential units in the Town, 94.8% are detached single family units. Less than 5% are two family units or greater. Map 11 on page 69, shows that the majority of this housing stock has a substantially higher median value (>\$100,000) than the housing stock in the city of Waukesha and that the Town does not provide the diversity of housing values that are available within the City. The lack of a more balanced variety of land uses and the lack of variety in housing types and values leads to interesting service-provision and metro-impact issues. These will be discussed later in this determination.

Development in the Town is not compact or centrally-located. It is scattered. Map 9, at Appendix A, shows a pattern of businesses that is scattered throughout the town, without any relation to each other. The petitioners have emphasized to the Department the residential and rural character of the area proposed for incorporation. However, these land use decisions appear to have discouraged development of the facilities and services needed to meet the needs of an urbanizing area and create a community that is not independently viable but dependent on external ties to surrounding "urban" areas and facilities to meet the needs of residents. This could be said to place an unfair burden on these other units of government that provide these services and facilities.

³⁶ This is further illustrated by the following summary of land uses in the Town, based on 1993 land use classifications from the *Town of Waukesha Master Land Use Plan* (1994).

TABLE 3
Land Use in Waukesha Co. By Civil Division (1990):

URBAN:	Residential		Commercial		Industrial		Transportation, Communication and Utilities		Government and Institutional		Recreational		Subtotal	
	Acres	Percent of Total	Acres	Percent of Total	Acres	Percent of Total	Acres	Percent of Total	Acres	Percent of Total	Acres	Percent of Total	Acres	Percent of Total
Cities:														
C. of Waukesha:	23,186	27.2	2,163	2.5	1,739	2	7,955	9.3	2,087	2.4	2,078	2.4	39,208	45.9
	3,797	34.8	556	5.1	720	6.6	1,783	16.3	551	5	375	3.4	7,782	71.2
Towns:														
Brookfield	26,794	11.2	804	0.3	732	0.3	10,831	4.5	963	0.4	3,009	1.3	43,133	18
Delafield	932	23.3	221	5.5	94	2.4	444	11.1	56	1.4	30	0.8	1,777	44.5
Genesee	1,944	14	15	0.1	4	0	661	4.8	100	0.7	335	2.4	3,059	22.1
Vernon	2,919	14.1	38	0.2	51	0.2	780	3.8	50	0.2	157	0.8	3,995	19.3
Waukesha	2,827	12.9	54	0.3	20	0.1	1,106	5	69	0.3	269	1.2	4,345	19.8
	2,864	17.4	51	0.3	33	0.2	780	4.8	57	0.4	270	1.6	4,055	24.7
NON URBAN:	Agricultural		Wetlands		Woodlands		Surface Water		Other (a.)		Subtotal		Total Area	
	Acres	Percent of Total	Acres	Percent of Total	Acres	Percent of Total	Acres	Percent of Total	Acres	Percent of Total	Acres	Percent of Total	Acres	Percent of Total
Cities:														
C. of Waukesha:	20,516	24	8,434	9.9	3,942	4.6	4,523	5.3	8,760	10.3	46,175	54.1	85,383	100
	600	5.5	781	7.2	107	1	98	0.9	1,549	14.2	3,135	28.8	10,917	100
Towns:														
Brookfield	109,096	45.5	39,066	16.3	23,132	9.7	10,310	4.3	14,884	6.2	196,488	82	239,648	100
Delafield	322	8.1	1,206	30.1	56	1.4	60	1.5	576	14.4	2,220	55.5	3,997	100
Genesee	5,235	37.8	1,023	7.4	1,982	14.3	1,378	10	1,165	8.4	10,783	77.9	13,842	100
Vernon	9,065	43.6	3,272	15.8	1,832	8.8	106	0.5	2,499	12	16,774	80.7	20,769	100
Waukesha	10,613	48.3	4,495	20.5	1,481	6.7	395	1.8	643	2.9	17,627	80.2	21,972	100
	6,589	40.1	3,263	19.9	1,173	7.1	116	0.7	1,227	7.5	12,368	75.3	16,423	100

Notes: Data for urban land uses includes related off-street parking areas of more than 10 spaces.
(a.) Includes extractive, landfill, and unused lands
Source: SEWRPC

Perhaps the best example illustrating the scattered-nature of development in the Town is a statement by Robert Johnson, Director of the Waukesha Metro Transit. Johnson states the following with regard to providing mass transit to Town areas:

Providing transit service to the Town would be difficult because of a lack of a central business district (or any business district), subdivisions with many dead-end streets; and most importantly, no sidewalks. Sidewalks are essential for pedestrian access to a bus stop. There are no discernable concentrations of employment that would be serviceable by mass transit, since industrial and commercial land uses are widely scattered or non-existent.³⁷

As noted earlier, residents are, by necessity, dependent on the services, amenities and regional facilities provided by the city of Waukesha to meet a variety of needs. The city provides a central library and full-time, year round parks and recreation program, and a variety of other services and commercial/institutional development not available within the Town. The city also provides services and support to several major regional facilities, such as the county owned exposition center and the Waukesha County airport.

Regarding density of development, SEWRPC refined the Waukesha sanitary sewer service area to accommodate a density of 3.4 dwelling units per net residential acre. This density lies within the density range recommended by the *Regional Land Use Plan for Southeastern Wisconsin: 2020* and as envisioned in the City's land use plan.³⁸ However, development in the Town is less compact than that which is recommended. This fact, along with the fact that development is not served with municipal sewer or water service, makes the development inconsistent with that recommended by the City, County, and region. This inconsistency will be discussed much more in the "Metro Impact" section of this determination.

Determination

The Homogeneity and Compactness of a proposed urban municipality is determined by a variety of factors, including natural, man-made and political boundaries, soil and watershed characteristics, shopping and social customs, recreational and park facilities, and transportation facilities. These factors affect the ability to develop and serve the territory, and also affect the social identity and internal coherence within the community. The Department also considers such factors as the land use, population density and employment patterns and the extent to which environmental, wildlife, historical and archeological resources are identified and considered.

The irregular boundaries and Town islands that have been isolated from the main body of the Town create a variety of issues regarding development patterns, provision of municipal sewer and water, fire, emergency and police services, and internal transportation patterns within the proposed village. The irregular boundaries and town islands also affect the social, shopping and recreational customs of Town residents since residents of these town islands have more direct access to facilities and services located in the City than those available in the Town.

³⁷ Memorandum to City Attorney Curt Meitz from Robert C. Johnson, Director of the Waukesha Metro Transit, 12/10/99.

³⁸ SEWRPC, *A Sanitary Sewer Service Area for the City of Waukesha and Environs* (1999), pg. 16.

The petitioners have asserted that irregular boundaries should not be held against them since they are the result of annexations they did not create. This argument has been addressed and rejected by the Wisconsin courts in Incorporation of Town of Pewaukee,³⁹ and Pleasant Prairie v Johnson.⁴⁰ In addition, it should be noted that the petitioners submitted a petition for incorporation that included the current irregular boundaries and islands. Petitioners need not have included these boundaries. The effect of incorporation would permanently fix these boundaries and perpetuate the problems associated with these boundaries. The importance of compact boundaries was established in Scharping v. Johnson⁴¹, where the court said:

In view of legislative concern over attenuated annexations and gerrymandered “shoestring” shaped districts, we conceive that the requirement of “compactness” is addressed primarily to the regularity of the shape of the proposed [incorporation].⁴²

The irregular boundaries have resulted in areas where police, fire or emergency calls may result in confusion and duplication of service response. Additional expenses have also resulted for both the City and the Town where they have not cooperated to address issues created by the irregular borders. The impact of irregular boundaries on services will be discussed in more detail in the “Services” section of this determination.

Town residents must primarily use roads maintained by Waukesha County, the city of Waukesha, or state highways to travel through the town. This raises questions of equity since Town residents benefit from facilities built by other municipalities. In addition, Town residents derive a variety of other indirect benefits from their proximity to the city of Waukesha, including sewer and water service to individual properties on town islands, City police patrol and fire facilities also benefit territory on these islands. Town residents also benefit from city parks and recreation programs, retail shopping and services, as well as convention, museum, library, theater and other cultural facilities that serve the region and are supported by City services. The reliance by Town residents on these services and facilities tends to strengthen the linkages *between* the Town and the City and indicates a lack of internal coherence and independence within the Town. This conclusion is bolstered by the fact that the entire town falls within the Waukesha school district. Although one elementary school in this district is located within the town of Waukesha, students from the Town attend junior high and high school at schools in the city of Waukesha. Both adults and children in the Town also participate in the City’s recreation program. Thus, it is clear that the social and recreational linkages between the Town and the City are very strong.

Finally, development in the town has occurred in scattered, isolated pockets and along county trunk highways. It is the type of development that the drafters of the incorporation statutes meant to discourage. The Circuit court addressed the intent of the drafters of this section in its Pleasant Prairie⁴³ decision:

The requirement of “reasonable homogeneity” shows a legislative concern that the area to be incorporated have a reasonably consistent and uniform composition. The standards set forth in sec. 66016(1), Stats., indicate that the entire area be a community, that it have common interests that are internally shared... [W]e conclude that the

³⁹ Incorporation of Town of Pewaukee, 186 Wis.2d 515 (1994)

⁴⁰ Pleasant Prairie v. Johnson, 34 Wis.2d 8 (1966)

⁴¹ Scharping v. Johnson, 32 Wis.2d 383 (1966).

⁴² Ibid., at pg. 392.

⁴³ Pleasant Prairie v. Local Affairs Dept., 113 Wis.2d 327 (1983).

Department, in its court of appeals' brief, appropriately characterized the requirement of homogeneity when it said that requirement: '...seek[s] to assure that an incorporated area is urban rather than rural, that development in such an area is not scattered, fragmented, or haphazard, and that similar land uses are grouped together in appropriate municipal boundaries.'⁴⁴

In addition to being scattered, existing Town development in island and peninsula areas often conflicts with land uses in the City. There are visible differences in residential lot sizes, presence of sidewalks, storm sewers, and conflicts between commercial land uses and adjacent residential uses along these boundaries.

Therefore, for the aforementioned reasons, this criterion is determined not to be met.

Section 1(b), Territory Beyond the Core

The standard to be applied is found in §66.016(1)(b) 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 contains two different criteria, one pertaining to “isolated villages or cities” and a second one pertaining to “metropolitan villages and cities.” The standard pertaining to “isolated villages or cities”, which does not pertain to this case requires either 30 housing units per quarter section, or, 25 percent or greater assessed value which is attributable to “existing or potential mercantile, manufacturing, or public utility uses.” The second part of section (1)(b), pertaining to “metropolitan villages and cities”, requires that the territory petitioned for incorporation have the “potential for residential 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 prevent such development.”

The town of Waukesha has extensive woodlands, wildlife habitat, environmental corridors, marshes and low lands designated as sensitive wetlands by the County Shoreland and Wetland Protection Ordinance and protected as Conservancy under the Town zoning code. In addition, Map 2, at Appendix A, illustrates the location of areas in the Town that are not developable due to soil drainage and suitability. It appears that a substantial amount of the territory within the town of Waukesha that is suitable for development has already been developed, albeit at low densities. In its brief to the Department, the Town asserts “the only two remaining areas that permit any type of development, other than small, isolated residential developments are lands located along Saylesville, Rd ... and the HWY I64 corridor.”⁴⁵ In a letter to the Department dated March 14, 2000, the petitioners also assert that “Of the original 23,040 acres

⁴⁴ Ibid., at pg. 333.

⁴⁵ Town of Waukesha Incorporation Data (February, 2000), pg. 3

of land which comprise the Town of Waukesha, approximately 1,300 acres of land are developable, but remain undeveloped.”⁴⁶

There is no agricultural land in the Town that has an Exclusive Agricultural designation by Waukesha County. The Town Land Use Plan indicates that an agricultural designation in the zoning code is not a permanent designation but that it is anticipated that these lands will be rezoned for appropriate development.

The city of Waukesha asserted, in its brief to the Department, that “Most of the development that occurs is through property owners annexing to the City of Waukesha because of the full range of services that the City can provide. Petitioners cannot show that the Town will have the potential for residential or land use development on a substantial scale within the next three years in virtually every area of the Town. Although there may be some sporadic development during that time, the petitioners cannot show that there will be any substantial development.”⁴⁷ While this may be true in territory along the border between the City and the Town, a look at the map submitted by petitioners as Exhibit # 1 shows extensive residential and subdivision development scattered throughout the Town.

Determination

The criteria for s. 66.016(b), as it applies to the incorporation of metropolitan villages requires that the territory shall have the potential for development on a substantial scale within the next three years. The Department determined that substantial amounts of the currently undeveloped land within the territory was excluded from this requirement as a result of soil conditions or designation as a wetland, environmental corridor, or conservancy area which made the territory unsuitable for development.

The Department’s review of town of Waukesha building permits, submitted by the petitioners, suggests that substantial amounts of new residential development has occurred throughout the town between 1995 and 1998.⁴⁸ Although current development has occurred using wells and septic systems, the remaining developable land within the town is located within the Urban Service Area for the city of Waukesha. The town of Waukesha could enter into an intergovernmental agreement with the city of Waukesha or could potentially develop an independent sanitary district that would allow the remaining developable lands to be developed with municipal sewer and water. The Department therefore determines that the “potential for substantial development” test is met.

Section 2(a) Tax Revenue

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

⁴⁶ Letter to the Department from Attorney for the petitioners, James Hammes, dated March 14, 2000

⁴⁷ City of Waukesha Position Paper, pg. 4

⁴⁸ Town Exhibit # 17, Town of Waukesha Building Permits: 1/11995 and 12/31/1999.

In this section, because the city of Waukesha intervened and filed a resolution of “willingness to annex”, pursuant to s. 66.014(6), Wis. Stats., the fiscal ability of both the City and the Town to serve the territory proposed for incorporation will be considered. Table 4, on page 23 shows the 1998 revenues and expenditures reported to the Wisconsin Department of Revenue by both the Town and City of Waukesha.

The town of Waukesha currently provides general governmental services (including zoning, building inspection, assessment, planning commission and board of appeals, etc) as well as supplying emergency and fire services, a constable, road plowing and maintenance, and maintenance of a central solid waste disposal facility. No money is spent by the town on culture and education.⁴⁹ The petitioners have asserted that, even though the adjacent city of Waukesha provides its residents with substantially more services than are currently provided by the Town, they have no need or desire for additional services than are provided in the current Town budget. However, a review of the services provided by the Town in the following section raises questions regarding whether the current level of services is adequate to support a rapidly urbanizing area. Several specific areas of concern are addressed. For example, the Town’s fire department has a poor ISO rating which may indicate that current service levels are insufficient, particularly if the area is to incorporate (the specifics of ISO ratings will be explained in the “Services” section of this determination). Another example is police service. The town currently employs 1 constable and the petitioner’s brief admits that “upon incorporation, certain services, such as a full-time Police department will be required.” Other examples of areas in which the Town may not be providing adequate service is with regard to sewer and water, parks and recreation, and planning. The petitioners have asserted that their current tax base is sufficient to pay for the contracting or provision of needed services. However, the town has not provided a proposed budget or any other information indicating what, if any, additional services would be provided if incorporation were to occur, whether they would be provided directly or by contract with outside providers, and what impacts, if any, incorporation would have on current revenues and expenditures. The information submitted by the petitioners consists of the proposed budget for the year 2000 and revenue and expenditure reports for recent years. The Department is therefore assuming a budget that is similar to current revenue and expenditures for the Town.

Budget Comparison

In order to place the town of Waukesha’s expenditures for services in perspective, the Department compared the expenditures reported by the Town for various categories of General Operations for 1998 with those of the town of Brookfield, a similarly situated community in Waukesha County with a 1998 population of 6,242. The Department used figures reported to the Department of Revenue by both of these local governments and published in the *County and Municipal Revenues and Expenditures: 1998* (Bulletin No. 98), February, 2000. See Table 5, on page 24. The Department issued a determination on an incorporation petition by the town of Brookfield in June, 1999. In the Brookfield determination, the Department concluded that level of services provided by the town of Brookfield was adequate to serve the core area of the Town although there were town islands and isolated segments that were inadequately served.

⁴⁹The Wisconsin Department of Revenue includes in this group of activities operating expenditures and capital outlays for museums, libraries, theaters, zoos, and other cultural and recreational activities. See: Wisconsin Department of Revenue guide SL-103, *Instructions For Compiling Financial Report Form Schedules For Municipalities With a Population of Less Than 25,000 Form C*, pg. 20

**TABLE 4
REVENUES AND EXPENDITURES**

	TOWN OF WAUKESHA '98			CITY OF WAUKESHA '98		
Revenues--Governmental Fund	DOLLARS	PERCENT	\$/CAPITA	DOLLARS	PERCENT	\$/CAPITA
Taxes						
General Property Taxes	782,300	26.6%	94.7	27,131,900	45.8%	436.2
Tax Increments	-	0.0%	-	2,375,100	4.0%	38.2
In Lieu of Taxes	-	0.0%	-	910,600	1.5%	14.6
Other Taxes	-	0.0%	-	792,200	1.3%	12.7
Total Taxes	782,400	26.6%	94.7	31,209,900	52.7%	501.8
Special Assessments	292,000	9.9%	35.3	397,300	0.7%	6.4
Intergovernmental Revenues						
Federal Aids	-	-	-	462,300	0.8%	7.4
State Shared Revenues	226,500	7.7%	27.4	4,468,700	7.5%	71.8
State Highway Aids	122,500	4.2%	14.8	2,460,900	4.2%	39.6
All Other State Aids	23,700	0.8%	2.9	1,055,100	1.8%	17.0
Other Local Government Aids	113,100	3.9%	13.7	785,300	1.3%	12.6
Total Intergovernmental Rev.	486,000	16.5%	58.8	9,232,500	15.6%	148.4
Licenses & Permits	154,400	5.3%	18.7	1,445,200	2.4%	23.2
Fines, Forfeits & Penalties	12,100	0.4%	1.5	646,200	1.1%	10.4
Public Chg. For Services	131,400	4.5%	15.9	3,227,700	5.4%	51.9
Interg. Chg. For Services	-	0.0%	-	517,500	0.9%	8.3
Miscellaneous Revenues						
Interest Income	138,400	4.7%	16.8	2,682,500	4.5%	43.1
Other Revenues	2,600	0.1%	0.3	1,163,500	2.0%	18.7
Total Miscellaneous	141,000	4.8%	17.1	3,846,100	6.5%	61.8
Subtotal--General Revenues	1,736,700	59.1%	210.2	50,522,700	85.3%	812.3
Other Financing Sources	1,200,000	40.9%	145.2	8,722,500	14.7%	140.2
Total Revenue & Other Financing Sources	2,936,700	100.0%	355.4	59,245,200	100.0%	952.5
Expenditures-Governmental Fund						
General Operations & Capital						
General Government	288,100	21.4%	34.9	4,659,100	9.7%	74.9
Law Enforcement	3,000	0.2%	0.4	9,138,600	19.1%	146.9
Fire	220,500	16.4%	26.7	6,354,300	13.3%	102.2
Ambulance	133,500	9.9%	16.2	1,143,000	2.4%	18.4
Other Public Safety	107,900	8.0%	13.1	845,700	1.8%	13.6
Highway Maintenance & Adm.	408,600	30.3%	49.5	4,889,200	10.2%	78.6
Highway Construction	-	0.0%	-	2,958,100	6.2%	47.6
Road-Related Facilities	6,200	0.5%	0.8	1,347,700	2.8%	21.7
Other Transportation	-	0.0%	-	703,100	1.5%	11.3
Solid Waste Coll & Disposal	117,500	8.7%	14.2	1,610,100	3.4%	25.9
Other Sanitation	1,600	0.1%	0.2	207,600	0.4%	3.3
Health & Human Services	-	0.0%	-	23,300	0.0%	0.4
Culture & Education	-	0.0%	-	2,748,900	5.7%	44.2
Parks & Recreation	400	0.0%	0.0	7,593,100	15.9%	122.1
Conservation & Development	60,800	4.5%	7.4	3,588,000	7.5%	57.7
All Other Expenditures	-	-	-	-	0.0%	-
Subtotal-Oper. & Cap. Expend.	1,348,300	100.0%	163.2	47,810,400	100.0%	768.7
Debt Service						
Principal	441,400		53.4	8,737,600		140.5
Interest & Fiscal Chg.	55,500		6.7	3,439,000		55.3
Total Debt Service	497,000		60.2	12,176,700		195.8
Other Financing Uses	-		-	1,167,500		18.8
Total Expenditures & Other Financing Uses	1,845,400		223.4	61,154,800		
Total General Obligation Debt	1,675,000	0.3%	202.7	58,910,900	2.0%	947.2
Full Equalized Value	532,507,900		64,452.7	2,920,276,600		46,952.0

Source: WI Department of Revenue

**TABLE 5
REVENUES AND EXPENDITURES**

	TOWN OF WAUKESHA '98			TOWN OF BROOKFIELD '98		
	DOLLARS	PERCENT	\$/CAPITA	DOLLARS	PERCENT	\$/CAPITA
Revenues--Governmental Fund						
Taxes						
General Property Taxes	782,300	26.6%	94.7	2,272,500	52.0%	364.1
Tax Increments	-	0.0%	-	-	0.0%	-
In Lieu of Taxes	-	0.0%	-	-	0.0%	-
Other Taxes	-	0.0%	-	475,000	10.9%	76.1
Total Taxes	782,400	26.6%	94.7	2,747,900	62.9%	440.2
Special Assessments	292,000	9.9%	35.3	300,100	6.9%	48.1
Intergovernmental Revenues						
Federal Aids	-	-	-	-	-	-
State Shared Revenues	226,500	7.7%	27.4	160,900	3.7%	25.8
State Highway Aids	122,500	4.2%	14.8	198,800	4.5%	31.8
All Other State Aids	23,700	0.8%	2.9	83,900	1.9%	13.4
Other Local Government Aids	113,100	3.9%	13.7	-	0.0%	-
Total Intergovernmental Rev.	486,000	16.5%	58.8	443,700	10.2%	71.1
Licenses & Permits	154,400	5.3%	18.7	185,100	4.2%	29.7
Fines, Forfeits & Penalties	12,100	0.4%	1.5	189,300	4.3%	30.3
Public Chg. For Services	131,400	4.5%	15.9	166,200	3.8%	26.6
Interg. Chg. For Services	-	0.0%	-	-	0.0%	-
Miscellaneous Revenues						
Interest Income	138,400	4.7%	16.8	330,200	7.6%	52.9
Other Revenues	2,600	0.1%	0.3	7,200	0.2%	1.2
Total Miscellaneous	141,000	4.8%	17.1	337,500	7.7%	54.1
Subtotal--General Revenues	1,736,700	59.1%	210.2	4,370,100	100.0%	700.1
Other Financing Sources	1,200,000	40.9%	145.2	-	0.0%	-
Total Revenue & Other Financing Sources	2,936,700	100.0%	355.4	4,370,100	100.0%	700.1
Expenditures--Governmental Fund						
General Operations & Capital						
General Government	288,100	21.4%	34.9	428,300	13.2%	68.6
Law Enforcement	3,000	0.2%	0.4	753,100	23.1%	120.7
Fire	220,500	16.4%	26.7	558,000	17.2%	89.4
Ambulance	133,500	9.9%	16.2	139,100	4.3%	22.3
Other Public Safety	107,900	8.0%	13.1	169,300	5.2%	27.1
Highway Maintenance & Adm.	408,600	30.3%	49.5	411,100	12.6%	65.9
Highway Construction	-	0.0%	-	132,600	4.1%	21.2
Road-Related Facilities	6,200	0.5%	0.8	366,300	11.3%	58.7
Other Transportation	-	0.0%	-	6,000	0.2%	1.0
Solid Waste Coll & Disposal	117,500	8.7%	14.2	45,200	1.4%	7.2
Other Sanitation	1,600	0.1%	0.2	-	0.0%	-
Health & Human Services	-	0.0%	-	100	0.0%	0.0
Culture & Education	-	0.0%	-	-	0.0%	-
Parks & Recreation	400	0.0%	0.0	136,100	4.2%	21.8
Conservation & Development	60,800	4.5%	7.4	107,600	3.3%	17.2
All Other Expenditures	-	0.0%	-	-	0.0%	-
Subtotal--Oper. & Cap. Expend.	1,348,300	100.0%	163.2	3,253,200	100.0%	521.2
Debt Service						
Principal	441,400		53.4	720,900		115.5
Interest & Fiscal Chg.	55,500		6.7	350,600		56.2
Total Debt Service	497,000		60.2	1,071,500		171.7
Other Financing Uses	-		-	-		-
Total Expenditures & Other Financing Uses	1,845,400		223.4	4,324,800		692.9
Total General Obligation Debt	1,675,000	0.3%	202.7	6,990,000	1.1%	1,119.8
Full Equalized Value	532,507,900		64,452.7	611,880,900		98,026.4

Source: WI Department of Revenue

The town of Waukesha spent \$0.4 per capita on law enforcement in 1998 (this amounts to approximately \$3,000 to employ one constable and pay for administrative costs, supplies, etc.) This compares to \$120.7 per capita by the town of Brookfield. The town of Waukesha currently uses the Waukesha County Sheriff's office for general patrol and enforcement services. If the town were to incorporate it could continue to receive these general services, contract for additional County services, or form its own police department. The town of Waukesha spent \$26.7 per capita on fire protection services. By contrast, the town of Brookfield spent \$89.4 per capita on fire protection. In addition, the town of Waukesha spent \$29.3 per capita on ambulance and other public safety services while the town of Brookfield spent \$49.4 per capita for these services. Overall, it appears that the town of Brookfield spent substantially more (2-3X) than what the town of Waukesha spent on various public safety services in 1998.

Regarding highway maintenance, construction, road-related facilities and other transportation projects, the town of Waukesha spent \$ 50.3 per capita on local roads. In comparison, the town of Brookfield spent \$146.8 per capita, or nearly three times as much. This is notable in view of the previous discussion of transportation issues, which noted a lack of local roads connecting development within the town and allowing circulation through the Town by local residents. A final significant difference that the Department noted between these two communities is seen in expenditures for parks and recreation. The town of Waukesha spent about \$400 (\$0.04 per capita) on parks and recreation in 1998 while the town of Brookfield spent over \$136,000, or about \$21.80 per capita.

Tax Base and Local Property Taxes

The town of Waukesha had a local property tax rate of approximately \$1.48 per \$1,000 of assessed value in 1998. According to information provided by the petitioners regarding 1999 revenues and expenditures, the 1999 local property tax rate was estimated at \$1.59 per \$1,000. The town of Waukesha's property tax rates are low in comparison to other Waukesha County municipalities as shown by Figure 1, on page 27. The local property tax rate for the Town in 1996 was \$1.40 per \$1,000 of assessed value. See Table 6, on page 37. The total equalized value of taxable property within the town has also been rising (full-equalized value of property in the Town increased approximately \$26,000,000 between 1997 and 1998). The total assessed value of Town territory for 2000 was estimated by the petitioners to be \$550,650,390. By comparison, the town of Brookfield had a local property tax rate of \$5.79 per \$1,000 for 1998. It is clear from its low local tax rates and raising property values that the town of Waukesha has an equalized tax base sufficient to provide an adequate level of services sufficient to meet the needs of its residents if the Town were incorporated. However, the Town has chosen to provide services at a level that is inadequate for a "metropolitan village".

Debt Management

The town of Waukesha has no "special purpose district" (i.e. sanitary districts, water districts, or lake management districts) whose debts or assets the town would incur if it were to incorporate. The town of Waukesha also does not have a substantial amount of outstanding debt. In 1998 the Town spent \$497,000, or \$60.2 per capita, on total debt service. This compares to \$1,071,000, or \$171.7 per capita spent by the town of Brookfield. The amount expended for debt service for both 1999 and the proposed 2000 budget are both estimated at about half this amount. In addition, the Town's year 2000 proposed budget submitted by the

petitioners reports no proceeds of long term debt for 1999 and none projected for the year 2000.⁵⁰ The total general obligation debt of the town of Waukesha is \$1,675,000, or, .3% of its full-equalized value. This is well under the mandated debt cap of 5% of full-equalized value.

Provision and Funding for Services

In addition to the services discussed above, the town of Waukesha also pays into the County Federated Library System through the Waukesha County library levy. The library levy for the Town in 1999 was \$.26 per \$1,000 of assessed value, or \$155,122 (or approximately \$18.60 per capita).⁵¹ System-wide circulation by town of Waukesha residents for 1999 was 108,858 items. Of this amount 106,635 items were from the city of Waukesha Public Library. Thus, the city of Waukesha Public Library provides the vast majority of library services utilized by town of Waukesha residents. The 1999 budget for the City of Waukesha Public Library was \$2,800,766. \$711,135 of this amount, or 25.4% of the 1999 budget expenses for the library, were paid through the County library levy.⁵² Upon incorporation it is likely that the proposed village would remain in the County library system. However, if the territory proposed for incorporation were annexed into the city of Waukesha then the City would tax property owners directly to support the city library. Data submitted to the Wisconsin Department of Revenue for 1998 shows that the city of Waukesha spent approximately \$44 per capita on Culture and Education the majority of which went to support the city library.⁵³

Since the city of Waukesha intervened in this incorporation petition and filed a resolution of willingness to annex the entire territory proposed for incorporation, the Department attempted to evaluate the impact on local tax rates if the city were to annex the entire Town territory and extend services to this territory at the level currently offered in the City. The method used in reaching this estimate is discussed in Table 6, at page 28. The Department estimated that if the city of Waukesha were to annex the entire town territory and provide the same services currently available in the City, the local property tax rate for the combined municipality would be approximately \$8.9 per \$1,000 of assessed property value. The method used does not account for likely savings resulting from economies of scale and existing facilities, staff and infrastructure which the city has already built and paid for and which are available for providing services to the town of Waukesha. These include existing sewer and water lines, pumping stations, and treatment plants with the capacity to serve the Town, as well as existing police, fire and emergency equipment and facilities that can be used to provide service to the Town. For example, in a memo to the City Attorney, Deputy Police Chief, Wayne Dussault indicated that the east and west sides of the town of Waukesha could be assimilated into existing squad patrol areas. He estimated that providing police service to the Town would require an additional six (6) patrol officers and two (2) additional patrol vehicles and projected that the additional cost would be approximately \$357,000.⁵⁴ He also indicated that continuous borders throughout the area would facilitate enforcement and response efforts. The City

⁵⁰ Exhibit #6, Town of Waukesha 2000 Budget, pg. 1.

⁵¹ Personal communication with Tom Hennin, Director of the Waukesha County Federated Library System, April 4, 2000.

⁵² Personal communication with Jane Ameel, Director of the City of Waukesha Public Library, April 4, 2000.

⁵³ Wisconsin Department of Revenue, *County and Municipal Revenues and Expenditures: 1998*(February, 2000), pg II-30.

⁵⁴ Memorandum to City Attorney, Curt Meitz from Deputy Chief, Wayne Dussault, November 1, 1999.

FIGURE 1

COMPARATIVE LOCAL PROPERTY TAX RATES: SELECTED WAUKESHA COUNTY MUNICIPALITIES

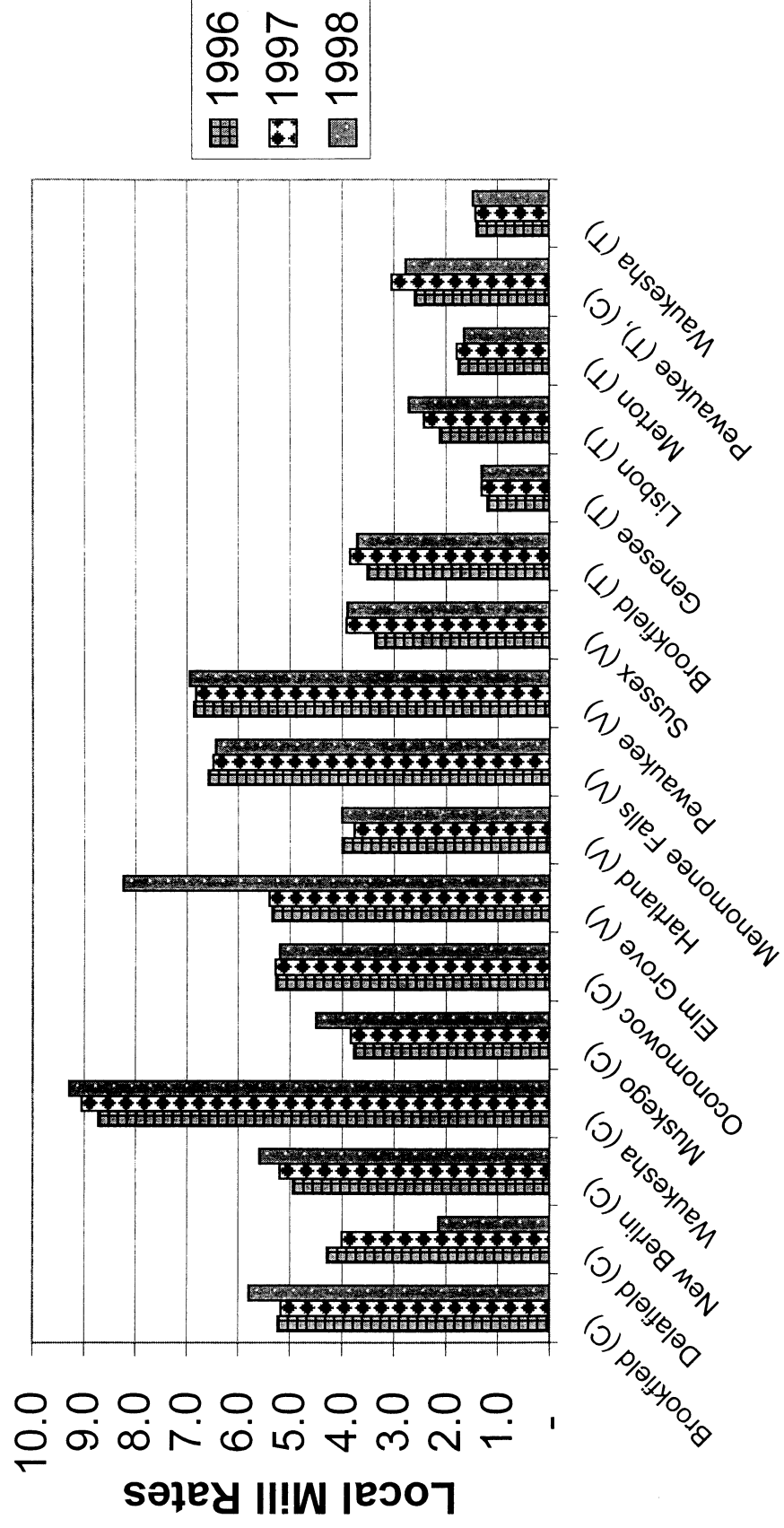


TABLE 6

COMPARATIVE LOCAL PROPERTY TAX RATES:
SELECTED WAUKESHA COUNTY MUNICIPALITIES

Municipality	Year 1996	1997	1998	City and Town of Waukesha)
Brookfield (C)	5.23	5.17	5.79	
Delafield (C)	4.28	4.01	2.14	
New Berlin (C)	4.94	5.20	5.59	
Waukesha (C)	8.72	9.05	9.29	8.90 *
Muskego (C)	3.77	3.83	4.50	
Oconomowoc (C)	5.26	5.27	5.19	
Elm Grove (V)	5.34	5.40	8.24	
Hartland (V)	4.00	3.77	4.00	
Menomonee Falls (V)	6.58	6.48	6.44	
Pewaukee (V)	6.86	6.82	6.95	
Sussex (V)	3.37	3.91	3.90	
Brookfield (T)	3.51	3.85	3.71	
Genesee (T)	1.20	1.31	1.31	
Lisbon (T)	2.12	2.42	2.72	
Merton (T)	1.75	1.79	1.64	
Pewaukee (T), (C)	2.60	3.04	2.77	
Waukesha (T)	1.40	1.42	1.47	

Source: WI Department of Revenue

* This figure represents an estimated tax rate if the City of Waukesha annexed the entire territory of the Town of Waukesha. A per capita property tax rate for the city of Waukesha was estimated and multiplied by the combined population of the City and the Town.

This figure was then divided by the combined equalized value of the City and the Town. This does not account for economies of scale and other efficiencies due to existing facilities, staff and infrastructure already in place to serve the Town of Waukesha.

In some instances, City departments estimated cost increases necessary to serve additional residents and territory, these costs have been included.

testified in their submissions to the Department that the sewer and water lines and treatment facilities were sized to efficiently serve the entire urban service area, including the town territory. The City asserted in its submissions to the Department that, "The City has the financial capability to expand services as new areas develop. The population of the Town of Waukesha is only about 10% of the City's present population; therefore, providing services as new areas are annexed to the City would not create an undue hardship." Thus, the Department believes that the actual local tax rate for a combined municipality, were the city to annex the entire town territory, could be much lower than estimated above.

Determination

The town of Waukesha has a sufficiently high property tax base to meet the prospective costs of providing a minimum level of municipal services, sufficient to meet the needs of the proposed village, at a tax rate that compares favorably with those of similarly situated local governments. Therefore, the Department finds that this standard is met.

Section 2(b) Level of Services

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

Because the City of Waukesha passed a resolution pursuant to §66.014(6) Wis.Stats., expressing a willingness to annex the territory proposed for incorporation, the following analysis will examine not only Town services, but also those provided by the City. The services examined include fire protection, police protection, sewer and water service, solid waste collection, planning, parks and recreation, streets and highways, and mass transit.

Fire protection

Map 10, at Appendix A, provides the location of both City and Town fire stations.

Town

The town of Waukesha has one fire station, located adjacent to the Town Hall at W250 S3567 Center Road. The department has 35 employees. This is down from 43 members in 1995, and from the 60 members authorized by Town ordinances.⁵⁵ The department hopes to boost membership to between 40 and 50 members.⁵⁶ Except for the fire chief position, the entire staff is non-career personnel, paid on a per-call basis. Services provided by the department include fire protection, building inspections, hazardous materials response, and medical emergencies. In 1998, the department responded to 355 calls.⁵⁷

⁵⁵ Town of Waukesha Ordinance 5-1-3(b).

⁵⁶ Annual Report of the Town of Waukesha Fire Department, pg. 5.

⁵⁷ Ibid, at pg. 5.

Regarding equipment, the department has six fire trucks, a rescue vehicle, and two ambulances, in addition to smaller items such as hoses, fire-suits, ladders, etc.⁵⁸ Three of the fire trucks are equipped with water tanks, which is important because the Town does not have a municipal water supply. As a result, all water must be transported to the fire site. However, the City does permit the Town fire department to use City water from fire hydrants located in the City and to reimburse the City for the expense.⁵⁹ Because of this, the Town is able to use City water for fires occurring along the boundaries between the Town and City and in Town island and peninsula areas. For fires occurring elsewhere, water must be transported to the site.

In 1998, the Town spent \$205,686 for fire protection, \$103,649 for ambulance and rescue, and \$107,925 for building inspection, for a total of \$420,235.⁶⁰

The quality of service provided by the town of Waukesha's fire department may not be adequate for the area. The adequacy of fire protection in a community is commonly evaluated by using standards from the Insurance Service Office (ISO), a national office that establishes municipal standards. The ISO has developed a graded schedule that provides 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.⁶¹

The Town's most recent evaluation was 1992. At that time the Town was given an ISO rating of 2-9.⁶² This rating means that for Town areas within a 1000 feet of a City hydrant, the rating is 2. For all other areas, the rating is 9. Access to water is very important. ISO considers the Town's staff and equipment to be sufficient, so that the rating is very good when municipal water is available at a fire site. However, without water, the Town is deemed to be essentially unprotected. Its poor ISO rating may also be due to the fact that the Town has only one fire station. As a result, the department cannot readily serve outlying parts of the Town. For example, the southeast, southwest, northeast and northwest parts of the Town are all far from the station. Location is an important determinant in the quality of fire protection service and the location of the Town's lone station no doubt hurts response time. Petitioners did not provide the Department with exact response times. Instead, they write that fire personnel may "be out the door in less that [sic] two minutes in the case of an emergency."⁶³ However, being out the door of a fire station cannot count as a response time. Rather, a response time is the time it takes for fire personnel and equipment to arrive at the emergency site.

City

The city of Waukesha currently operates four fire stations: On the north side of St. Paul Avenue, just west of Madison Street in the downtown area; at the northeast corner of the intersection of East Moreland Boulevard and Wolf Road in the northeastern portion of the City; on the west side of Sentry Drive north of Sunset Drive in the south-central portion of the City;

⁵⁸ Annual Report of the Town of Waukesha Fire Department, pg. 5.

⁵⁹ Personal Communication with city of Waukesha Deputy Police Chief, Wayne Dussault, 3/20/00.

⁶⁰ Town of Waukesha Financial Statements, Year Ended December 31, 1998, pg. ?

⁶¹ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 97.

⁶² Personal Communication with Chuck Zydeck, of ISO's Chicago Office, 3/28/00.

⁶³ Town of Waukesha Incorporation Data (Feb. 2000), pg. 4.

and at the northeast corner of the intersection of Northview Road and North Grandview Boulevard in the northwestern portion of the City.

Services provided by the department include fire suppression, emergency medical services, hazardous materials response, rescues, inspections, fire education, and disaster response and management. The four stations are staffed 24 hours a day, 365 days per year.

The department has 98 personnel, all of whom are certified EMTs, and have either an Associate Degree in fire science or certification as a Level 1 Wisconsin State firefighter.⁶⁴

Regarding equipment, the department operates a fleet of four front line engines and two reserve engines. The department also has two aerial ladder/platform trucks, five Basic Life Support ambulances, one-grass fire/utility pickup truck, one command vehicle, two special service vehicles, and four staff vehicles, in addition to customary equipment such as pumps, ladders, hoses, and fire suits.⁶⁵

1998 expenditures for the City's fire department were \$7,308,515.⁶⁶

The department's average response time over the past four years has ranged from 4 minutes and 18 seconds to 4 minutes and 44 seconds. It has an ISO rating is 2.⁶⁷

Even though its ISO rating is already very good, the City plans to build another fire station and relocate two other stations in order to provide better access. In its land use plan, the City has identified several areas in the southwest and west parts of the City that are beyond the recommended 1.5 mile travel distance from a fire station. The new station and the relocations would remedy this situation.⁶⁸

Regarding service to surrounding Town lands, the City says that it could provide better and more efficient service than that currently provided by the Town.⁶⁹ This may be especially true given the fact that the recommended new and relocated stations would be located near the Waukesha bypass, affording rapid access to Town areas.

The City says that while additional personnel would not be needed, additional equipment may be necessary, particularly if the Town refused to allow the City to use its tanker trucks. However, in the event that Town areas annex to the City, City water would be extended and tanker trucks would be unnecessary.⁷⁰

Some other respects in which City fire service might be advantageous is increased efficiency. Purchasing and maintaining similar pieces of fire equipment to serve the same basic area is expensive and wasteful. A single fire department could provide better service and eliminate

⁶⁴ Position statement submitted by the City entitled "City of Waukesha Fire and Emergency Medical Services".

⁶⁵ Position statement submitted by the City entitled "City of Waukesha Fire and Emergency Medical Services".

⁶⁶ *City of Waukesha Financial Statements*, December 31, 1998, pg. 53.

⁶⁷ Position statement submitted by the City entitled "City of Waukesha Fire and Emergency Medical Services".

⁶⁸ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 218.

⁶⁹ Position statement submitted by the City entitled "City of Waukesha Fire and Emergency Medical Services".

⁷⁰ *Ibid.*, at pg. 6.

duplication. Also, because of the confused boundaries between the Town and City, both fire departments are routinely independently dispatched to the same call. This results in congestion, confusion, and increased danger at the fire site, and also wasted time and money.⁷¹

Police service

Town

The Town does not have its own police department but instead relies on police services provided by the Waukesha County Sheriff's Department. In 1999, the department responded to 3,506 incidents in the Town. The county sheriff's department is funded through the general county levy to which all municipalities in Waukesha County contribute.

The Sheriff's department provides two levels of service: *contract* service and *general* service. General service is provided to every municipality in Waukesha County as a matter of course, whether incorporated or not. As a practical matter, if a community has its own police department, the sheriff's department will not provide duplicative service, even though that community pays for sheriff's service through its general county levy. However, even communities having a police department may still receive assistance from the sheriff's department. For example, a community may request back-up assistance, or it may request specialized sheriff's services such as the canine unit, or the dive team, or the SWAT team. With general service, sheriff's deputies patrol a block, or district, of communities simultaneously. Deputies respond to incidents that they personally observe on patrol, or that are called in by residents.⁷²

General service means that although town areas are included within designated patrol areas, Sheriff's deputies are not specifically responsible to any town entity. This has changed to some extent because as of January 1, 2000, general service now includes enforcement of local ordinances. Prior to this, only state and county ordinances were enforced.⁷³

Contract service is where a community pays the sheriff's department to provide a guaranteed level of patrol service. Unlike general service, where a deputy patrols a district of jurisdictions simultaneously, contract service ensures that a deputy will patrol only that contracting community.⁷⁴

The town of Waukesha has not contracted for specific patrol service, although it has in the past expressed interest.⁷⁵ Instead, it utilizes general service. As of January 1, 2000, the Town's own ordinances have been enforced by sheriff's deputies, so to this extent it is receiving specialized service.⁷⁶

⁷¹ Position statement submitted by the City entitled "City of Waukesha Fire and Emergency Medical Services".

⁷² Personal communication with Kay Kumbier, Dispatcher for the Waukesha County Sheriff's Department, 3/15/00.

⁷³ Personal communication with Kay Kumbier, Dispatcher for the Waukesha County Sheriff's Department, 3/15/00.

⁷⁴ Ibid.

⁷⁵ Personal communication with Daniel Trawicki, Inspector for the Waukesha County Sheriff's Department, 3/17/00.

⁷⁶ Ibid.

The Town also employs a *constable*. The constable answers questions about ordinances and apprehends stray animals. Although the Town's constable has police training and was formerly a deputy with the Waukesha County Sheriff's Department, he does not actively patrol the Town. In 1998, the Town budgeted \$2,975 for constables.⁷⁷

Incorporation by itself will not change police protection in the Town. For example, if incorporated, the Town could continue using general service from the sheriff's department, or it could contract for specific service, or it could develop its own police department. However, given the existing and anticipated development, some Town residents may desire an increased level of police service beyond the general service provide by the county sheriff's department.

City

The City of Waukesha Police Department is currently staffed with 109 sworn officers and 39 support staff civilians. Table 7, below, shows the staffing level of the various units and divisions within the department.

Table 7
Police Department Staff⁷⁸

Unit/Division	Number of Employees
Administration	6
Patrol Division	69
Investigative Bureaus	27
Crime Prevention	4
Community Policing Unit	3
Dispatch Personnel	16
Clerical Staff	21
Custodial Staff	2

In addition to the divisions and units listed above, the department also commits three detectives to the county-wide METRO drug enforcement unit. The department's dispatch center serves both the police and fire departments. The dispatch center is staffed on a 24-hour basis.⁷⁹ The City's police department occasionally requests mutual aid service from the county sheriff's department, particularly where specialized equipment is needed.⁸⁰

The department's fleet consists of 51 marked, unmarked and special use vehicles. In 1998, the City spent \$9,641,269 on police services.⁸¹

The City indicates that its police department could provide service to Town areas. It anticipates that Town areas along the east and west sides of the City could be assimilated into

⁷⁷ Town of Waukesha Financial Statements, 1998, pg. 17.

⁷⁸ Memo from the City of Waukesha Deputy Police Chief, Wayne Dussault, to Waukesha City Attorney, Curt Meitz, November 29, 1999.

⁷⁹ Ibid, at pg. 2.

⁸⁰ Personal communication with Kay Kumbier, Dispatcher for the Waukesha County Sheriff's Department, 3/15/00.

⁸¹ City of Waukesha Financial Statements, December 31, 1998, pg. 53.

existing squad patrol areas. Two new squad patrol areas would need to be developed for Town areas south of Sunset Drive and south of the STH 59 by-pass. Serving these Town areas would require an additional 6 officers and 2 patrol vehicles, at an estimated cost of \$356,738.78. If Town areas were annexed to the City, then this cost would be spread among all City residents. On the other hand, if the Town contracted for this service, then the cost would fall only on Town residents.

Regarding Town island and peninsula areas, there may be a number of advantages to turning these areas over to the City's police department for service. One advantage is duplication of service. Although the *Enhanced 911* computer system helps to differentiate between Town and City boundaries based on the location of the caller, both City police officers and county sheriff's deputies still arrive at the same scene where boundaries are uncertain, as in a motor vehicle accident.⁸² Another advantage is fairness. Currently, residents of Town islands and peninsulas receive patrol service from the City without paying for it. Although City police officers do not respond to 911 calls from Town areas, they do respond to criminal activity observed while on patrol duty. A third advantage is speed. City police officers can respond much more quickly to incidents occurring on Town islands and peninsulas than can sheriff's deputies.⁸³

Planning and Zoning

Both the City and Town are active in planning. However, before describing their programs and efforts, it should be noted that SEWRPC has produced a tremendous number of plans, reports and studies for southeast Wisconsin, including the Waukesha area. This work includes land use plans, comprehensive plans, transportation plans, soil conservation plans, watershed plans, sanitary sewer service plans, economic development plans, water quality management plans, regional plans, county plans, corridor plans and studies, housing plans, and soil surveys, amongst many others. Many of these plans, studies, and reports address the Waukesha area. Therefore, in addition to planning activity performed by the city and town of Waukesha, SEWRPC also is active in planning for the area.

Town

The Town is very new to planning, having only recently adopted the *Town of Waukesha Land Use Plan* (1994)(hereinafter referred to as the "Town's land use plan"). Initially, staff from the Waukesha County Parks and Planning Department assisted with this effort. The Parks and Planning Department is active in assisting local communities throughout the county in developing local plans. In fact, the County has created a funding program to assist local communities. Under this program, the County pays 50% of the cost and the local community pays the other 50%. It was in connection with this overall effort that the County initially assisted the Town with its land use plan. However, the County withdrew its assistance once it became clear that the Town was not interested in developing a plan that would be consistent with planning objectives of the County, the region, the city of Waukesha, and surrounding

⁸² Personal communication with Dan Trawicki, Inspector for the Waukesha County Sheriff's Department, 3/17/00.

⁸³ Personal Communication with Wayne Dussault, Deputy Chief for the City of Waukesha Police Department, 3/20/00.

municipalities. As a result, the Town received no County funding or assistance and completed its plan by itself.⁸⁴

The Town's land use plan is formally found to be inconsistent at page 343 of the County's development plan. The reasons behind this finding will be discussed in more detail in the "Metro Impact" section of this determination. An additional problem with the plan is that it fundamentally confuses the roles of planning and zoning, as indicated by the following language:

"When considering matters related to the development of lands and the zoning or rezoning of property, the Land Use Plan must be considered as a tool to accomplish the objectives of the Zoning Code of the Town of Waukesha."⁸⁵

In fact, standard planning practice holds that the inverse is true; a zoning ordinance is intended as a tool to implement the objectives of the plan.

Regarding zoning, although there is county zoning, only four towns are under its jurisdiction (the towns of Genesee, Oconomowoc, Ottawa, and Vernon). The other nine towns have adopted ordinances of their own under village powers. The town of Waukesha is one of these nine towns that never adopted county zoning. Instead, the Town adopted its own zoning code in 1948, and revised it in 1956 and 1979. Another revision is anticipated and is currently before the Waukesha County Board for approval.

Table 8 on page 36, provides specifics on the Town ordinance.

In addition to zoning, the Town also administers a land division ordinance.

Town residents are also subject to the County shoreland-wetland and floodplain ordinances and to the County's recently adopted *Construction Site Erosion Control and Stormwater Management Ordinance*.

The Shoreland-wetland and floodplain zoning ordinances are state mandated ordinances that require all counties to regulate the shores and floodplains of all navigable waters and designated wetlands. Waukesha County's Shoreland and Floodland Protection Ordinance was adopted in 1970 and amended in 1986. Shorelands are those areas located within 1,000 feet of the shoreline of navigable lakes or within 300 feet of the shoreline of navigable rivers or streams. The ordinance contains 19 zoning districts and two overlay districts. It is intended to protect water quality by restricting filling, grading, and dredging in shorelands and limiting the removal of vegetation within 35 feet of rivers, streams, and lakes. The ordinance requires a minimum setback for principal structures of 75 feet.⁸⁶

⁸⁴ Personal Communication from Kathy Moore, planner with the Waukesha County Parks and Planning Department, 3/31/00.

⁸⁵ *Town of Waukesha Land Use Plan* (1994), pg. 1.

⁸⁶ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 145.

SUMMARY OF TOWN OF WAUKESHA ZONING DISTRICTS: 1990

Zoning District	Principal Permitted Uses	Conditional Uses	Minimum Lot Size			Minimum Yard Requirement			Maximum Principal Building Height (feet)	Area of Town in Zoning District (acres)	Percent of Town in Zoning District
			Total Area	Area per Dwelling Unit	Width at Setback (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)			
C-1 Conservancy	Agricultural uses; harvesting wild crops; grazing; forestry and game management; hunting, fishing, outdoor recreational uses; transmission lines	Fish hatcheries	None specified	Not applicable	None specified	None specified	None specified	None specified	None specified	4,885	30.8
A-1 Agricultural	Agricultural uses; farm dwellings; home occupations and professional offices	Kennels; cemeteries; airports; certain shops and studios; limited agricultural uses; quarrying; laboratories; riding stables; truck parking; planned unit developments	20 acres	20 acres	660	50	20	20	35	2,452	15.5
R-E Residence Estate	Agricultural uses, provided the lot size is 20 acres or more; single-family dwellings; home occupations; keeping domestic livestock; horticulture	Cemeteries; recreational facilities; riding stables; truck parking; planned unit developments	Three acres	Three acres	200	50	30	30	35	1,470	9.3
R-SE Suburban Estate	All R-E principal uses, with additional restrictions on keeping livestock	Cemeteries; recreational facilities; planned unit developments	Two acres	Two acres	175	50	25	25	35	46	0.3
R-1 Single-Family Residence	Same as R-SE principal uses	Same as R-SE conditional uses	One acre	One acre	150	50	20	20	35	4,678	28.9
R-2 Single-Family Residence	Same as R-SE principal uses	All R-SE conditional uses; art studios; antique and gift shops	30,000 square feet	30,000 square feet	120	50	20	20	35	1,015	6.4
R-3 Single-Family Residence	Same as R-SE principal uses	Same as R-2 conditional uses	20,000 square feet	20,000 square feet	120	50	20	20	35	558	3.5
P-1 Park, Recreation, and Public	Parks and arboreta; playgrounds and sportsfields; other public recreational uses	Cemeteries; fish hatcheries; private recreational uses; refuse disposal sites	None specified	Not applicable	None specified	None specified	None specified	None specified	None specified	469	3.0
B-1 Restricted Business	Single-family dwellings; craft and gift shops; financial institutions; professional and business offices	Recreational facilities; truck parking; public buildings; refuse disposal sites	20,000 square feet	20,000 square feet	120	50	20	20	35	21	0.1
B-2 Local Business	All principal B-1 uses, except that residences are permitted only as an accessory use; grocery and other retail stores; restaurants	Kennels; service stations; drive-in restaurants; laboratories; motels; public buildings; truck parking	20,000 square feet	Not applicable	120	50	10 ^a	10 ^a	35	29	0.2
B-3 General Business	All B-2 principal uses; automobile sales; bottling plants; places of entertainment; wholesalers and distributors; mini-warehouses	Kennels; service stations; drive-in restaurants; laboratories; motels; public buildings; outdoor theaters	20,000 square feet	Not applicable	120	50	10 ^a	10 ^a	35	114	0.7
I-1 Limited Industrial	All B-3 principal uses; large machine repair; manufacturing; processing; fabricating; packaging or assembly of products; laboratories	Quarries; refuse disposal sites; salvage yards; fur and pig farms; kennels; service stations; drive-in restaurants; laboratories; public buildings	One acre	Not applicable	150	50 ^a	10 ^a	10 ^a	60	190	1.2
I-2 General Industrial	All I-1 principal uses; building material salvage yards; freight terminals; foundries; petroleum storage; machine storage and sales	Same as I-1 conditional uses	One acre	Not applicable	150	50 ^a	10 ^a	10 ^a	60	12	0.1

^a Additional setbacks are required if an industrial lot adjoins a nonindustrial district.

TABLE 8

Regarding the *Construction Site Erosion Control and Stormwater Management Ordinance*, the erosion control portion of the ordinance was passed in 1992 and the stormwater portion in 1998. The ordinance applies to all unincorporated lands and to lands annexed after 1992. The requirements do not pre-empt the more stringent stormwater management requirements that may be imposed by stormwater permits issued by the DNR under §283.33 Wis.Stats.

The Town has no planning department or staff and no specific budget for planning activities.

City

The city of Waukesha has a long history of planning and zoning. Some of the plans, reports, and studies developed for the City include the following:

- *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993);
- *Riverfront Plan* (1990);
- *Traffic Engineering Study of Grandview Boulevard – CTH T – from Northview Road to Fatima Drive* (1989);
- *A Transit System Development Plan for the City of Waukesha: 1988-1992* (1986);
- *A Park and Open Space Plan for the City of Waukesha, Wisconsin* (1985);
- *East Moreland Boulevard Short-Range and Long-Range Highway Improvement Plan* (1984);
- *Waukesha Industrial Business Retention Study* (1982);
- *Waukesha Area Transit Development Program: 1981-1985* (1982);
- *A Transit System Operations Analysis for the City of Waukesha Transit System* (1982);
- *Spring City's Past: A Thematic History of Waukesha and the Final Report of Waukesha's Intensive Historic Resources Survey* (1982);
- *Downtown Market Feasibility Study, Waukesha, Wisconsin* (1981);
- *Parking Study Report – Central Business District – Waukesha, Wisconsin* (1980);
- *A Wetland Protection and Management Plan for the City of Waukesha and Environs* (1979);
- *Traffic Analysis Design Framework Development Plan, Tax Incremental District No.2, Waukesha, Wisconsin* (1978);
- *The Downtown Development Plan: City of Waukesha, Wisconsin* (1974);
- *The City of Waukesha Central Business District Traffic Study* (1971);
- *Housing Needs Survey* (1971);
- *Analysis of Development Opportunities: Downtown Waukesha* (1969);
- *Parks Evaluation Study and Master Plan* (1965);
- *Central Business District Parking Study* (1962);
- *City Plan for Waukesha, Wisconsin* (1957).

The City's most recent plan is *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993). This plan was developed as part of an extraterritorial zoning effort between the city and town of Waukesha. An extraterritorial committee was formed, comprised of three members from the Town and three members from the City. Pursuant to §62.23 Wis.Stats., which allows cities to include in master plans areas up to 3 miles outside of their boundaries, the City included in its planning area the town of Waukesha, and portions of the cities of Brookfield and New Berlin and portions of the towns of Delafield, Pewaukee, Brookfield, and Genesee. The plan was funded entirely by the city of Waukesha, despite it including other jurisdictions. It was developed by SEWRPC to be in conformance with the goals and

objectives set forth in the regional plan, called *A Regional Land Use Plan for Southeast Wisconsin: 2000* (1990). The City's plan was intended to carry the regional plan elements into greater depth and detail, while remaining consistent with the objectives, principals, and standards of the regional plan.

The City's land use plan urged adoption by all of the included municipalities, including the town of Waukesha, and it even included as an appendix a sample adoption resolution. However, the Town did not adopt the plan and the extraterritorial effort and committee ultimately failed.

Regarding zoning, the City adopted the first zoning ordinance in Wisconsin in 1923. Since then it has been revised many times. Table 9, on pages 39 and 40 provides details of the ordinance, including specifics of the various classifications. Significantly, the City's zoning ordinance provides for smaller lots and more compact development than does the Town's ordinance. This difference, which will be discussed further in the "Metro Impact" section, is one of the reasons that the Town's plan has been found inconsistent with the County's development plan.

The City also regulates all land divisions within the City's corporate limits and may potentially regulate divisions within its 3 mile extraterritorial jurisdiction.⁸⁷ In the event that a land division occurs in the Town within the City's extraterritorial platting jurisdiction, it is possible that land division ordinances of the county⁸⁸, city and town could all apply. According to Wisconsin statute, the most restrictive ordinance would control.

The City's planning and zoning department has 6 employees and had a 1998 budget of \$458,846.⁸⁹ No specific information was presented by the City as to whether planning and zoning services could be provided for Town areas, although the fact that its land use plan included all Town areas suggests that it could do so.

Water and Sanitary sewer service

Town

The Town does not provide its residents with either municipal water or sanitary sewer service. However, through ongoing negotiation and a pending lawsuit, it seeks to require the city of Waukesha to extend City facilities to serve Town residents. Currently, essentially all Town residents utilize individual wells and individual sanitary sewer systems. In the past, the City has extended sewer and water service to a handful of Town residents. However, its general

⁸⁷ *A Land Use Plan for the City of Waukesha: 2010* (1993), pg. 149. Regarding extraterritorial jurisdiction, where a City's 3 mile limit overlaps with the extraterritorial jurisdiction of other City(ies) that also exercise extraterritorial platting authority, a line equidistant from the corporate boundaries of each City concerned is used to determine the limit of extraterritorial jurisdiction. Once the limit of extraterritorial jurisdiction is determined, it remains unchanged regardless of subsequent changes in corporate boundaries. According to staff from the Waukesha County Parks and Land Use Department, the City has not actively regulated land divisions in within its 3 mile extraterritorial jurisdiction.

⁸⁸ Currently, the County's land division ordinance applies only to shoreland areas, resulting in creation of a parcel 20 acres or smaller in size. However, the County is in the process of developing an ordinance that would apply to all lands.

⁸⁹ *City of Waukesha Financial Statements*, December 31, 1998, pg. 53, and an undated document called the "City of Waukesha Planning Position Statement", by Steven Crandell.

SUMMARY OF CITY OF WAUKESHA ZONING DISTRICTS: 1990

Zoning District	Principal Permitted Uses	Conditional Uses	Minimum Lot Size			Minimum Yard Requirement ^a			Maximum Principal Building Height (feet)	Area of City in Zoning District (acres)	Percent of City in Zoning District
			Total Area	Area per Dwelling Unit	Width at Setback (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)			
C-1 Lowland Conservancy	Agricultural uses, including livestock pasturing; hunting and fishing; harvesting wild crops; forestry; maintenance of existing highways and bridges	Roads and nonresidential buildings; parks and recreational uses; construction and maintenance of utility transmission and distribution facilities and railway lines	None specified	Not applicable	None specified	None specified	None specified	None specified	None specified	472	4.2
A-1 Agricultural	Agricultural uses and accessory farm buildings; parks and community buildings; churches; nurseries; country clubs; stables; single-family dwellings	None	20 acres for single-family dwellings; no minimum lot size specified for other permitted uses	20 acres	100	35	12 on one side; 30 total	50	35	0	0.0
R-1 ^b One-Family Residence	Single-family dwellings; limited recreational uses; agricultural uses; institutional and cultural uses	Recreational uses not specified as principal uses; utility stations; mineral extraction	20,000 square feet	20,000 square feet	100	35	12 on one side; 30 total	50	35	1,162	10.6
R-1-S One-Family Suburban Residence	Single-family dwellings	Institutional and cultural uses; utility stations; recreational uses	12,000 square feet	12,000 square feet	90	35	10 on one side; 25 total	45	35	408	3.6
R-2 One-Family Residence	All R-1 principal uses; government office buildings	All R-1 conditional uses; two-family dwellings; hospitals; professional offices; home occupations	8,000 square feet	Single-family, 8,000 square feet; two-family, 4,500 square feet	85	25	Eight on one side; 20 total	40	35	2,083	23.9
R-2-A Two-Family Residence	Single-family and two-family dwellings	All R-2 conditional uses; rental management offices	8,000 square feet	Single-family, 8,000 square feet; two-family, 4,500 square feet	85	25	Eight on one side; 20 total	40	35	185	1.7
R-3 One- to Four-Family Residence	All R-2 principal uses; two-, three-, and four-family dwellings; hospitals	All R-2 conditional uses; community development projects; clubs and meeting places; nursing homes and child care nurseries; hospitals	8,000 square feet	Varies ^c	85	25	Eight on one side; 20 total	45	35	975	8.7
R-4 Multi-Family Residence	All R-3 principal uses; multi-family dwellings; rooming and boarding houses; clinics; apartment hotels	All R-3 conditional uses; trailer parks; funeral homes; high-rise apartment buildings; motels on specific streets and highways	7,000 square feet	Single-family, 7,000 square feet; all other dwelling types, 3,500 square feet ^d	80	25	Six on one side; 18 total	30	40	883	5.2
R-4-A Residential Planned Development	Any use permitted in any R district subject to approval of a residential development plan	None	24,000 square feet	Same as R-4	None specified	None specified	None specified	None specified	None specified	662	5.9
B-1 Neighborhood Business	Residential uses and businesses serving the day-to-day needs of local residents, such as grocery stores, banks, beauty shops, business and professional offices, restaurants, and automotive services	Used furniture and used clothing stores not exceeding 1,500 square feet of floor area; drive-in restaurants	Nonresidential uses, none specified; residential uses, same as R-3	Same as R-3	Nonresidential uses, none specified; residential uses, same as R-3	25	Varies	10; more if lot adjoins a residential district	30	44	0.4
B-2 Central Business	All B-1 principal and conditional uses; trade and business schools; newspaper printing and publishing; dwelling units on or above the second floor	Conversion of upper level or basement to residential uses; high-rise apartment buildings; first-floor dwelling units	Commercial uses, none; residential uses, same as R-4 ^e	None specified	Commercial uses, none; residential uses, same as R-4 ^e	One; more if lot adjoins a residential district	Commercial uses, none; residential uses, same as R-4 ^e	Commercial uses, none; residential uses, same as R-4 ^e	Commercial uses none specified; residential uses, 85	73	0.8

TABLE 9

TABLE 9
(continued)

Zoning District	Principal Permitted Uses	Conditional Uses	Minimum Lot Size			Minimum Yard Requirement ^a			Maximum Principal Building Height (feet)	Area of City in Zoning District (acres)	Percent of City in Zoning District
			Total Area	Area per Dwelling Unit	Width at Setback (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)			
B-3 General Business	All B-2 principal uses; wholesale and warehousing; commercial recreation; contractors and related trades	None	Same as B-2	None specified	Same as B-2	Same as B-2	Same as B-2	Same as B-2	40	682	6.0
B-4 Limited Business Development	Medical and dental clinics; professional and business offices	None	None specified	Not applicable	50	25	None, except when lot adjoins a residential district	10; more if lot adjoins a residential district	30	53	0.5
M-1 Light Manufacturing and Warehouse	All B-3 principal and conditional uses; limited manufacturing; laboratories; warehouses; welding shops; foundries ^g	None	None specified	Not Applicable	None specified	25	10; more if adjoining a residential district or a street	25; more if adjoining a residential district	Variable ^h	589	5.0
M-2 General Manufacturing	All M-1 principal uses; automobile salvage and wrecking; manufacturing; railroad yards; petroleum product refining; stockyards; smelters ^g	Manufacture of sensitive materials; bleaching, cleaning, and dyeing plants; breweries and distilleries; automobile assembly; brick and tile manufacturing; various other manufacturing	None specified	Not applicable	None specified	25	10; more if adjoining a residential district	25; more if adjoining a residential district	Variable ^h	1,468	13.0
M-3 Limited Business and Industry Planned Development	General or professional offices; retail stores; research laboratories; industrial uses; wholesalers and distributors; automobile service stations; all subject to approval of a development plan	None	None specified	Not applicable	None specified	40	10	25	None specified	234	2.0
P-1 Public Open Space	Public utilities; gardens and forests; sports fields and other recreational facilities	None	None specified	Not applicable	None specified	25	25	25	None specified	224	2.0
P-2 Cemeteries	Open space for recreational use; cemeteries and related buildings	None	None specified	Not applicable	None specified	25	25	25	None specified	64	0.8
P-3 Public Land and Institutions	Schools; parks; health-care facilities; public housing projects; cultural uses; correctional institutions; churches; power stations; public utility installations	None	None specified	Not applicable	None specified	25	25	25	None specified	688	6.1

^a Minimum yard requirements may vary, depending on the type of structure built. Requirements listed on the table are the smallest setbacks required in the zoning district.

^b The R-1 zone is a "holding zone," applied to properties when they are annexed to the City.

^c Minimum areas per dwelling unit in the R-3 zone are 8,000 square feet for single-family units; 4,000 square feet for two-family units; and 3,500 square feet for three- and four-family units.

^d For each unit over four units, the lot area per dwelling unit may be reduced to 1,500 square feet for one-bedroom and efficiency units and to 2,500 square feet for two-bedroom and larger units.

^e Where a lot in the B-2 District adjoins an R district, the lot area, frontage, and yard requirements of the adjoining R district apply.

^f R-4 District requirements for lot area, frontage, and yards do not apply to residential uses within the B-2 zone if the residential use is located within the central business as defined by Section 22.46(20) of the zoning ordinance.

^g Some of the listed uses in the M-1 and M-2 Districts require a 200 to 600 foot separation from R, B, and M-1 Districts.

^h No structure in the M-1 or M-2 District can exceed 50 feet in height if within 200 feet of an R district; otherwise, no structure can exceed in height the distance to the centerline of the nearest street.

Source: City of Waukesha Zoning Ordinance and SEWRPC.

policy is to condition all sewer and water service on annexation to the City. Map 7, on page 20 shows the City's Urban Service Area boundary. Almost the entire Town falls within this area. However, given the City's policy, the only means by which Town residents may obtain sewer and water service is through annexation to the City. The Town strenuously objects to this policy. The following paragraphs describe this conflict in more detail and also describe the City's sewer and water systems.

City

The City owns and operates the *Waukesha Wastewater Treatment Facility*, located along the Fox River at 600 Sentry Drive. Initially constructed in 1928, the plant was expanded in 1947, 1967, 1980, and 1995. The facility processes an average of 10-11 million gallons of effluent per day, with a maximum capacity of 18 million gallons. The effluent is ultimately discharged into the Fox River. The current treatment process includes primary trickling and secondary filter, phosphorus removal, chlorination, and storage.⁹⁰ The facility is currently under-capacity, and as a result, for a fee, the City accepts waste from commercial and residential holding tanks and septic systems. Residents from the Town currently benefit from this arrangement.⁹¹ In addition to the treatment facility, the City's sanitary sewerage system also consists of 20 pumping stations, one lift station, and a network of trunk, main, and lateral sewers.⁹²

The treatment facility employees 30 persons.⁹³

Water is provided by the *Waukesha Water Utility*, an entity separate from the City and responsible for its own rates and costs.⁹⁴ Its water system includes 8 active wells, 15 booster pumping stations, 6 ground level water storage reservoirs, 7 elevated water storage tanks, and approximately 260 miles of distribution mains.⁹⁵

The area's water comes from three aquifers, called the *sandstone aquifer*, the *Niagara dolomite aquifer*, and the *unconsolidated aquifer*. The sandstone aquifer is the deepest and largest supplier of water in the area, including all municipal water. The dolomite and unconsolidated aquifers are shallower and used mainly for domestic, rural water supplies.⁹⁶ They are not used for municipal water because of their low yield potential and their high susceptibility to contamination.⁹⁷

Declining groundwater levels are a concern in Southeast Wisconsin. Nearly all municipalities in this part of the state are pumping from the same sandstone aquifer. Because of heavy commercial and residential development and a lack of conservation, the sustained yield of this

⁹⁰ SEWRPC, A Development Plan for Waukesha County, Wisconsin (1996), pg. 153.

⁹¹ Personal Communication with Jerry Taylor, Engineer with the City of Waukesha Department of Public Works, 3/20/00.

⁹² Position statement submitted by the City entitled "Town of Waukesha Incorporation – Sanitary Sewer".

⁹³ City of Waukesha Personnel Policy/Procedure (10/22/99).

⁹⁴ Waukesha Water Utility Financial Statements, December 31, 1998 and 1997, pg. 6.

⁹⁵ *Water Utility Master Plan Update* (2000), pg. ES-2.

⁹⁶ *A Study of Groundwater Resources & Supply Alternatives – Waukesha Water Utility, Waukesha, Wisconsin* (1993), pg. 2-5.

⁹⁷ *A Study of Groundwater Resources & Supply Alternatives – Waukesha Water Utility, Waukesha, Wisconsin* (1993), pg. 3-4.

aquifer is being exceeded at a rate of 3-4 feet per year.⁹⁸ All 8 of the Waukesha Water Utility's wells show declining groundwater levels.⁹⁹ As water levels continue to decline, yields are expected to decrease and water quality worsen. In fact, the City has received complaints from residents.¹⁰⁰ Also, the United States Environmental Protection Agency (USEPA) and Wisconsin Department of Natural Resources (WDNR) are currently involved because radium has been detected in excessive concentrations. USEPA and WDNR are urging the City to treat its water for radium as a health precaution. However, the City is reluctant to provide such treatment because of the cost, estimated at \$73 million, and because it does not believe the health risk to be significant.¹⁰¹ The City did hire the private consultant firm of Ruekert/Mielke, Inc. to study the problem. Ruekert/Mielke found that heavy groundwater pumping over the past 100 years has lowered water levels and that this lowered level may be causing altered groundwater flows.¹⁰² The consultant recommended that the City participate in regional groundwater conservation efforts. Because Waukesha, Ozaukee and Walworth Counties all rely on groundwater, any successful effort will clearly need to be regional in scope. There is no regional groundwater plan in place. However, recently, SEWRPC prepared the *Regional Aquifer Performance Simulation Modeling Program Prospectus* (1998). This prospectus outlined the need for a regional groundwater study, and is anticipated to be the precursor of a regional study.

The City's sanitary sewer and water systems provide service to nearly all residential and commercial development within the City. Regarding Town areas, the City states that it could provide both sewer and water service to substantially the entire Town.¹⁰³ In fact, the city's Urban Service Area boundary already includes large portions of the Town. However, because of the City's policy requiring annexation, water and sewer service stops at the City boundaries. A small number of exceptions to this policy have been made for Town residents in island and peninsula areas. For example, the "Sunset Island" area, located along Sunset Drive, and areas along Broadway Avenue, and Lookout Drive were extended sewer and/or water because of contamination in some cases, and in other cases because of agreements allowing right-of-way across Town roads. In some instances, where service was extended to Town residents more than 50 years ago, the specific rationale for doing so is no longer remembered.¹⁰⁴

Regarding the remainder of the Town, the City's land use plan anticipated a boundary agreement between the City and the Town. Under this agreement, sewer and water was to have been provided to all parts of the Town in the sewer and water service areas, with northern portions of the Town being annexed to the City and the southern portions remaining under Town jurisdiction.¹⁰⁵ This agreement could have benefited both the City and the Town. The

⁹⁸ *A Study of Groundwater Resources & Supply Alternatives – Waukesha Water Utility, Waukesha, Wisconsin* (1993), pg. 3-1, and *Crestwood Well No.9 Water Quality Investigation Report – City of Waukesha Water Utility, Waukesha County, Wisconsin* (1999), pg. 2.

⁹⁹ Water utility Master Plan, Appendix C.

¹⁰⁰ *Crestwood Well No.9 Water Quality Investigation Report – City of Waukesha Water Utility, Waukesha County, Wisconsin* (1999), pg. 4.

¹⁰¹ Letter to City of Waukesha residents from Mayor Carol J. Lombardi, 5/99.

¹⁰² *Crestwood Well No.9 Water Quality Investigation Report – City of Waukesha Water Utility, Waukesha County, Wisconsin* (1999), by Ruekert/Mielke, pgs. 1-7.

¹⁰³ City of Waukesha Position Paper, pg. 5.

¹⁰⁴ Personal communication with Jerry Taylor, Engineer with the City of Waukesha Department of Public Works, 3/20/00, Personal communication with Dave Heil, Engineer with the City of Waukesha Water Utility, 3/21/00, and SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 98.

¹⁰⁵ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 208.

Town's benefit would have been City services while the City's benefit would have been elimination of Town islands and peninsulas and elimination of the costly "turf war" with the Town. The agreement was such an integral part of the City's land use plan that it is identified on page 208. After negotiations broke down, one would have expected the City to amend its plan and shrink the sewer and water service boundaries. However, this was not done. In fact, the City inexplicably expanded its sewer and water service areas.

The consequence of the failed agreement is that the City continues to apply its policy requiring annexation before service is provided. Essentially, this policy ensures that sewer and water cannot be extended into Town lands unless those lands become part of the City. Only in the event that almost all Town lands are annexed to the City could sewer and water service be provided to the extent envisioned by the City's plan.

The Town vigorously opposes the City's policy and recently filed suit against the City to force it to extend sewer and water service to Town residents without requiring annexation.¹⁰⁶ It is important to recognize that from the standpoint of the Department's review, the Town cannot provide sewer or water to its residents at the present time. Instead, nearly all Town residents are forced to drill individual wells and maintain individual sanitary sewage systems. This is problematic for a number of reasons. First, given dropping groundwater levels and decreased water quality, Town residents may experience increased difficulty with individual wells. They may need to expend significant resources to dig deeper wells or treat water for contaminants. Second, individual wells result in thousands of penetrations into the aquifer. Because pollution often contaminates aquifers via well holes, a greater number of holes substantially increases the risk of contamination.¹⁰⁷ Third, some Town residents already face problems of failing sanitary sewage systems. Additional individual well and septic systems may only exacerbate this problem.

Despite being unable to provide its residents with sewer or water service, the Town is nonetheless facilitating residential development of Town lands through its land use plan and its zoning and subdivision ordinances. This development is problematic and will be discussed in more detail in the "Metro Impact" section.

While the Town cannot provide water service to its residents, the City is in a better position to do so, for a number of reasons. The City already has substantial infrastructure in place to serve Town areas. It already anticipates extending service, as indicated by the Urban Services Area boundary map, and as evidenced by the fact that water mains and water storage facilities have been designed to accommodate Town areas.¹⁰⁸ The City can treat the groundwater for radium, in the event that USEPA and WDNR require it. Several City wells are presently located within the Town, with at least one additional well planned in that area in the future.¹⁰⁹ Finally, it already anticipates participating in regional efforts to study the groundwater problem.

Regarding sewer service, the City has the financial and physical ability to extend service to Town areas. In fact, it already anticipates doing so, as indicated by its Sewer Service Area map and by the fact that it has already installed sanitary sewer pipes specifically to accommodate

¹⁰⁶ "Town sues city to get water, sewer services", *Milwaukee Journal Sentinel*, 2/16/00.

¹⁰⁷ Personal communication with Dave Heil, Engineer with the City of Waukesha Water Utility, 3/21/00

¹⁰⁸ Position statement submitted by the City entitled, "Town of Waukesha Incorporation-Services/New Area".

¹⁰⁹ Ibid.

service to Town areas.¹¹⁰ The treatment plant should have adequate capacity to treat sewage flows from these areas.¹¹¹

Solid Waste

Town

The town of Waukesha maintains a recycling and solid waste disposal center to which residents may bring their garbage. The center also provides for waste oil recycling and brush-grinding, and several days each year it picks up “large items”. If Town residents desire curbside pickup, then they must contract with any number of the private contractors operating in the area.¹¹²

City

The City provides solid waste disposal to its residents. It retains a private contractor to collect curbside garbage and haul it to landfills. A private contractor also picks up recycled material and takes it to the Waukesha County recycling plant. Large trash items are collected on a monthly basis and the City also operates a drop-off center where residents may leave large items. In addition, leaves and brush are annually collected curbside and may also be taken to the drop-off center.¹¹³

In 1998 the City spent \$1,610,149 on solid waste disposal.¹¹⁴ The City submitted nothing to indicate that it could provide solid waste disposal service to Town areas.

Parks and Recreation

Town

Park facilities located near or within the town of Waukesha are listed in Table 10, which is provided on the next page

¹¹⁰ Ibid.

¹¹¹ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 19.

¹¹² Town of Waukesha Incorporation Data (February, 2000), at pg. 5.

¹¹³ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 102.

¹¹⁴ *City of Waukesha Financial Statements*, December 31, 1998, pg. 54.

Table 10
Parks located in the town of Waukesha¹¹⁵

Name of Park	Acreage	Ownership
Town Hall Park	12	Town
Fox River Park	109	City & County
Reitzer Nature Center	338	County
Minooka Park	297	County
Winzenreid-Kuhtz property	207	County
Vernon Marsh Wildlife Area	422	State of Wisconsin
Glacial Drumlin Trail	NA	State of Wisconsin

Of the park facilities identified above, only Town Hall Park is owned and managed by the Town. Other jurisdictions own and manage the other identified facilities. Clearly, Town residents benefit from these other facilities.

Regarding recreational programs, the Town offers none. However, Town residents may pay a fee to participate in recreation programs offered by the city of Waukesha's Parks and Recreation Department. Approximately 6% of the participants in the City's recreation programs are Town residents.¹¹⁶

In 1998, the Town spent only \$470 on parks and recreation.¹¹⁷

While Town residents do enjoy a number of large park facilities owned and maintained by other jurisdictions, the Town lacks smaller neighborhood parks. According to standards used and followed by SEWRPC, neighborhood parks should be provided at a minimum of 1.7 acres per 1000 persons, and should serve an area of .75 miles.¹¹⁸ The latter standard means that residents should not have to walk further than .75 miles to reach a neighborhood park.

Applying the first standard, the Town has a park acres/per resident of at least 12.8, substantially more than SEWRPC's standard of 1.7 (the figure of 12.8 is derived by adding the acreage of Minooka Park, Town Hall Park, and Reitzer Nature Center and dividing it by the number of residents¹¹⁹). Minooka Park, Town Hall Park and Reitzer Nature Center are used because they have developed recreation facilities such as ball diamonds, tennis courts, picnic areas, ice-skating rinks, etc. Parks such as the Vernon Marsh Wildlife Area and the Winzenreid-Kuhtz property were not used in the calculation because they do not provide developed recreation opportunities. Also not included were schoolyards, though SEWRPC does count these as neighborhood parks. Had schoolyards been included, the figure of 12.8 acres-per person would have been even greater.

¹¹⁵ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 62.

¹¹⁶ Personal communication with the Waukesha Parks and Recreation Department staff, 3/10/00

¹¹⁷ Town of Waukesha Financial Statements, Year Ended December 31, 1998, pg. 17.

¹¹⁸ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 164.

¹¹⁹ (Minooka Park (338) + Reitzer Nature Center (297) + Town Hall Park (12)) / 8,333 residents = 12.8.

The Town fails to meet the second standard concerning service radius. All of the park facilities available to Town residents are located along the boundary between the City and the Town. There are no parks in the southern part of the Town. As a result, some Town residents may need to travel further than the recommended .75 miles. This is especially onerous for children, perhaps the most obvious beneficiaries of parks. Because they do not possess driver's licenses or vehicles of their own, it is difficult for them to travel as far as Minooka Park, or Town Hall Park or Reitzer Nature Center. Also, because of a lack of sidewalks or bike paths, children living in southern parts of the Town would need to travel on busy state or county highways, or walk in the ditches of these roads, in order to reach the closest neighborhood park. While it is true that some children may have parents who can drive them to parks further away, this does not change the fact that the recommended service radius standard is not met.

City

The City has 40 parks covering almost 800 acres. These parks include some of the following facilities: playgrounds, tennis courts, baseball and softball diamonds, picnic shelters, volleyball courts, ponds, restrooms, recreation buildings, biking and hiking trails, ice rinks, sledding hills, toboggan runs, 1 formal garden area, basketball courts, swimming pools, a bandshell, and natural areas.

As mentioned above, the City also runs a recreation program.

The Parks, Recreation, and Forestry Department manages both the City's parks and recreation programs. The department employs 43 people and in 1998 had a budget of \$2,958,370.¹²⁰ Given the substantial disparity between the City and Town regarding parks and recreation, the area might be better served by the City. This is further reinforced by the City's land use plan which indicates an intention to develop a number of neighborhood parks in the southern parts of the Town, and also to develop a trail system along the Fox River, Mill Creek, and Pebble Brook that will connect with the Glacial Drumlin and New Berlin trails.¹²¹ The Town's land use plan proposes none of these.

Library Service

Town

The Town has no library of its own. Instead, its residents may utilize the services of libraries belonging to the *County Federated Library System*, a group of 16 libraries in Waukesha County that share resources. Of the 16 libraries, town of Waukesha residents primarily use the city of Waukesha's library. In 1999, Town residents checked out a total of 108,858 items systemwide, and 106,365 of these were from the City's library. Town residents account for roughly 9.4% of the City library's total circulation. Town residents pay for library services through a countywide levy. The levy helps support the member libraries of the County Federated Library System. In 1999, the Town's portion of this levy was roughly \$155,122.¹²²

¹²⁰ City of Waukesha Personnel, Policy, and Procedure (1999), pg. 4, and *City of Waukesha Financial Statements*, December 31, 1998, pg. 54.

¹²¹ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 210.

¹²² Personal communication with Jane Ameal, Director of the city of Waukesha Public Library, 3/24/00.

City

The Waukesha Public Library is owned by the City and governed by an eleven-member board of trustees. It is located in Cutler Park, on the corner of Grand and Wisconsin Avenues in downtown Waukesha. The original library building, which was known as *Carnegie Library* since it was largely funded by a grant from steel magnate Andrew Carnegie, was built in 1904. Since then, additions have been added to the original building in 1937, 1963, and 1988. It has been expanded to 60,000 square feet in size and currently houses 300,000 items.¹²³ It is the largest library in the County Federated Library System.¹²⁴ Nearly 74,000 people have registered for and used their library cards within the past three years. The Waukesha Public Library is one of the most heavily used libraries in the state, circulating more than 1.2 million items annually. Usage analysis shows that 59% of the library's usage comes from city of Waukesha residents, 31% from residents of Waukesha County who do not support a local library, and 10% from residents of other municipalities in Waukesha County who do support their own libraries.

The library has a staff of 44 full- and part-time employees. In 1999, the library's budget was \$2,668,904.¹²⁵

Highways and Streets

Town

The town of Waukesha has had an annual road and highway improvement program for the past 20 years. Annual expenditures for roads and highways are in excess of \$175,000.¹²⁶

Of significance is the fact that most of the major roads in the Town are actually owned and maintained by either the Wisconsin Department of Transportation (WDOT) or the Waukesha County Department of Transportation.¹²⁷

City

The City's Streets Division is located within the Department of Public Works. The division has a staff of 55 employees and a 1998 budget of \$6,990,374. Table 11, given below, provides services and expenditure amounts.

¹²³ SEWRPC, *A Land Use Plan for the Waukesha Planning Area: 2010* (1993), at pg. 95, and also the Waukesha Public Library's web site at <http://www.waukesha.lib.wi.us>.

¹²⁴ Personal communication with Jane Ameel, Director of the city of Waukesha Public Library, 3/24/00.

¹²⁵ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), at pg. 95. Also, it should be noted that the library's budget is supplemented by a group called "Friends of the Library" that has in the past purchased amongst other things, computers, stuffed toys and puppets for the children's room, microfilm readers/printers, audiovisual equipment, and furnishings.

¹²⁶ Town of Waukesha Incorporation Data (February, 2000), at pg. 3.

¹²⁷ Personal communication with Gary Evans, engineer with the Waukesha County Transportation Department, 4/10/00.

TABLE 11
Streets Division Services and Expenditures¹²⁸

Function	Expenditure
Street maintenance	\$303,708
Engineering	\$1,994,294
Labor	\$3,218,696
Storm sewers	\$18,518
Snow and ice removal	\$221,938
Street lighting	\$438,793
Forestry	\$596,429
Weed Cutting	\$1,634
Total	\$6,990,374

The streets division maintains City roads with year-round patching, seal coating, resurfacing, and street sweeping. It also builds new roads and improves old roads. Unlike the Town, all City streets are paved and have curb and gutter.¹²⁹ Also, the City has an annual sidewalk repair program designed to keep public sidewalks in good repair. Unlike the Town, public sidewalks are available on nearly all streets within the City.¹³⁰ Lack of sidewalks and curbs and gutters is the most noticeable way in which Town and City roads differ

Snow removal and ice control are also provided by the City. Also, property owners are required by ordinance to keep sidewalks free from snow and ice.¹³¹

Regarding Town areas, the City indicates that it can provide service. In fact, although it provides no specifics, the City says that it has already planned for streets in Town areas, and that as development occurs, it has the personnel, equipment, and financial capability for improving and maintaining roads.¹³²

Mass Transit

Town

The Town provides no mass transit. However, the Town is served by Waukesha Metro Transit on an incidental basis where City buses must pass through Town island and peninsula areas in order to serve other parts of the City. There are bus stops in these areas and the passenger volume from these stops is adequate.¹³³

¹²⁸ City of Waukesha Financial Statements, December 31, 1998, pg. 54.

¹²⁹ Position statement submitted by the City entitled "Town of Waukesha Incorporation –Services"

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Position statement submitted by the City entitled "Town of Waukesha Incorporation-Services/New Area".

¹³³ Memorandum to City Attorney Curt Meitz from Robert C. Johnson, Director of the Waukesha Metro Transit, 12/10/99.

City

The City provides mass transit through its *Waukesha Metro Transit System*. The system includes 9 bus routes that serve primarily the city of Waukesha, but also extend into the village of Pewaukee and the city of Brookfield. The City anticipates expanding service. Currently, SEWRPC is updating the system's *Transit Development Program*, and this update will recommend additional bus service. The city has also applied for Congestion Mitigation Air Quality (CMAQ) funds.¹³⁴ Expansion of bus service is consistent with the region's transportation plan. *A Regional Transportation System Plan for Southeastern Wisconsin: 2010* recommends increasing transit service by 70%.¹³⁵

Regarding service to town of Waukesha areas, there are no plans to expand service. In fact, as mentioned previously in this determination, transit service to Town areas is not economical due to the dispersed, scattered nature of the development.

Determination

From the materials received by this Department, it does not appear as if the desire to provide better services is at the heart of Petitioners' desire to incorporate. This is further indicated by the fact that Petitioners have not offered the Department a proposed budget. From this, the Department infers that in the event of incorporation, the Town intends to continue providing the same level of services.

As revealed by the above analysis, the Town currently fails to provide its residents with certain services. Specifically, the Town does not provide sewer or water, police protection, mass transit, or garbage pick-up. In addition, although the Town does provide for planning, fire protection, or parks and recreation facilities, it does so at inadequate levels. The lack of services is particularly problematic given the fact that the Town is substantially populated and anticipates becoming more so. It is also problematic because failure by the Town to provide services means that Town residents instead rely on other jurisdictions, such as the city of Waukesha and Waukesha County, to provide services.

It should be noted that the irregular boundaries between the Town and City cause problems with regard to service provision. The boundaries cause services to be more expensive, less efficient, and in some cases, unfeasible.

Finally, it should be noted that the density of development in the Town also makes service provision more expensive, and in some cases, unfeasible.

Therefore, for the aforementioned reasons, this criterion is determined not to be met.

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

The standard to be applied is found at §66.016(2)(c), Wis.Stats., which is as follows:

¹³⁴ Ibid.

¹³⁵ SEWRPC, *A Regional Transportation System Plan for Southeastern Wisconsin: 2010*, pg. 170.

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

Because the entire town of Waukesha is the subject of this incorporation proceeding, there is no remaining town land. Therefore, this requirement does not apply.

Section 2(d), Impact upon the Metropolitan Community

The Standard to be applied is found at 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 that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.”

The “metropolitan community” is defined in §66.013(2)(c), 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.

The metropolitan community for this Determination includes the city of Waukesha, which is the major service provider for the immediate area relating to the town of Waukesha.

The Department is required by statute to consider the impact of the proposed incorporation on the ability of local governments within the metropolitan community to function. For example, would the proposed incorporation hinder the ability of local governments to provide services and infrastructure and protect regional resources? An examination into the legislative history of the incorporation statute shows the importance the framers placed on consideration of the metropolitan impact.

[T]he impact of an incorporation on a metropolitan community must also be considered. To prevent fragmentation of an urban area the director is required to make “an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community of which the territory is a part.”¹³⁶

Courts interpreting §66.016(2)(d) have found it to be a significant burden on petitioners. For example, in Pleasant Prairie v. Local Affairs Dept., the Court held that: “The statute is peculiarly worded, in that the incorporation can proceed only if there is a finding that it will not substantially hinder the solution of governmental problems. Obviously, this requirement for a

¹³⁶ Westring v. James, 71 Wis.2d 462 (1975), citing the legislative note attached to Assembly Bill No. 226, A, of the 1959 legislative session.

finding places a very substantial burden on the proponent of incorporation.”¹³⁷ In addition, the Court in Pleasant Prairie (II) v. Local Affairs Dept. stated:

“It must be conceded that the very strictures placed upon incorporation in metropolitan areas makes such incorporation difficult. The characteristics that naturally evolve in areas bordering upon a major metropolitan community almost dictate facts and physical circumstances that tend to give some support to a logical conclusion that the outlying areas do not have an independent viability, but a viability that is dependent upon the adjacent metropolis.”¹³⁸

A “metropolitan impact standard” review includes consideration of plans, adopted either by the region, the county, or by neighboring jurisdictions, that may suggest how the territory petitioned for incorporation would otherwise be developed and served. Potential conflicts in the community visions reflected by these plans are reviewed as are potential impacts on service provision.

The city of Waukesha has intervened in opposition to Petitioners’ proposed incorporation and has filed a petition of “willingness to annex” with the circuit court. The City asserts that the proposed incorporation will restrict its ability to grow, to provide services, and to implement its land use plan. The following paragraphs examine service and planning issues in more detail as they relate to §66.016(2)(d). As indicated by the statute and caselaw, for this requirement to be met, the Department must make an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

Services

The boundaries proposed for incorporation include Town islands and peninsulas within the city of Waukesha. Petitioners argue that these irregular boundaries were actually caused by annexations accepted by the City. However, nevertheless, Petitioners need not have included these areas within their proposed boundaries for incorporation. The existence of Town islands and peninsulas makes service provision difficult and expensive for the City. For example, as mentioned previously in the “Services” section, the irregular boundaries often cause fire personnel from both the City and Town to respond to the same fire call; the same is true of City police officers and County Sheriff’s deputies where traffic accidents occur so that it is unclear whether the accident happened on the Town’s half of the road or the City’s half. While the police and sheriff’s departments do benefit from a computer program that deciphers boundaries, a computer program arguably should not be necessary to interpret whether one is in the City or the Town.

Another example of a service problem related to Town islands and peninsulas is design. City developments include, among other things, curbs, gutters, stormwater drains and sidewalks, whereas Town development do not. In its site visit, the Department witnessed Town design discontinuity in island and peninsula areas. Curbs, gutters, stormwater drains, and sidewalks would abruptly end in areas of Town jurisdiction, only to start up a few hundred yards later once again in City jurisdiction. In addition to being unsightly, design discontinuity creates problems for pedestrians and stormwater management systems.

¹³⁷ Pleasant Prairie v. Local Affairs Dept., 108 Wis.2d 465 (1982), pg. 481.

¹³⁸ Pleasant Prairie (II) v. Local Affairs Dept., 113 Wis.2d 327 (1983), pg. 333.

Regarding stormwater management, both the City and the Town are required by the DNR to apply for and receive stormwater discharge permits. Each currently uses a different system. The City uses curb, gutter, and stormwater drains, while the Town uses ditches, culverts, and swales. In its site visit the Department noticed that many of the culverts were severely clogged, undercutting the effectiveness of not only the Town's stormwater management system, but also that of the City. Furthermore, even if the Town succeeds in opening its clogged culverts, the mere fact of having two different systems makes effective management of the stormwater issue difficult.

The Waukesha Water Utility is perhaps the best example of problems stemming from irregular boundaries. The irregular boundaries make it substantially more difficult for the utility to provide water to customers because it must receive approval from the Town before extending water pipes across Town roads. Because of strained relations, the Town is no longer granting approval unless area Town residents are also provided with water service. Because City policy is to condition services on annexation, the utility must go around Town roads. This adds substantially to project cost and efficiency. In some cases, where Town roads must remain under Town jurisdiction by law in order to maintain contiguity, projects to provide water become impossible.¹³⁹

Incorporating the Town would essentially freeze the boundaries of these Town islands and peninsulas and thereby perpetuate all of the above-mentioned service inefficiencies.

Regarding City services to Town areas beyond the City's boundaries, as indicated earlier, the City intends to provide services to almost the entire Town. The City's Urban Services Boundary, and Sewer Service Area Boundary all include substantial Town area. In fact, the City has sized sewer and water facilities in anticipation of growth in these areas. Because the boundary agreement fell apart, the City now conditions services on annexation. However, incorporation of the Town would prevent annexation, thereby precluding the City from extending services.

Also, the dispersed nature of development proposed by the Town causes service provision to be much more costly and difficult. This point is fully described in the following paragraphs related to planning.

Planning

Planning in the southeast part of Wisconsin is based on a top-down, cyclical model. It is top-down in that SEWRPC develops regional plans that set forth objectives, principals and standards for the southeast part of the state. County, city, village, and town plans are expected to adopt this plan and then to conform their own plans with the objectives, principals and standards of the regional plan. Local plans are important because they refine and detail the regional plan. Under this model, there is ideally both vertical and horizontal consistency of plans. There is vertical consistency to the extent that plans at the different government levels (region – county – municipal) share the same objectives, and there is horizontal consistency to the extent that governments at the same level share objectives. This model is cyclical in that it alternates between regional planning and local planning. For example, issues surface during

¹³⁹ Personal communication with Dave Heil, engineer with the Waukesha Water utility, 3/21/00.

local planning efforts to implement the regional plan, and the regional plan is then revisited and tweaked accordingly to better address local problems.¹⁴⁰

The County's development plan and the City's land use plan are both designed to conform with and implement the objectives, principals and standards of the 2010 and 2020 regional plans.¹⁴¹ The town of Waukesha, on the other hand, has not adopted the 2010 regional plan or its 2020 update, nor has it designed its town plan to be consistent with the regional, county, or city plans.

Waukesha County's development plan was designed to address a number of issues. In addition to conforming to the regional plan, it was also meant to achieve county-wide consistency. The plan says the following with regard to consistency:

Lack of a set of agreed-upon development objectives for Waukesha County will serve to exacerbate existing problems and contribute to the creation of new and costly problems, while allowing important opportunities for shaping development in the long-term public interest to be missed. County and local plan commissions, governing bodies, and local public officials need a frame of reference against which to evaluate development proposals presented by private interests. The Waukesha County development plan, prepared to refine and detail adopted regional plans, is intended to serve such a purpose and thus becomes the vehicle by which public interests can be effectively addressed in Waukesha County... The County development plan is intended to provide a common direction to planning and development activities throughout the County. The development plan can materially assist the governing bodies of municipalities and special purpose units of government in making decisions on specific development matters as they arise, enabling each governing body to view its decisions within the framework of a clearly stated and unified set of countywide, long-range objectives. Issues can be viewed against a clear vision of what has been deemed to be a desirable future condition for the County...¹⁴²

In addition to achieving both vertical and horizontal consistency, the County lists the following specific reasons and issues as to why the County plan is important:

1) Urban sprawl - Waukesha County has significantly outpaced all the other counties in the Southeastern Wisconsin Region since 1963 and new residential development continues to occur in rural areas distant from urban settlements that provide municipal services. In fact, over 70% of all residential development in the county is low or suburban density development, that is, between 20,000 square feet and 5 acres.¹⁴³ Related to the diffuse nature of development are issues of increased urban service costs, air and water pollution, and loss of natural resources.¹⁴⁴

2) Housing – housing is becoming increasingly less affordable. Because they cannot afford housing in Waukesha County, workers must commute in from surrounding areas. This is bad for business because it cannot hire and/or keep workers.¹⁴⁵

¹⁴⁰ SEWRPC, *A Development Plan for Waukesha County Wisconsin* (1996), pg. 4.

¹⁴¹ *Ibid*, pg. 2.

¹⁴² SEWRPC, *A Development Plan for Waukesha County Wisconsin* (1996), pg. 6.

¹⁴³ SEWRPC, *A Development Plan for Waukesha County Wisconsin* (1996), pg. 187.

¹⁴⁴ *Id.*, at pg. 4.

¹⁴⁵ *Id.*, at pg. 5.

The City's land use plan was prepared three years before the County development plan. As a result, it conformed not to objectives of the county plan but to objectives of the 2010 regional plan, which was developed in 1990. Nonetheless, because both the County plan and the City plan aimed for conformance with the regional plan, they are consistent with each other. Table 119 on page 343 of the County development plan indicates which local plans are consistent with the plan and which are not. The city of Waukesha's land use plan was found to be consistent. Its objectives were the same as those of the development plan and the regional plan. Like those plans, the City's land use plan strives to encourage more compact development and preserve environmental and agricultural lands.¹⁴⁶ In contrast, the Town's land use plan was found to be inconsistent.¹⁴⁷ The Town adopted neither the County Plan nor the City Plan. The following paragraphs describe the specific points of conflict between the Town plan and the City, County, and regional plans.

The primary conflict is not regarding the use of Town lands, but rather regarding the density of development. As indicated by their land use maps,¹⁴⁸ both the City and the Town envision that almost the entire Town will be developed for residential use, with some limited commercial use. However, they disagree as to the size of residential lots. The City proposes medium and low density residential housing for the area, with lot sizes of 12,000 square feet and smaller. The City's zoning ordinance does include an agricultural (A-1) district with a minimum lot size of 20 acres, and a residential holding area with a minimum of 20,000 square feet. However, use of these districts is not proposed, with the exception of a small group of lands immediately surrounding the Vernon Marsh. On the other hand, the Town envisions larger lot sizes for the areas proposed for incorporation. The Town proposes a Single Family Residence Estate District (R-E) with a 3 acre minimum lot size, a Suburban Estate District (R-SE) with a 2 acre minimum lot size, and three single family residence districts (R-1, R-2, and R-3) with respective minimum lot sizes of 1 acre, 30,000 square feet, and 20,000 square feet. All of these lot sizes are larger than those proposed by the City, some of them substantially larger.

The County development plan recognizes the problem of this type of low-density residential development, saying the following:

It is apparent that the County as a whole is "overzoned" for residential use, particularly with respect to the low- and suburban-density residential categories outside of planned sanitary sewer service areas. Such overzoning can lead to premature development in urban fringe and rural areas, creating scattered and incomplete neighborhoods far removed from existing urban service areas and may generate serious and costly environmental problems.¹⁴⁹

The prevalence of this problem is especially seen in the statistic that 87% of all lands zoned for residential use in Waukesha County are zoned for low and suburban density (between 20,000 square feet and 5 acres), while only 12% is zoned for medium and high density (less than 19,999 square feet).¹⁵⁰ Regarding the city and town of Waukesha, there is substantial difference in development density. The Town's zoning ordinance allows 39% of its lands to be built at low-density (20,000 square feet to 1.4 acres), 11% at suburban density (1.5-4.9 acres),

¹⁴⁶ Id., at pg. 343, and *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 3.

¹⁴⁷ SEWRPC, *A Development Plan for Waukesha County Wisconsin* (1996), pg. 343.

¹⁴⁸ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 210, and also the Town of Waukesha Master Plan Map.

¹⁴⁹ SEWRPC, *A Development Plan for Waukesha County Wisconsin* (1996), pg. 199.

¹⁵⁰ *ibid.* pg. 195.

0% at medium density (6,000-19,999 square feet), and 0% at high density (less than 6,000 square feet). On the other hand, the City's zoning ordinance allows 21% of its lands to be built at high-density, 29% at medium density, and only 8.5% and .05% at low and suburban densities.¹⁵¹ In addition, the City anticipates losing 185 acres of suburban density housing in order to develop at higher densities, and no new lots of this density will be approved.¹⁵²

In addition to consuming land more quickly, dispersed development also contributes to air pollution (because it requires automobile use), and increased service costs to the point that some services such as mass transit are economically unfeasible. Also, dispersed development leads to increased potential for water contamination where development is not connected to municipal sewer. For these reasons, both Regional, County, and City plans all recommend that all new development be compact and receive services.

The Town's plan seems to recognize the importance of sewer and water service, saying the following:

In addition to the goals and policies noted above, development will be guided by the understanding that municipal sewer and water services will probably not be made available to the Town. The City of Waukesha has adopted a Master Plan wherein the City has indicated its intent to extend the municipal sewer and water services to the Town. However, negotiations and discussions between the Town and the City for the extension of such municipal services have not, as of the adoption of the Land Use Plan, resulted in any agreement or understanding that would allow the extension of those services to town residents.¹⁵³

However, the fact that the Town continues to allow residential development despite the lack of an intergovernmental agreement that would provide sewer and water services, directly contravenes the objectives of the regional, county, and city plans.

Housing is another point of conflict. The regional, county, and city plans all recommend that communities provide an adequate location and choice of housing for all residents, regardless of age, income, or household size.¹⁵⁴ Having a range of housing opportunities for residents is important for a number of reasons. Language from the County's development plan identifies some of these reasons:

The provision of adequate affordable housing for workers in locations convenient to County employment centers is vitally important to the continued sound social and economic development of the County. Such provision is also critical to achieving reductions in travel demand and in the time and resources spent commuting, as well as to providing an adequate pool of labor near existing and potential job concentrations, thereby enhancing opportunities for economic development.¹⁵⁵

Waukesha County currently has a shortage of housing for lower income workers. Approximately 13,500 households, or about 13% of all resident households in the county in

¹⁵¹ Ibid, pg. 197.

¹⁵² SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 211.

¹⁵³ *Town of Waukesha Land Use Plan* (1994), pg. 4.

¹⁵⁴ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 171, SEWRPC, *A Development Plan for Waukesha County Wisconsin* (1996), pg. 338.

¹⁵⁵ SEWRPC, *A Development Plan for Waukesha County Wisconsin* (1996), at pg. 213.

1990 were unable to find housing at an affordable price. *Affordable housing* is considered to be housing that costs no more than 30% of a household's income. In addition, it is estimated that 6,500 nonresident-worker households may desire to reside in the county but are unable to find affordable housing.¹⁵⁶

To address this shortage, the County plan recommends providing 11,240 affordable housing units in the county by the year 2010. This goal of 11,240 affordable units is broken into specific area allocations. The area including the city and town of Waukesha also includes the Pewaukee area. It is referred to for allocation purposes as the *Waukesha-Pewaukee Area*. The Waukesha-Pewaukee area has an allocation of 2,880 units.

In order to develop 11,240 affordable units by the year 2010, the County plan recommends that local governments review their land use regulations such as zoning and subdivision ordinances. Regulations that require large minimum lot sizes or floor areas, or that require a certain structure type may increase housing costs.¹⁵⁷ The County plan found that very few of the 32 local governments in the county have ordinances that accommodate affordable housing. In fact, Table 12 on page 57, shows that only the city of Waukesha, and the villages of Butler and Menomonee Falls have zoning ordinances that accommodate affordable housing. In order to meet the goal of developing 11,240 affordable units, the County plan recommends that all 32 jurisdictions examine and revise their ordinances as necessary.¹⁵⁸

Regarding the town of Waukesha's ordinances, there are a number of specific requirements that constrain the provision of less expensive housing options. Minimum lot size is the major constraint. The Town's smallest residential district requires lot sizes of 20,000 square feet, almost three times as large as the 7200 square foot lot size recommended by the County plan.¹⁵⁹ Second, the Town's zoning ordinance only permits multi-family housing in areas contiguous to the city of Waukesha and only on arterial or collector roads; it is not permitted on interior subdivision streets. Multi-family housing is an important source of affordable housing. Limiting its location is problematic because it lessens the amount of land available for development of multi-family housing and also because it concentrates such developments rather than dispersing them throughout the community. Study and experience from communities throughout the United States have shown that concentration of low-income households often results in problems of crime, increased poverty, decreased property values, amongst others. Map 11, at Appendix A, shows the distribution of housing values in the city and town of Waukesha.

The Town's ordinances also constrain affordable housing options in that they do not permit manufactured housing.¹⁶⁰ Manufactured housing is a significant source of affordable housing for many Wisconsin residents.

Overall, the effect of the Town's ordinances has been to constrain all housing opportunities with the exception of single-family houses. Table 13, at page 58, provides percentages for the various types of housing in the Town.

¹⁵⁶ Ibid. pgs. 256 and 272, and *A Regional Land Use Plan for Southeastern Wisconsin: 2010*, pg. 282.

¹⁵⁷ SEWRPC, *A Development Plan for Waukesha County, Wisconsin: 2010* (1996), pg. 283.

¹⁵⁸ Ibid. pg. 422.

¹⁵⁹ SEWRPC, *A Development Plan for Waukesha County, Wisconsin: 2010* (1996), pg. 421.

¹⁶⁰ Town of Waukesha Zoning Ordinance 13-2-17.

TABLE 12
Zoning with regard
to Housing

**ACCOMMODATION OF MINIMUM HOUSING UNIT AND LOT SIZES UNDER LOCAL ZONING FOR CIVIL DIVISIONS
WITHIN EXISTING OR PLANNED SANITARY SEWER SERVICE AREAS IN WAUKESHA COUNTY: 1992**

Housing Type		Civil Divisions With Existing or Planned Sanitary Sewer Service Areas ^a		
		Zoning Ordinance Includes Districts Which Accommodate the Indicated Housing Type ^b	Zoning Ordinance Does Not Include Districts Which Accommodate the Indicated Housing Type	Total
Single-Family	Minimum-size 3-Bedroom Unit and Minimum-size Lot	3 Civil Divisions ^c	29 Civil Divisions	32 Civil Divisions
	Minimum-size 2-Bedroom Unit and Minimum-size Lot	0 Civil Divisions	32 Civil Divisions	32 Civil Divisions
Two-Family	Minimum-size 3-Bedroom Unit and Minimum-size Lot	2 Civil Divisions ^d	30 Civil Divisions	32 Civil Divisions
	Minimum-size 2-Bedroom Unit and Minimum-size Lot	0 Civil Divisions	32 Civil Divisions	32 Civil Divisions
Multi-Family	Minimum-size 2-Bedroom Unit and Minimum Lot Area per Unit	2 Civil Divisions ^d	30 Civil Divisions	32 Civil Divisions
	Minimum-size 1-Bedroom Unit and Minimum Lot Area per Unit	0 Civil Divisions	32 Civil Divisions	32 Civil Divisions

NOTE: Minimum housing unit sizes are as follows: 1-bedroom units—420 square feet; 2-bedroom units—700 square feet; 3-bedroom units—980 square feet.
Minimum lot sizes are 7,200 square feet for single-family and two-family lots, and 3,000 square feet per unit for multi-family development.

^aIncludes the following communities:

Cities	Villages		Towns	
Brookfield	Butler	Mukwonago	Brookfield	Oconomowoc
Delafield	Chenequa	Nashotah	Delafield	Ottawa
Muskego	Dousman	North Prairie	Genesee	Pewaukee
New Berlin	Elm Grove	Oconomowoc Lake	Lisbon	Summit
Oconomowoc	Hartland	Pewaukee	Merton	Waukesha
Waukesha	Lac La Belle	Sussex	Mukwonago	
	Lannon	Wales		
	Menomonee Falls			

^bIncludes civil divisions where the zoning ordinance establishes districts that accommodate the indicated housing type, regardless of whether such districts are actually applied in the civil division.

^cCity of Waukesha, Village of Butler, and Village of Menomonee Falls.

^dCity of Waukesha and Village of Butler.

Source: SEWRPC.

TABLE 13
Housing in the town of Waukesha¹⁶¹

UNIT TYPE	PERCENTAGE
Detached Single Family Units	94.8%
Attached Single Family Units	0%
Two Family Units	2.4%
Three or Four Family Units	.5%
Five or More Family Units	1.6%
Manufactured Housing	0%

This distribution was very evident to the Department during its site visit. The Department observed no multi-family housing units whatsoever.

In addition to a lack of choice as to the type of housing, the Town also lacks choice regarding ownership options. Ninety-four percent (94%) of the Town's housing stock is owner-occupied while only 6% is rental.¹⁶²

In contrast to the Town, only 55% of the City's housing stock is owner-occupied, and 45% is renter-occupied. Table 14, given below, provides the distribution of housing types in the City.

TABLE 14
Housing Types in the city of Waukesha¹⁶³

UNIT TYPE	PERCENTAGE
Detached Single Family Units	49.4%
Attached Single Family Units	5.4%
Two Family Units	9.2%
Three or Four Family Units	34.2%
Others ¹⁶⁴	1.8%

While single-family detached units are still the most prevalent form of housing in the City, residents have a greater range of housing types from which to choose than is offered in the

¹⁶¹ *Town of Waukesha Land Use Plan* (1994), pg. 31.

¹⁶² SEWRPC, *A Development Plan for Waukesha County Wisconsin* (1996), pg. 220.

¹⁶³ SEWRPC, *A Development Plan for Waukesha County Wisconsin* (1996), pg. 225.

¹⁶⁴ Category includes manufactured housing, and any other living quarters which do not fit into the other categories, such as houseboats, railroad cars, campers, and vans.

Town. Map 12, at Appendix A, shows that the city of Waukesha provides the region with a substantial amount of medium and high density housing options.

The Town does not appear willing to contribute towards the Waukesha-Pewaukee Area's allocation of 2,880 units of affordable housing. Contrary to the County's plan recommendation, the Town has not revised its ordinances in order to facilitate a range of housing options. The Town's land use plan fails to mention affordable housing. It appears to the Department as if the Town intends not to contribute towards the Waukesha-Pewaukee Area allocation, and instead expects the city of Waukesha and village of Pewaukee to provide the affordable units instead. Such an expectation is unfair and may hinder other governments in the region, as well as economic and business activity.

Environmental preservation and protection of agricultural lands is a third area in which the Town plan conflicts with regional, county and city plans.¹⁶⁵

The following language from the City and Town plans stresses the importance of preserving environmental lands. From the City:

The protection of the primary environmental corridors from additional intrusion of urban development is one of the principal objectives of this land use plan. Accordingly, the recommended land use plan map reflects no loss of primary environmental corridor between the time of plan preparation and the plan design year. The plan also recommends expansion of the primary corridor to include floodlands and areas having wet soils where it is anticipated that existing agricultural uses will be converted to urban uses during the life of the plan.¹⁶⁶

From the Town:

To relate residential development to the natural resources of the Town avoiding wasteful use of prime agricultural land and preserving valuable environmental and historical resources for the future (one of the goals and policies of the Town land use Plan).¹⁶⁷

Both the City and Town anticipate developing substantially the same amount of land in the area proposed for incorporation. However, the difference is that the City proposes more compact development, phased over a longer period of time.

The issue of density of development has been discussed earlier. Regarding the issue of phasing of development, phasing is important because it impacts on preservation of agricultural and environmentally significant lands. The City's land use plan designates substantial areas in the southern part of the Town as "Residential Reserve", meaning that they should remain undeveloped until at least 2010. By phasing development in this way, the City increases the likelihood that development will proceed in a compact and orderly fashion. On the other hand, the Town does not have a phasing policy. Although it does designate all farmland as "Transitional Land", there is no plan or timetable for when these lands will transition out of agricultural use. The absence of a phasing mechanism increases the likelihood that development will occur prematurely and in a dispersed fashion.

¹⁶⁵ SEWRPC, *A County Development Plan for Waukesha County Wisconsin* (1996), pg. 343.

¹⁶⁶ SEWRPC, *A Land Use Plan for the City of Waukesha Planning Area: 2010* (1993), pg. 209-212.

¹⁶⁷ *Town of Waukesha Land Use Plan* (1994), pg. 5.

Regarding agricultural lands, the Town's position wavers. On the one hand the Town writes that agricultural lands are an integral part of the Town's character and that subdivision design should result in a minimum reduction of agricultural land usage¹⁶⁸, but then on the other hand it writes that conversion of agricultural land to residential use ought to proceed in an orderly and sequential fashion. The Town seems unsure as whether it will protect farmland or not. It's zoning ordinance provides little protection, allowing PUD and other residential development at the discretion of the Town board.¹⁶⁹ Also, the Town identifies none of its farmland as prime agricultural lands.

Determination

The Town's opinions regarding regional issues no doubt differs from those of the City and County, and many of the surrounding communities. This is evidenced by the fact that the Town has not adopted the City's land use plan, or the County's development plan, or even the region's land use plan. It has not adopted them because it does not agree with their goals and objectives and does not wish to be subject to them. Relations with the city of Waukesha are the most challenging and the most subject to strain, as indicated by the following language:

In the past, the Town has adopted a master Plan which the Town diligently follows. The Master Plan contemplates the development of remaining areas of the Town in an orderly and consistent manner. The City of Waukesha, however, has annexed certain lands from the Town of Waukesha, with the approval of the Department of Administration, and has then utilized those lands for purposes which are totally inconsistent with the Master Plan approved by the Town of Waukesha. This has caused friction between the communities, and has caused hardship on the residents of the Town. Indeed, it was such callous and inconsistent actions by the City of Waukesha which prompted some of the residents to initiate this incorporation proceeding.¹⁷⁰

With regard to the metropolitan impact analysis, review is limited under §66.016(2)(d) to whether or not an express finding can be made that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

Clearly, the likelihood of satisfying §66.016(2)(d) would have increased had the Town adopted the regional, County, and City plans, and had the Town's land use plan and subsequent implementation policies and activities been consistent with these plans. However, the Town seems to have its own vision for the future and this vision conflicts with the vision of other jurisdictions in the metropolitan area. Whereas the region, County, and City all strive to encourage compact development, affordable housing, improved air quality, and preservation of environmental and agricultural lands, the Town does not. The County's development plan perhaps captures the situation best with the following observation:

Certain aspects of urban sprawl are inconsistent with the judicious use of the natural and fiscal resources of the County and of the Region. In this respect, urban sprawl tends to create scattered, incomplete neighborhoods in outlying areas which are

¹⁶⁸ *Town of Waukesha Land Use Plan* (1996), at pg. 9.

¹⁶⁹ Town of Waukesha Zoning Ordinance 11.26.

¹⁷⁰ Town of Waukesha Incorporation Data (February, 2000), pg. 11.

difficult and costly to provide with basic urban services and facilities; may necessitate the extension of sanitary sewer and water supply systems over long distances when those services are eventually required as a matter of public health and safety; lessens the practicality and feasibility of the provision of mass transit service which requires higher development densities; increases travel distances, a particularly important concern at this time, given the need to reduce air-polluting emissions by vehicles; tends to consume prime farmland and may be disruptive to, and in conflict with, surrounding farming operations; and tends to cause undue deterioration and destruction of the natural resource base.¹⁷¹

“Scattered, incomplete neighborhoods in outlying areas” is an excellent description of much of the Town’s development, and the problems of costly service provision, air pollution and lost natural resources are the very real consequences of the Town’s style of development.

Interestingly, in the *Goals and Policies* section of its land use plan, the Town lists limiting scattered development, and considering the region in its development decisions.¹⁷² However, the Town’s actions and zoning code directly conflict with these goals.

The Town seems to vacillate in its approach. On the one hand, it recognizes “the changing urban character of land uses located within the town, and recogniz[es] as well that the Town will not retain a rural character in the future.”¹⁷³ On the other hand, it nonetheless refuses to develop in an urban fashion. It wants to be neither rural nor urban.

The Town has also vacillated in its relationship with the city of Waukesha. As shown earlier in the “Homogenous and Compact” section of this Determination, the Town lacks many of the characteristics of a typical community. It has no identifiable community center, no commercial center, no significant social customs or identity, and very few services; it is more like a scattered collection of disparate houses. The Town depends on the City and the region for economic and recreation opportunities, for schools, and for services such as libraries and parks. The Town seems willing to be a cooperative regional partner with the City for such things as receiving library service or using City parks, but seems unwilling to share the burdens of providing affordable housing or phasing growth. The Town seems to fit a contradictory role as regional partner, accepting the generosity of surrounding jurisdictions but giving little in return. Such behavior hinders the functioning of the city of Waukesha and also of the region as a whole.

For all of the above reasons, the Department cannot make an express finding that the proposed incorporation will not hinder the solution of governmental problems affecting the metropolitan community. Therefore, the metropolitan impact requirement of §66.016(2)(d) is not met.

¹⁷¹ SEWRPC, *A County Development Plan for Waukesha County, Wisconsin* (1996), pg. 97.

¹⁷² *Town of Waukesha Land Use Plan* (1994), pg. 4.

¹⁷³ *Ibid.* pg. 3.

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.]

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* 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.

DEPARTMENT CONTACTS MADE DURING RESEARCH AND ANALYSIS
(includes contacts cited in footnotes within the document)

Jane Ameel, Director of the City of Waukesha Public Library. April 6, 2000.

Robert Bucholtz, Director of Business Services, Waukesha School District. March 10, 2000.

Paul Day, Chief Engineer for the City of Waukesha. March 16, 2000.

Brian Depis, Planning and Zoning Specialist, Waukesha County Parks and Planning Department.
April 10, 2000

Wayne Dussalt, Deputy Police Chief for the city of Waukesha. March 20, 2000.

Gary Evans, Engineer with the Waukesha County Transportation Department. April 11, 2000.

Tony Fischer, Wisconsin Department of Natural Resources. March 20, 2000.

Julie Gay, Assistant City Attorney for the City of Waukesha.

Jim Guidry, Chief, Division of State and Local Finance, WI Department of Revenue. March 28, 2000.

David Heil, Engineer with the city of Waukesha Water Utility. March 21, 2000.

Michalene Knoebel, Town of Waukesha Clerk. March and April, 2000.

Kay Kumbier, Dispatcher for the Waukesha County Sheriff's Department. March 15, 2000.

James W. Hammes, Attorney for the Petitioners.

Tom Hennen, Business Director, Waukesha Federated Library System. April 7, 2000.

Marty Kuehn, Town of Waukesha Assessor. March 29, 2000.

Joanne Lazarz, WI Department of Transportation. April 10, 2000.

Kathy Moore, Planner for the Waukesha County Parks and Planning Department. March 20, 2000.

Elizabeth Spencer, Bureau of Endangered Resources, WI Department of Natural Resources.
April 6, 2000.

William Stauber, Chief Land Use Planner, Southeastern Wisconsin Regional Planning
Commission. March and April, 2000.

Jerry Taylor, Engineer with City of Waukesha Department of Public Works. March 20, 2000.

Daniel Trawicki, Inspector, Waukesha County Sheriff's Department. March 17, 2000.

Gary Webber, Principal of Rose Glen Elementary School. April 4, 2000.

Chuck Zydeck, Insurance (ISO). March 28, 2000.

ACKNOWLEDGEMENTS

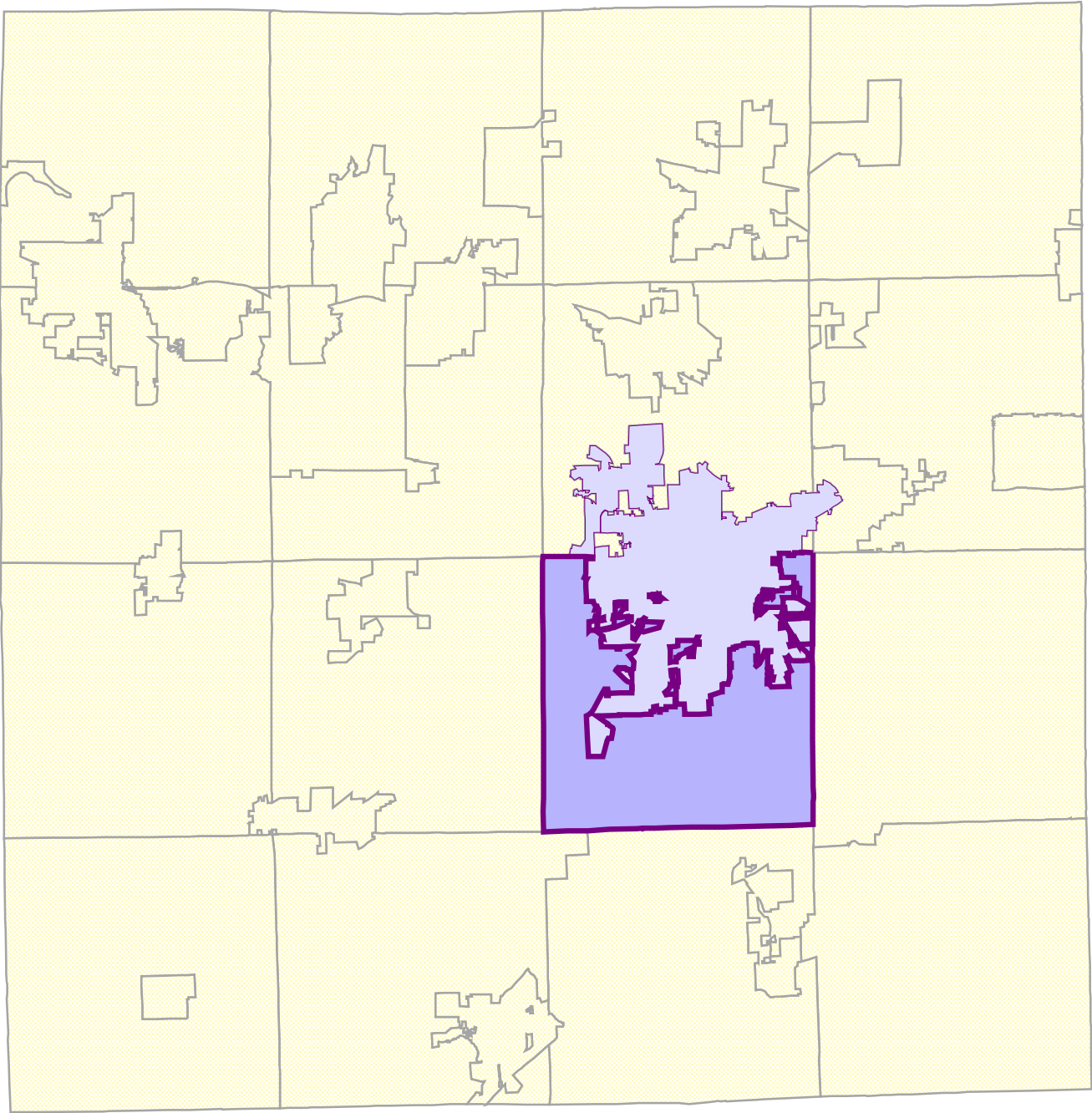
I would like to gratefully acknowledge the research and drafting assistance provided by Municipal Boundary Review personnel Laura Yaffe, Erich Schmidtke, and Robert Zeinemann. All of these individuals participated in site visits to the territory proposed for incorporation. Lisa Olson-McDonald prepared the GIS maps from data provided by Waukesha County, and other governmental bodies.

George Hall, Director
Municipal Boundary Review

Waukesha County

MAP 1
City and Town
of Waukesha

- City of Waukesha
- Town of Waukesha
- Minor Civil Divisions

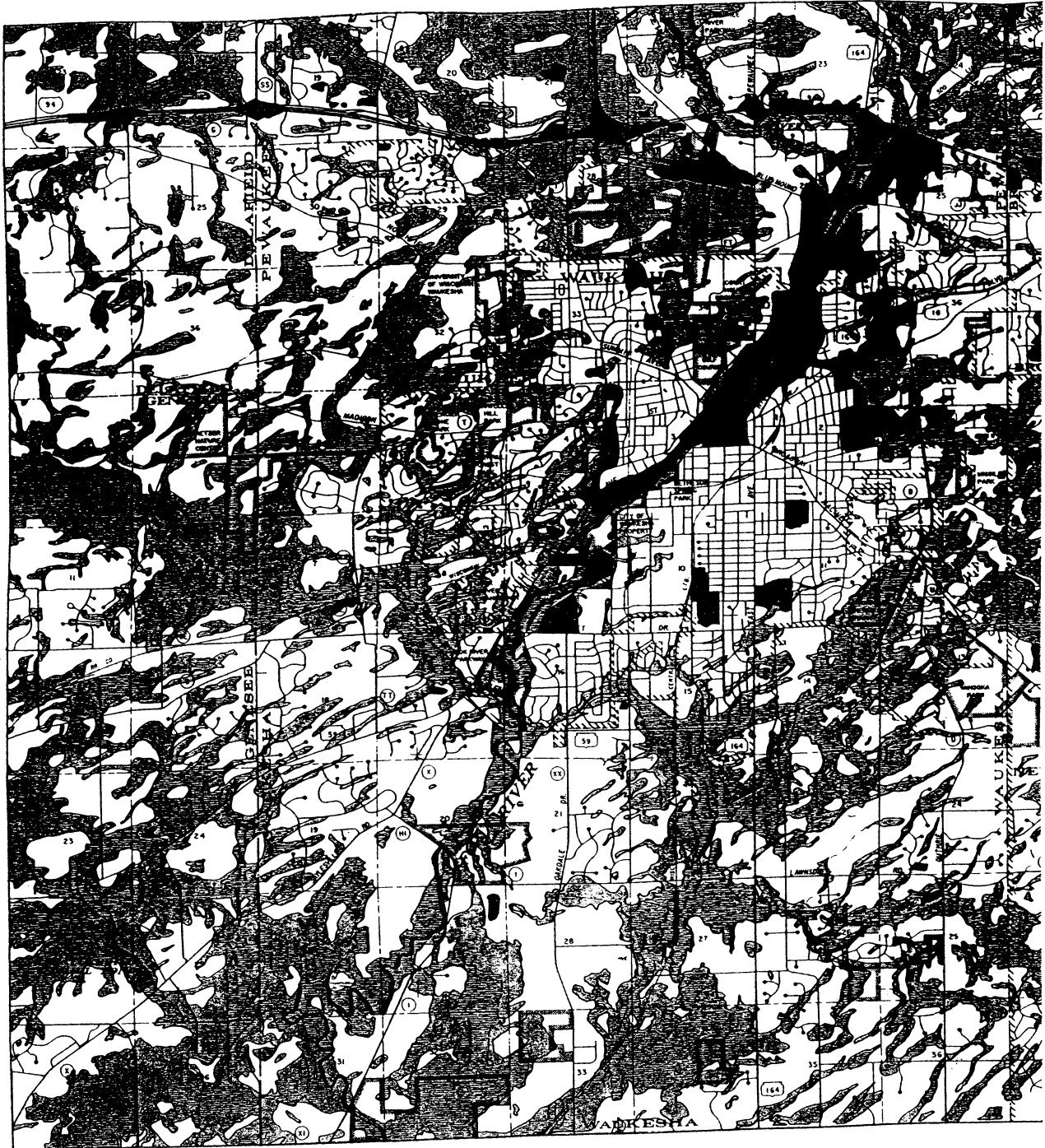


1:225000



MAP 2 Soils

SUITABILITY OF SOILS FOR RESIDENTIAL DEVELOPMENT WITH PUBLIC
SANITARY SEWER SERVICE IN THE WAUKESHA PLANNING AREA: 1991

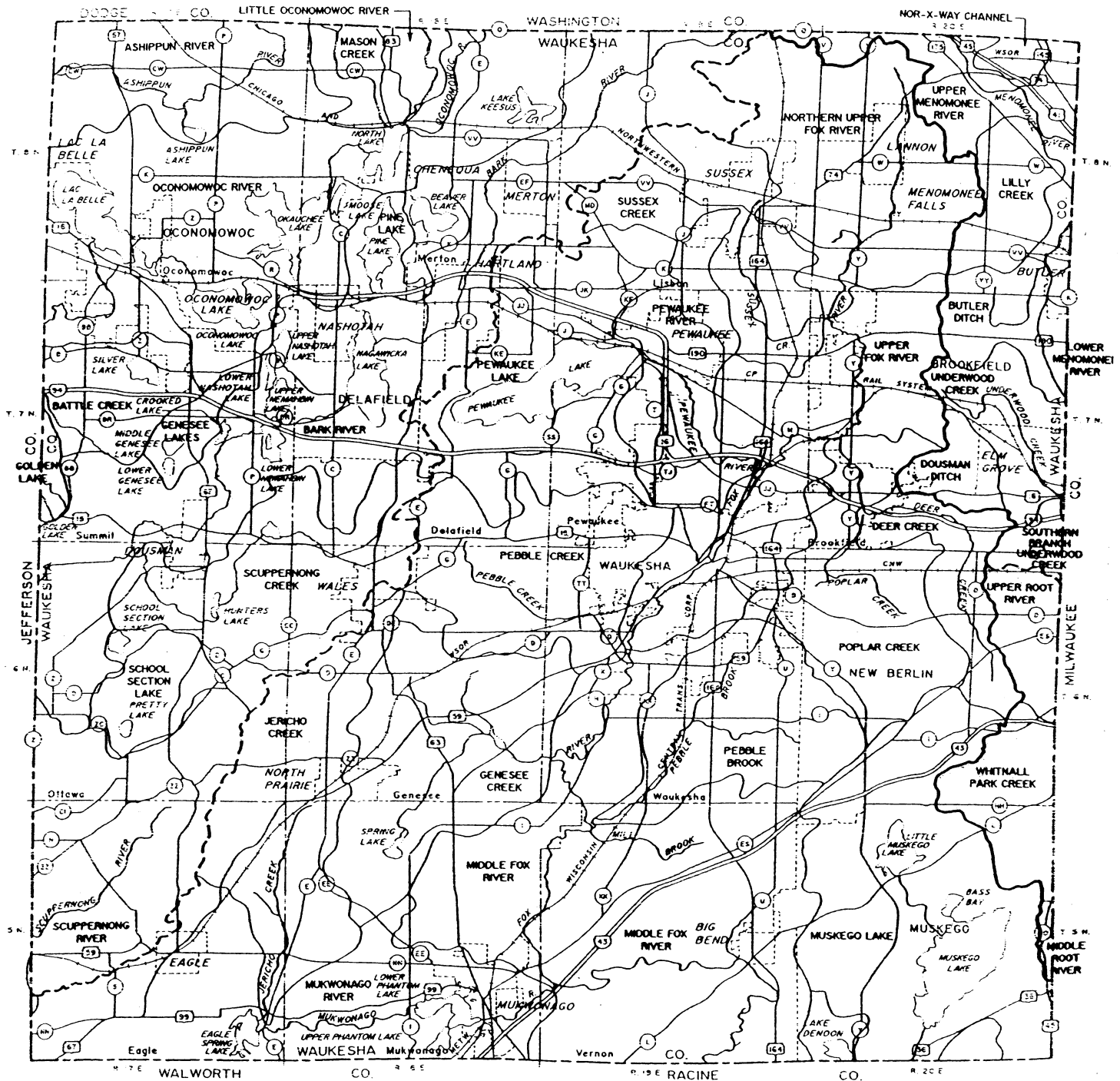


LEGEND

-  AREAS COVERED BY SOILS HAVING SEVERE LIMITATIONS FOR
RESIDENTIAL DEVELOPMENT WITH PUBLIC SANITARY SEWER SERVICE
-  OTHER SOILS
-  UNCLASSIFIED
-  SURFACE WATER

Source: U. S. Soil Conservation Service and SEWRPC.

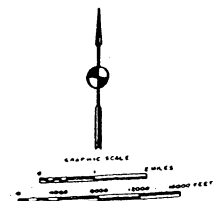
SURFACE WATER DRAINAGE IN WAUKESHA COUNTY

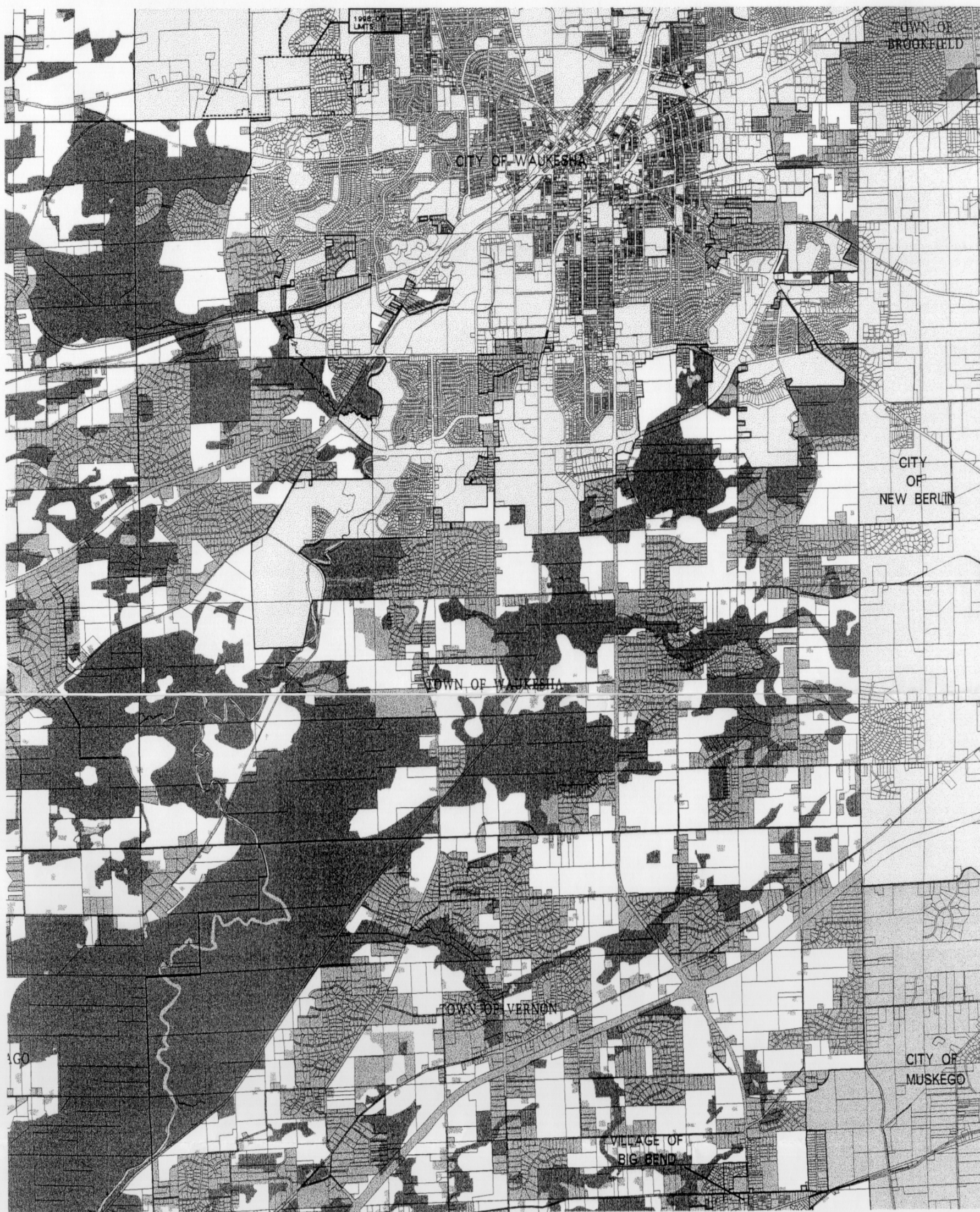


LEGEND

- SUBCONTINENTAL DIVIDE
- WATERSHED BOUNDARY
- SUBWATERSHED BOUNDARY
- SUBWATERSHED NAME
- MAJOR PERENNIAL STREAM
- FOX RIVER WATERSHED
- MENOMONEE RIVER WATERSHED
- ROCK RIVER WATERSHED
- ROOT RIVER WATERSHED

MAP 3 Watersheds

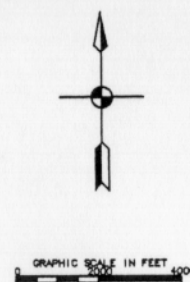




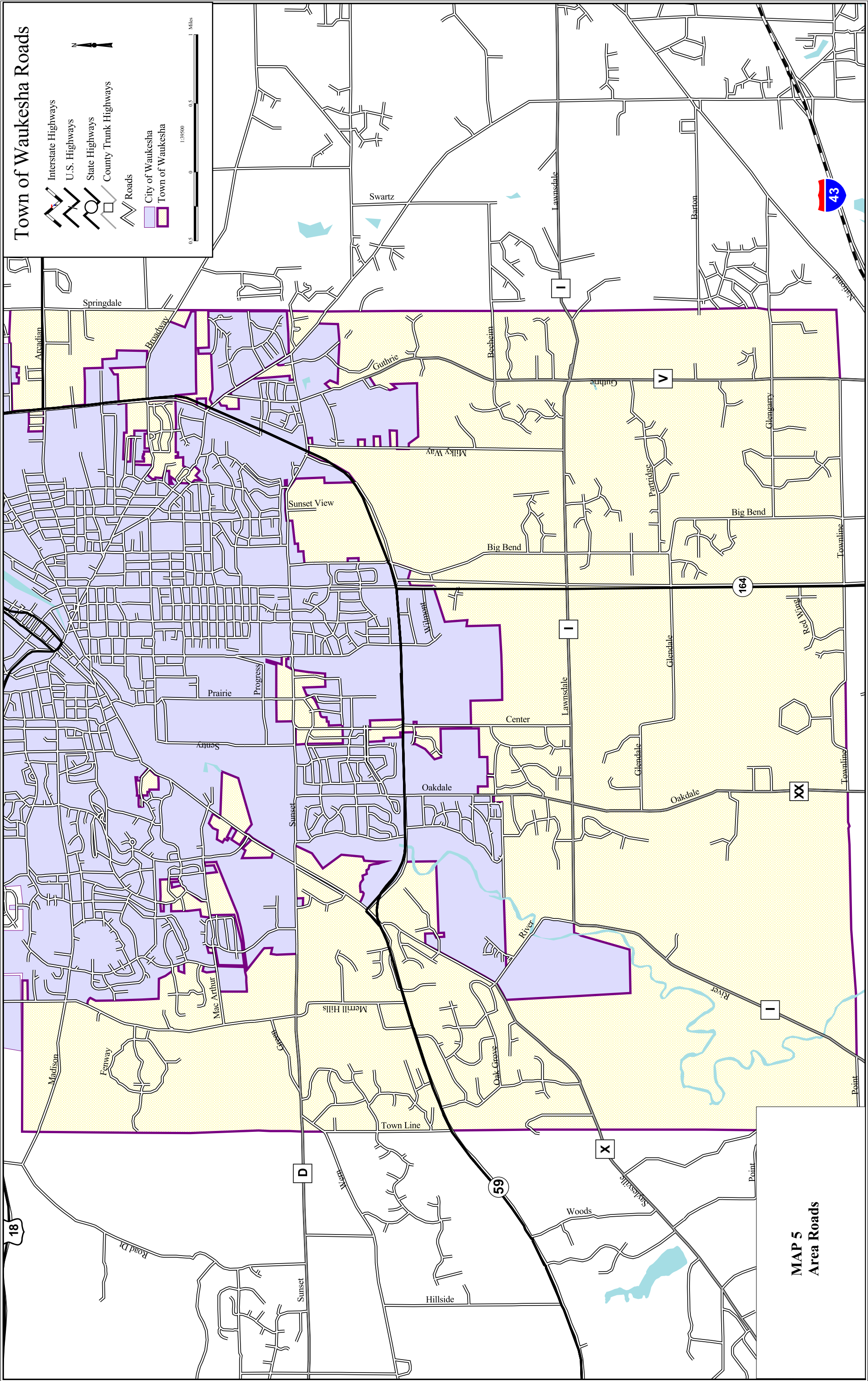
CITY OF WAUKESHA AND ENVIRONS - ca. 2000

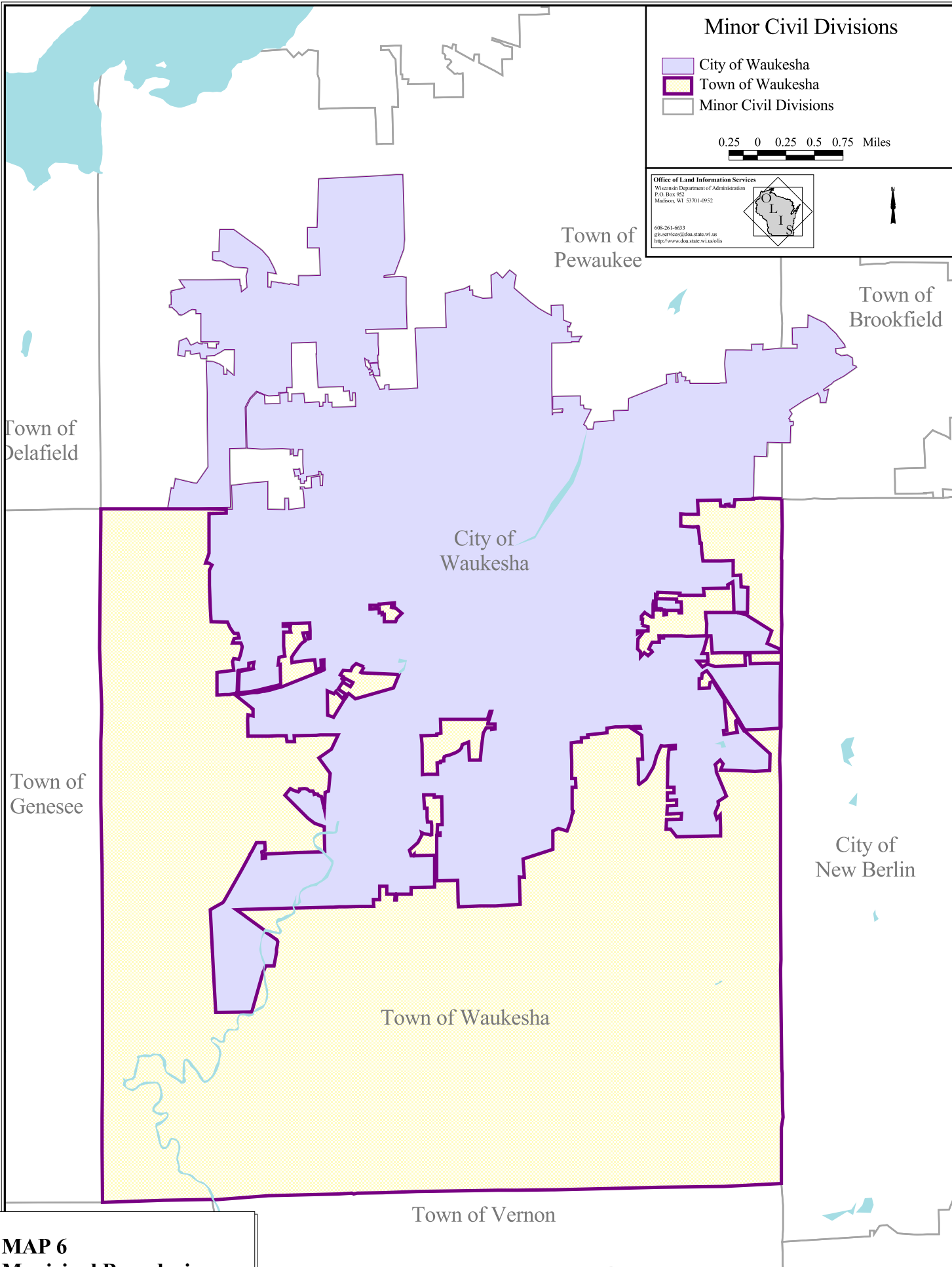
- ENVIRONMENTALLY SENSITIVE LANDS, MAJOR PUBLIC PARK AND OPEN SPACE LANDS, AND MAJOR PRIVATE RECREATION AREAS IN UNINCORPORATED TERRITORY
- EXISTING/COMMITTED URBAN DEVELOPMENT IN UNINCORPORATED TERRITORY

MAP 4 Environmental Corridors

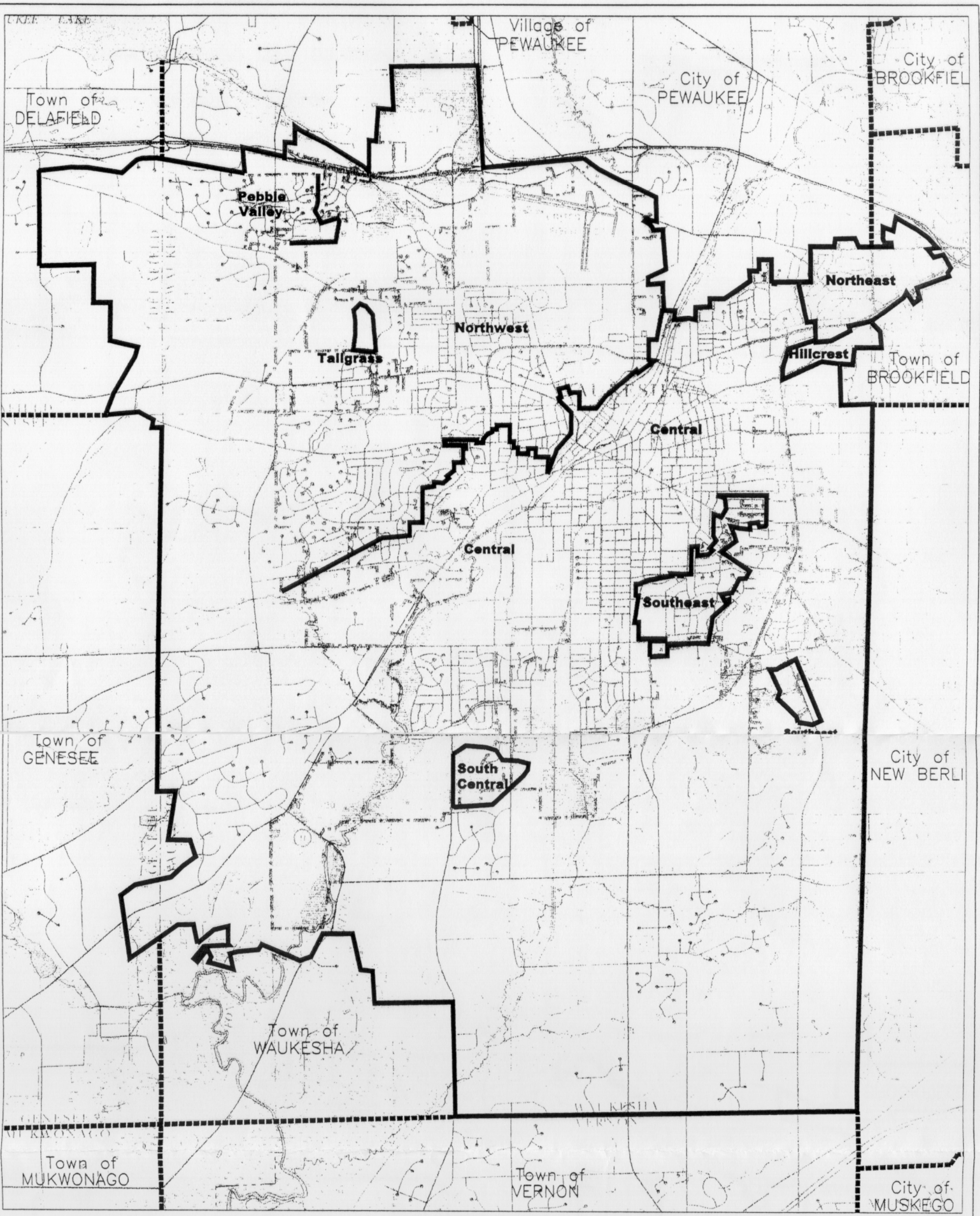


Source: SEWRPC

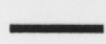
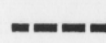


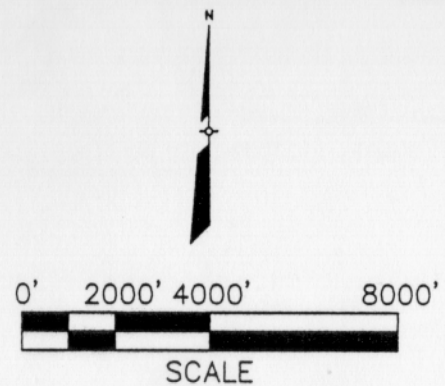


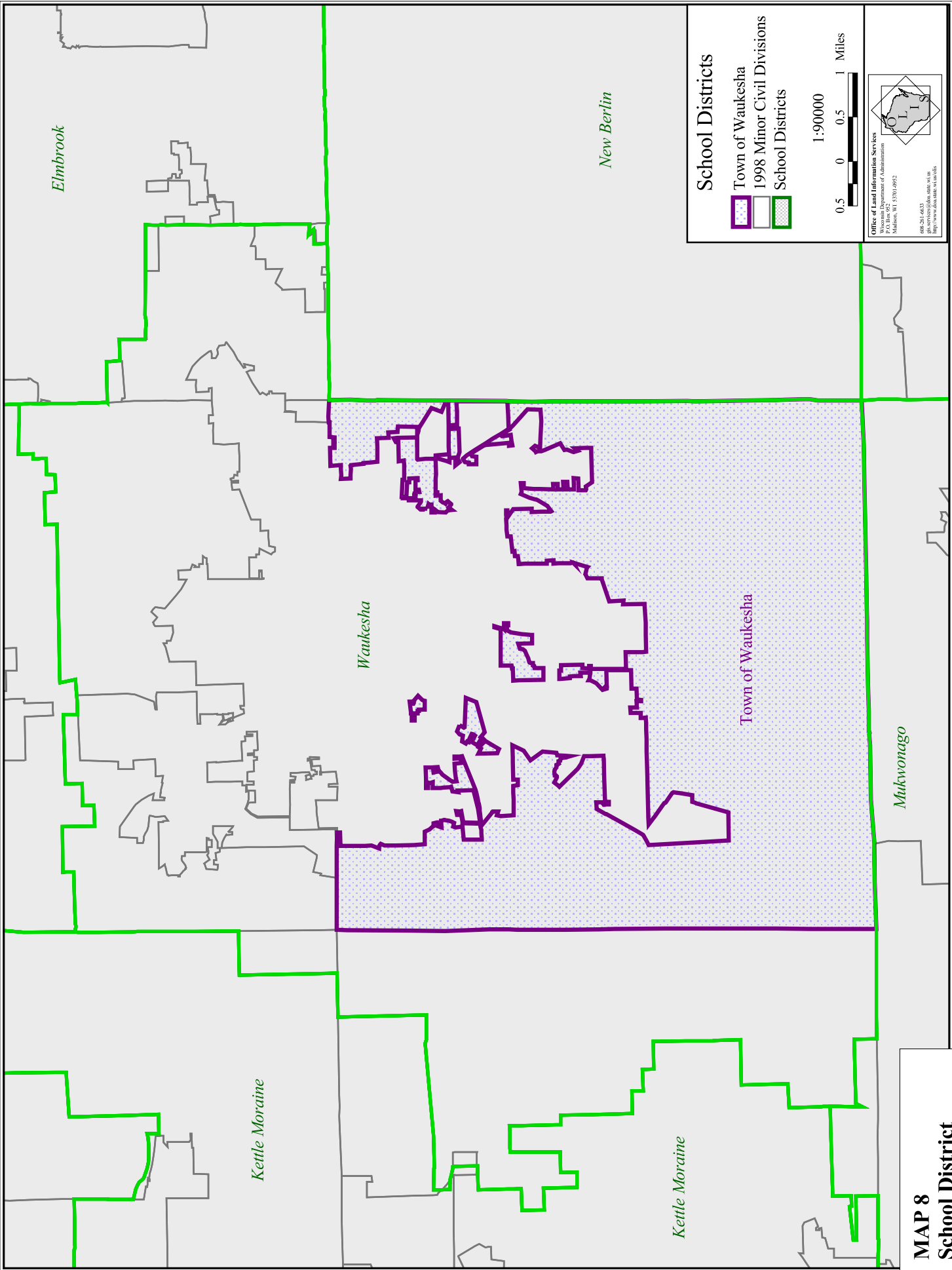
MAP 6
Municipal Boundaries



LEGEND:

-  2020 UTILITY SERVICE AREA BOUNDARY
-  CURRENT CORPORATE LIMIT
-  POLITICAL BOUNDARY
-  PRESSURE ZONE BOUNDARY





MAP 8
School District
Boundaries

Town of Waukesha Location of Businesses

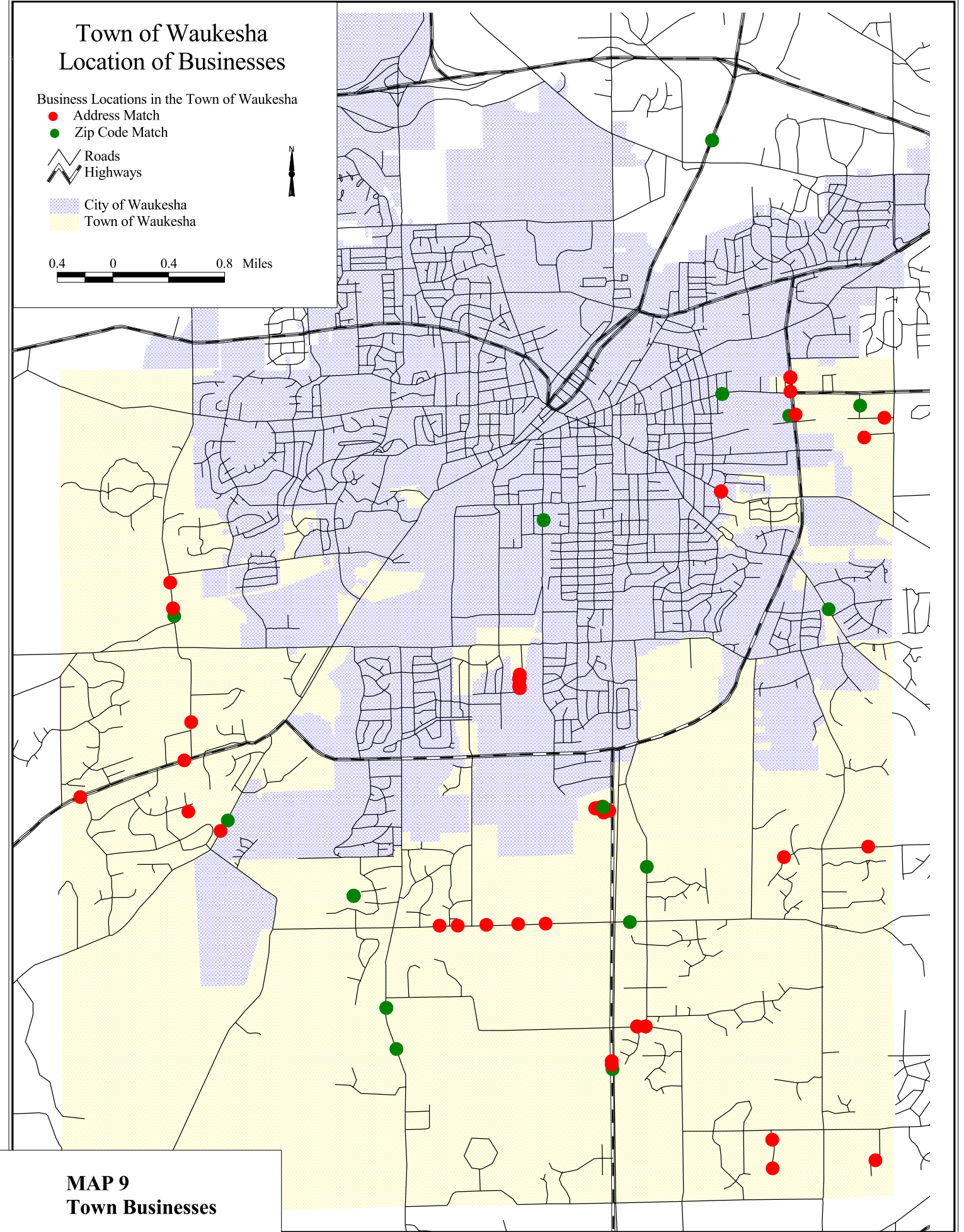
Business Locations in the Town of Waukesha

- Address Match
- Zip Code Match

- Roads
- Highways

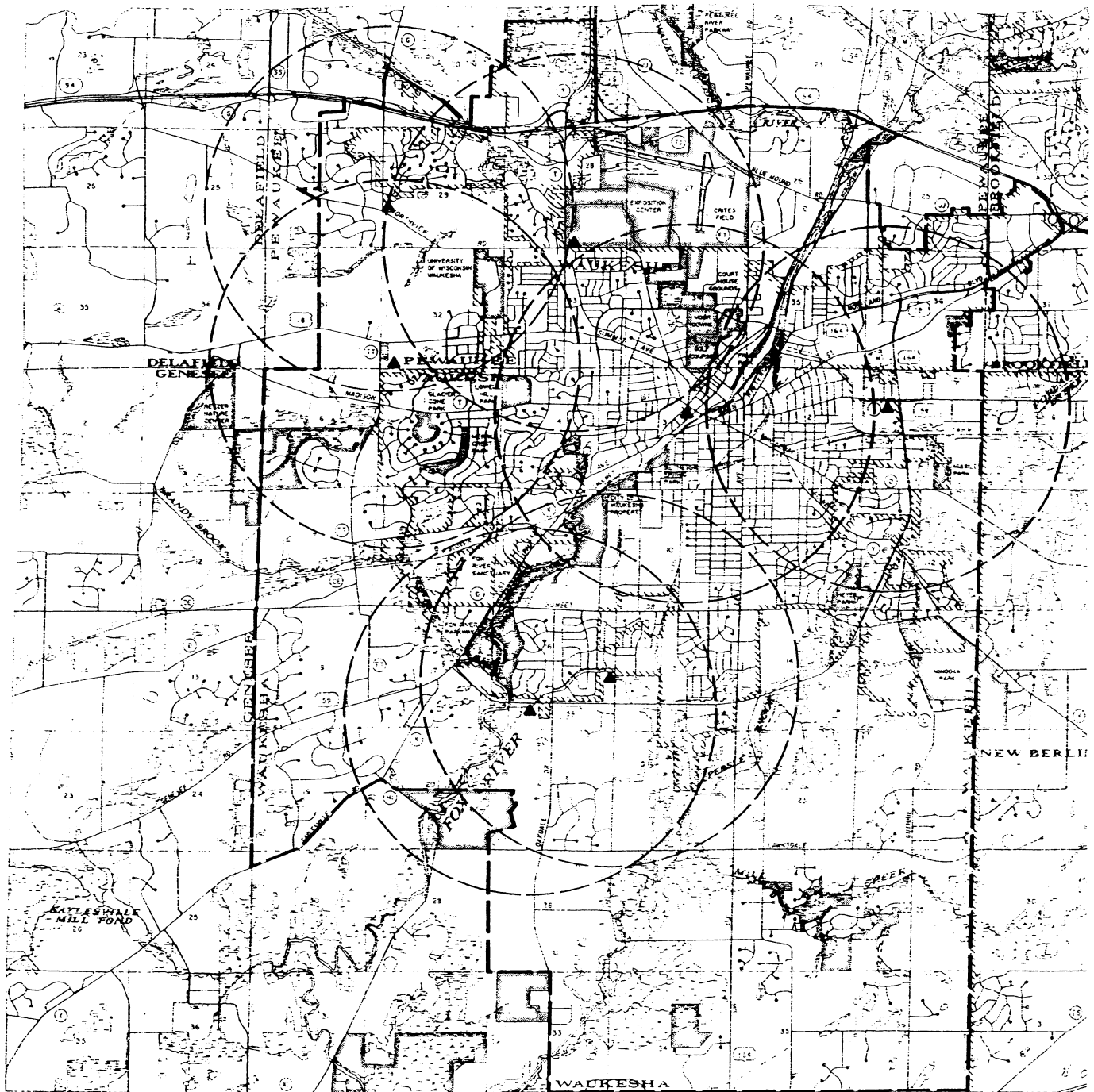
- City of Waukesha
- Town of Waukesha

0.4 0 0.4 0.8 Miles



MAP 9
Town Businesses

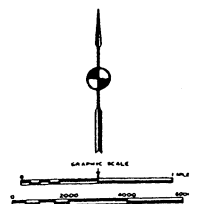
**OPTIMUM TRAVEL DISTANCES FOR FIRE-FIGHTING VEHICLES FROM RECOMMENDED YEAR 2010
FIRE STATION LOCATIONS IN THE PROPOSED EXPANDED WAUKESHA URBAN SERVICE AREA**



LEGEND

- — — PROPOSED EXPANDED WAUKESHA URBAN SERVICE AREA BOUNDARY
- ▲ EXISTING CITY OF WAUKESHA FIRE STATION TO BE RETAINED
- ▲ NEW OR RELOCATED CITY OF WAUKESHA FIRE STATION
- ▲ EXISTING TOWN OF WAUKESHA FIRE STATION
- ▲ EXISTING TOWN OF PEWAUKEE FIRE STATION

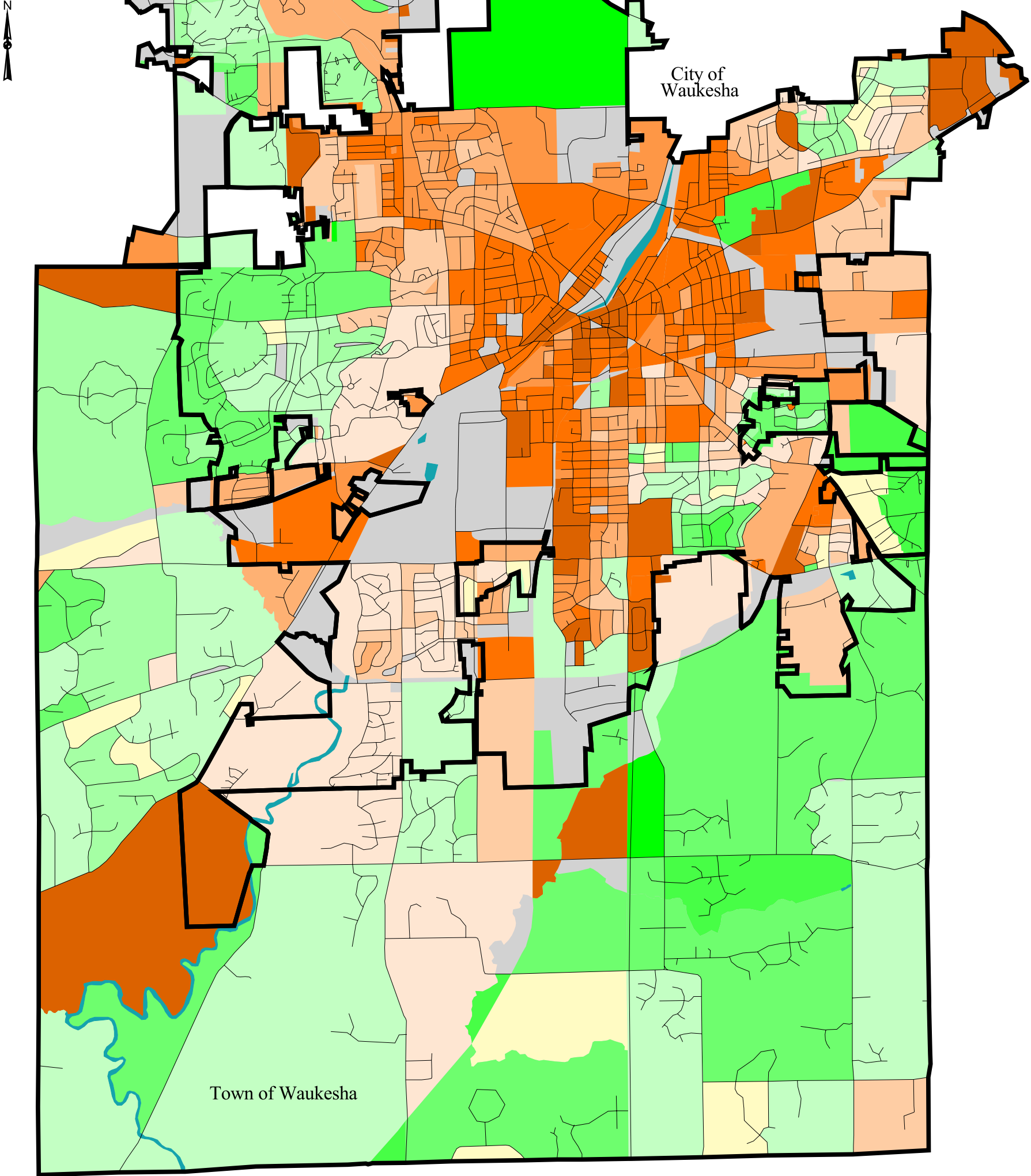
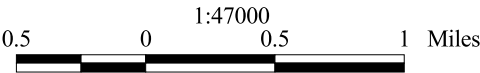
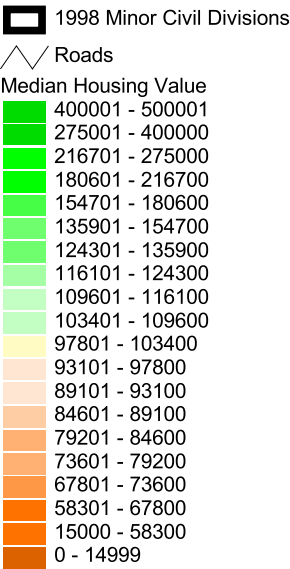
- — — OPTIMUM 1-1/2 MILE FIRE STATION RADIUS
- — — EXISTING CITY OF WAUKESHA FIRE STATION
- — — NEW OR RELOCATED CITY OF WAUKESHA FIRE STATION
- — — EXISTING TOWN OF WAUKESHA FIRE STATION
- — — EXISTING TOWN OF PEWAUKEE FIRE STATION



Source: SEWRPC.

MAP 10
City and Town of Waukesha
Fire Departments

1990 Median Housing Value by Census Block Groups
City and Town of Waukesha



MAP 11
Housing Values

City and Town of Waukesha Land Use

Office of Land Information Services
Wisconsin Department of Administration
P.O. Box 852
Madison, WI 53701-0952

608-261-6633
gis.services@dox.state.wi.us
http://www.dox.state.wi.us/ols



- Land Use

Agricultural

Commercial

Communication and Utilities

Govt. and Institutional

Industrial

Open Lands

Recreational

Transportation
- Residential Land Use

Suburb

Low

Medium

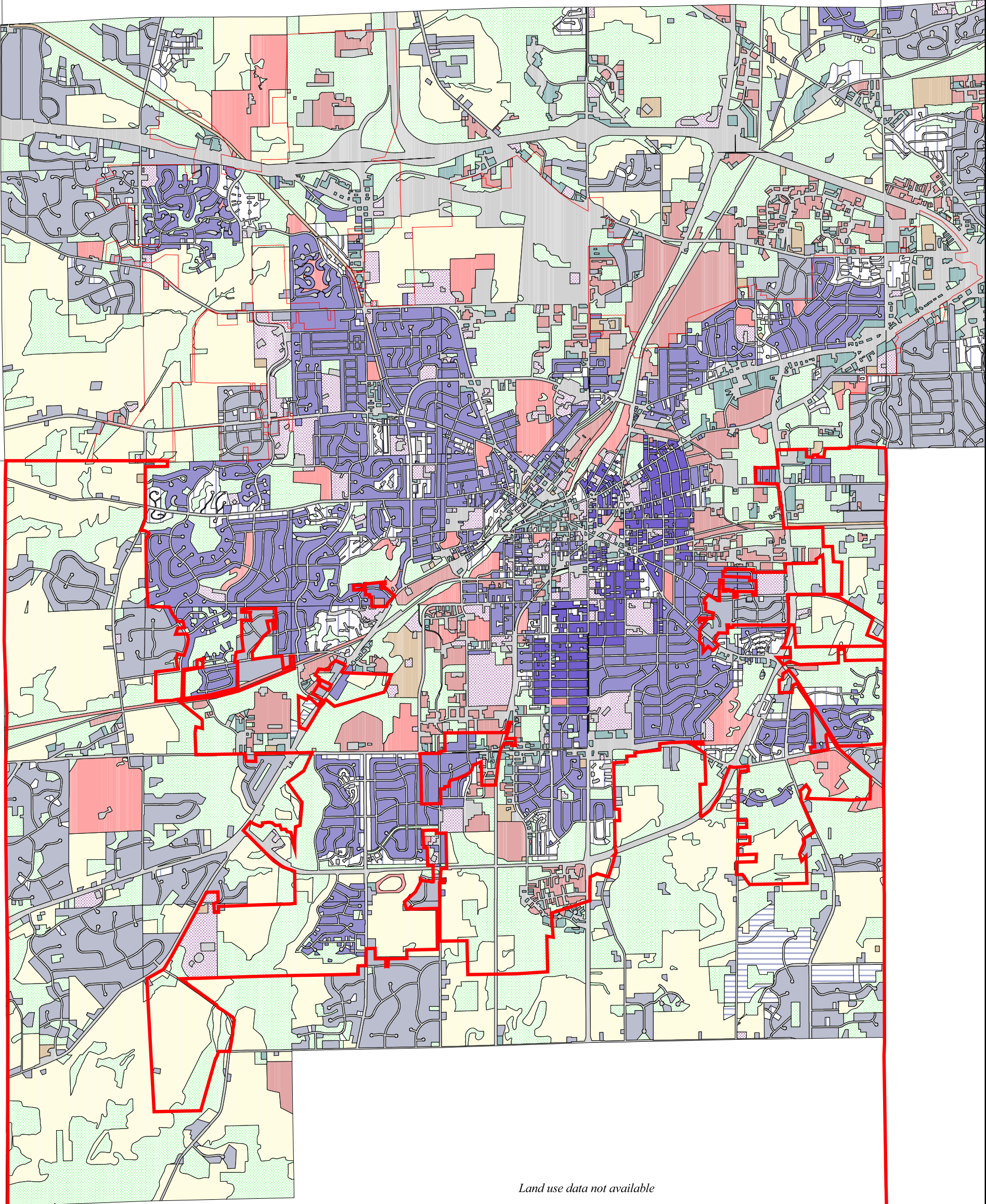
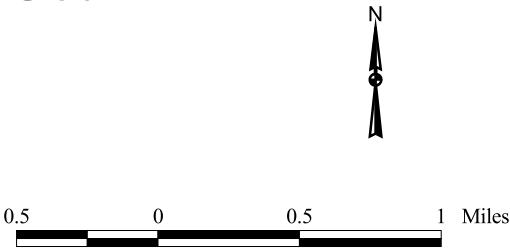
High

Other Res

City of Waukesha

Town of Waukesha

Minor Civil Divisions



Land use data not available

MAP 12
Land Use in the
City of Waukesha