
STATE OF WISCONSIN

CIRCUIT COURT

WALWORTH COUNTY

In Re:

THE PETITION TO CONSOLIDATE THE
VILLAGE OF EAST TROY AND TOWN
OF EAST TROY INTO AN INCORPORATED
VILLAGE OR FOURTH CLASS CITY

Case No. 00-CV-304

DETERMINATION OF THE WISCONSIN DEPARTMENT OF ADMINISTRATION

August 5, 2003

It is the function of the Department of Administration, henceforth referred to as the Department, to prepare findings and to make a determination as to whether the territory petitioned for incorporation meets the applicable standards prescribed in §66.0207, 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 §66.0207, Wis. Stats.:

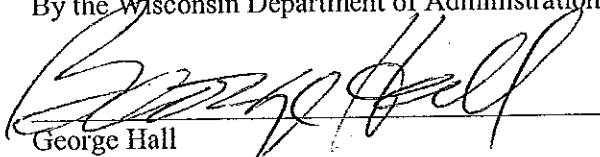
- STANDARD 1 (a), Homogeneity and Compactness - not met
- STANDARD 1 (b), Territory Beyond the Core - not met
- STANDARD 2 (a), Tax Revenue - met
- STANDARD 2 (b), Level of Services - not applicable
- STANDARD 2 (c), Impact on the Remainder of the Town - not applicable
- STANDARD 2 (d), Impact on the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

All of the above is discussed in the body of the Determination. The Determination of the Department to the Circuit Court, as prescribed by §§66.0229 and 66.0203, Wis. Stats., is as follows:

Having considered the applicable standards for consolidation as set forth in §66.0207, Wis. Stats., the Department finds that the petition as submitted is denied.

Dated this 5th day of August, 2003.

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.

The Honorable Robert J. Kennedy, Walworth
County Circuit Court
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INTRODUCTION

The Town and Village of East Troy are located in the northeast corner of Walworth County, which is on the far southeastern edge of metropolitan Milwaukee. The Village of East Troy is nearly surrounded by the Town of East Troy, except for a small peninsula of Village territory extending westward into the Town of Troy. The Town of East Troy is bounded to the east by Town of Waterford (in Racine County), to the south by the Town of Spring Prairie, to the west by the Town of Troy, and to the north by the Town and Village of Mukwonago (in Waukesha County). Map 1, Appendix C locates the Town and Village of East Troy relative to these other jurisdictions.¹

Believing “consolidation of the two communities is in the best interest of the public,” the Village and Town of East Troy created a joint committee to prepare a consolidation plan,² held a joint public hearing on May 9, 2000 to hear public input, and agreed to a moratorium on hiring and capital improvements.³ Consolidation of the Town of East Troy (31.4 square miles) with the Village (2.8 square miles) would result in a total municipal area of approximately 34 square miles.⁴ With the population of the Town of East Troy at 3,830 and the Village at 3,564,⁵ the proposed consolidated village or fourth class city would have 7,394 persons, which is a nearly identical population between the Village (48.2%) and the Town (51.8%). The Village’s rate of growth is higher than the Town’s rate; therefore, assuming the growth rate continues, the Village will slowly surpass the Town in population within the next few years. Nevertheless, area residents have “expressed interest in preservation of a rural life-style in the hinterlands, and a small town lifestyle in the village core.”⁶

Although the Department is reviewing a proposed consolidation, the statutory directive for municipal consolidation refers to the standards that are applied to proposed incorporations. Therefore, the Department believes that the extensive case law, law review articles, and legislative study committee reports regarding the application of s. 66.0207, Wis. Stats., to incorporations are relevant to the proposed consolidation of the Village and Town of East Troy.

Background

Wisconsin’s current incorporation/consolidation statute was developed in the late 1950s with the intent to:

- 1) provide comprehensive state-level control over the formation of new municipalities in order to assure that their formation is in the public interest;
- 2) distinguish through different standards of review between rural and metropolitan areas;
- 3) provide a public interest test separate from any judicial review;

¹ Preparation of useable maps for this consolidation review proved to be difficult because of availability of timely digital data from state, county, and local sources. Where-ever possible, the best available information has been used. Petitioners supplied the Department with maps that were based, in some cases, on 10-15 year-old information.

² The consolidation study concentrated on service levels, staffing and organizational structure required to provide such services and projected revenue, expenditure and municipal property tax rates. It did not address land use coordination or less tangible elements of consolidation such as alignment of the varying community structures and socio-economic interests and capabilities, or consistency with existing statutory construction and direction.

³ *Submittal in Support of Consolidation of the Village and Town of East Troy* (2002) p. 4.

⁴ *Ibid*, p. 3.

⁵ April 2000 US Census

⁶ *Submittal in Support of Consolidation of the Village and Town of East Troy* (2002) p. 71.

- 4) provide a state-level finding that an incorporation will not hinder the solution of regional problems, and
- 5) prevent the use of the annexation and consolidation statutes to avoid review requirements applicable to the incorporation statute.⁷

Wisconsin Legislative Council records suggest that the several variations (town with town, cities/villages with cities/villages, and towns with either a city or village) for municipal consolidation received scant attention during the 1959 Urban Problems Committee deliberations. The only practical inference that can be drawn is that towns, cities and villages were intended to consolidate with other similar units of government, including towns, cities and villages; with the two consolidating units possessing either “urban” or “rural” characteristics – otherwise the “homogeneity and compactness requirement” in s. 66.0207 (1) (a) would be rendered meaningless.⁸ An obvious conceptual difficulty presented by the statutory wording is the interpretative challenge from combining a rural or semi-rural town (with boundaries in part derived from the Northwest Ordinance, and bearing no direct relationship to any socio-economic or physiographic attributes), with a city or village whose boundaries and suite of municipal activity typically reflect the very statutory attributes desired, but now obscured because of the combination with the town.⁹

The consolidation standards touch on broad and complex intergovernmental relationships as they relate to land use, natural resource protection, taxation, provision of services, economic development, transportation, and sociological issues. For example, how do “home rule” jurisdictions like cities and villages relate to the rural lands of non-home rule jurisdictions like towns? What physical, jurisdictional, and social characteristics are most appropriate for rural and urban lands? These issues have been discussed extensively since the incorporation/consolidation statute was enacted in 1959. For example, at the state level these issues have been discussed over the years by various gubernatorial and legislative study commission reports. These include the Tarr Task Force (1967), the Local Government Committee (1970), the Citizens Study Committee on Metropolitan Problems (1971-73), the Knowles Commission (1973), the Wallace Commission (1977), the Special Committee on the Interrelationship of Urban and Rural Policies (1982), the Special Committee on Municipal Boundary and Related Issues (1990-92), the Wisconsin Strategic Growth Task Force and Interagency Land Use Council (1994), the Wisconsin Land Council (1997-present), the Kettl Commission (2001), and most recently the Sheehy Commission (2003). A number of these commissions have recommended encouraging municipal consolidations through statutory changes or financial and other incentives.

The issues surrounding potential consolidation can sometimes be complex. This review process facilitates the identification and resolution of issues that might otherwise be overlooked. Incorporation and consolidation reviews and determinations are especially valuable because they provide a venue in which to comprehensively consider the presence and interplay of state, regional, county, and local level policies and regulations and how this interplay is consistent or inconsistent with the statutory direction provided by the legislature and the caselaw provided by Wisconsin’s court system.

⁷ 1965 *Wis. L. Rev.* 466, footnote 23.

⁸ With the exception of town-town consolidations, which does not confer home-rule “police power” authority.

⁹ Petitioners would stand the current statute on its head, suggesting that statutory interpretations not previously countenanced by the courts should be adopted by the Department. If the Department followed petitioners’ desires, then ineluctably any combination of a town with a city or village would become approvable. But in their defense, petitioners assert various reasons for consolidation that appear reasonable, and indeed mirror some of the attributes of 2003 Assembly Bill AB-85, that of this writing, has passed the Assembly and is awaiting passage in the Senate.

Petitioners argue that consolidation should be granted because it will preserve rural or agricultural areas of the Town better than without consolidation. Primarily this is proposed to occur via changes in land use zoning powers (from county-level zoning in the town to a village ordinance for the consolidated entity), and changes in public attitudes toward zoning. It is argued that a village ordinance controlled solely by the Village would enjoy broader support than the support presently existing among town residents for the shared town-county partnership under the county zoning ordinance. Residents from town areas will gain a voice on land use decisions made in both what are now town and village areas.¹⁰ Additionally, Petitioners argue that defensive strategies employed by the Town to prevent annexation from the Village's of East Troy and Mukwonago such as litigation and permitting preemptive and scattered growth in rural areas will cease. Scattered, unplanned development would further be discouraged by the combined strong tax base of the Town and Village, which would lessen the pressure to grow rapidly and at any cost.¹¹

To further support their argument, Petitioners presented data comparing the percent of agricultural land in previous whole-town incorporations to that in towns located in Walworth and Waukesha Counties. Petitioner's cite the following table¹² to show that significant agricultural acres remain in all of the towns that incorporated most of their territory in the 1960s or earlier.

Table 1: Acres in Agriculture: Whole Town Incorporations

Community	Acres	Percent
City of Oak Creek	6,161	34
City of Franklin	8,960	40
City of Muskego	8,617	37
City of New Berlin	6,277	27
City of Brookfield	712	4
Village of Menomonee Falls	6,409	30
Village of Germantown	10,646	48
City of Mequon	12,827	43

Petitioners claim that the villages created as a result of these whole town incorporations have as much or more farmland as that remaining in Waukesha County towns, even though these incorporated areas border the City of Milwaukee and even after 35 or more years of constant development pressure. What really sets these older whole town incorporation communities apart, according to Petitioners, is that they are growing more compactly than towns in Waukesha County, which continue to grow at very scattered and low densities in a manner that consumes large amounts of agricultural land.¹³ Petitioners conclude that “incorporated towns have fared very well in the conservation of agricultural lands.”¹⁴

To investigate this claim, the Department requested a more detailed comparison of agricultural preservation in the whole town incorporations cited by Petitioners¹⁵ with 11 Waukesha County

¹⁰ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 11.

¹¹ *Ibid.*

¹² *Ibid.* However, using 1995 data, the support for Petitioners assertions is nearly 10 years old, and does not capture the recent and extensive development that has occurred in southeastern Wisconsin.

¹³ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 11. See also, *A Development Plan for Waukesha County Wisconsin* (1996) SEWRPC.

¹⁴ *Ibid.*, p. 101.

¹⁵ Cities of Oak Creek, Franklin, Muskego, New Berlin, Brookfield, Mequon and the Villages of Menomonee Falls and Germantown.

towns¹⁶ from the Department of Revenue from 1998-2001. Most telling, as can be seen in Table 2 below, was the total acres sold for nonagricultural purposes, a more precise and reliable measure of land being converted away from agriculture than year-to-year change in the acres whose assessment is classified as agricultural.

Table 2: Total Acres Sold for Non-Agricultural Purposes, 1998-2001¹⁷

Year	Incorporated	Waukesha Towns
n	8	11
1998	145	588
1999	65	849
2000	418	593
2001	365	238

With less agricultural land in incorporated areas, it would be expected that correspondingly less agricultural land would be sold from these areas relative to the towns. However, although the towns sales of agricultural land vary, they are rising in the incorporated areas, and by 2001, the incorporated areas had actually sold more acres for nonagricultural purposes than the towns.¹⁸ This is the opposite of what Petitioners claim and renders the assertion that incorporated areas better preserve agricultural land unsubstantiated.¹⁹

In addition, Petitioners assert that the Department has previously approved whole town incorporations based on an ‘agricultural waiver’. This assertion is incorrect. In *Muskego* (1964), a case relied on by Petitioners, agriculture is not even mentioned, and the rationale for approval was that the town lay squarely in the path of metropolitan growth and whatever rural characteristics may have existed were purely transitory.²⁰

The Department commends Petitioners on the substantial amount of work that went into this consolidation effort, and on their desire to improve on efficiency of local governance for area residents. However, because Petitioners have requested to be consolidated under s. 66.0207, Wis. Stats., the standards under this statutory section must be met. The Department cannot reinterpret the statute, now over 40 years old, and disregard all of the accompanying Departmental and judicial precedent. Significantly, s. 66.0207, Wis. Stats. treats incorporations and consolidations alike, without any ameliorating exceptions for consolidations. Because of this, territory petitioned for consolidation must meet the same standards as for incorporation - that the territory be homogeneous and compact, that undeveloped lands in the territory have substantial development potential within the next three years, and that consolidation will not hinder the resolution of governmental problems affecting the metropolitan community. This determination

¹⁶ Towns of Delafield, Eagle, Genessee, Lisbon, Merton, Mukwonago, Oconomowoc, Ottawa, Summit, Vernon and Waukesha.

¹⁷ Correspondence from Rebecca Boldt, of the Wisconsin Department of Revenue, December 9, 2002.

¹⁸ Ibid.

¹⁹ Petitioners also presented the Town of Preble- City of Green Bay Consolidation (1964) as an example where despite 37 years of constant growth pressure, the area still contains 43% of its original agricultural area. A search of Secretary of State records and the Department approval log for incorporations/consolidations, attached as Appendix B, produced no evidence that the Department ever reviewed and approved this consolidation. While it is true that approximately 6.5 square miles (4000 acres) of agricultural and natural resource areas currently exist in a compact and non-splintered shape, down from 16 square miles and 10,000 acres over 37 years, conversion of lands away from agriculture continues. In fact, the recently adopted *Green Bay Smart Growth 2022 Objectives and Policies* (2002) comprehensive plan calls for complete build out of this entire area. Therefore, consolidation does not stop conversion of land away from agriculture as petitioners seem to claim.

²⁰ *Muskego* (1964), page 1.

is organized by sections - a section for each standard – and contains information and analysis evaluating the petition against each standard, ultimately culminating in a determination for that standard.

Petitioners effort to consolidate may be more successful if 2003 Assembly Bill 130 becomes enacted into law. This bill, which recently passed the Assembly and is awaiting a vote by the Senate, would provide municipalities with an additional route to consolidation, provided that: 1) the two municipalities proposing to consolidate develop a joint comprehensive plan that meets the requirements of s. 66.1001, Stats.; and 2) that intergovernmental agreements be developed with all surrounding jurisdictions that approve of consolidation and address relevant policy issues. While AB-130 does not describe what these required comprehensive plans and intergovernmental agreements should contain or accomplish, should it pass, the bill might give the town and village another route towards consolidation. Particularly since a number of intergovernmental agreements and land use plans (which could be groundwork for comprehensive plans) have been developed for the area.

Another route for the town and village to have accomplished boundary adjustment, service sharing, agricultural preservation, and other mutual goals is through use of a cooperative boundary plan and agreement under s. 66.0307, Wis.Stats. In fact, the Department provided Petitioners with information about these agreements and offered its assistance.

SECTION 1(A) HOMOGENEITY AND COMPACTNESS

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

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

In addition to the statutory factors cited above, *Pleasant Prairie v. Department of Local Affairs & Development*²¹ also allows the Department to consider land-use patterns, population density, employment patterns, recreation and health care customs.²² Thus, *Pleasant Prairie* gives the Department flexibility. However, this flexibility applies to consideration of additional non-enumerated factors rather than flexibility in elimination, removal or reduction of an enumerated factor.

The facts surrounding each incorporation/consolidation 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. Recent determinations of the Department (since the 1980s) describe in detail the reasons for finding whether or not an incorporation/consolidation criterion is met or not met.

Physical and Natural Boundaries

Topography

Glaciated approximately 13,000 to 20,000 years ago, the topography of the planning area is, in general, level to gently rolling as seen in Map 2, Appendix C. Approximately 75% of the land contained within this area is rolling terrain with several landforms unique to the Kettle Moraine. The remaining relatively level and low-lying areas comprise an east-west swath that is associated with perennial stream valleys or wetland areas and include most of the Village of East Troy. Both sides of the flat valley fall well within the territory.²³

Lake Beulah, Army Lake, Swan Lake and Potter Lake are the dominant features in the northern one-half of the territory. Steep banks characterize all but the northeastern portion of Lake Beulah. The close proximity of these four lakes to each other creates extensive environmental corridors²⁴ as well as a conglomeration of lakefront property owners with similar interests in lake management and water quality issues.

Physical boundaries

The combined boundary of the Town and Village of East Troy is based upon town lines and the municipal limit line for the Village of East Troy where it extends into the Town of Troy. The Town of East Troy originally formed a square of 36 sq. miles, but has subsequently been

²¹ *Pleasant Prairie v. Department of Local Affairs & Development*, 108 Wis.2d 465 (Ct.App. 1982), affirmed, 113 Wis.2d 327 (1983).

²² *Ibid*, at pg. 337.

²³ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) pages 21-22.

²⁴ The corridor concept connects linkages of the best remaining natural features and wildlife habitat areas of the region.

SECTION 1(A) HOMOGENEITY AND COMPACTNESS

modified through annexation ordinances adopted by the Village of East Troy, and Village of Mukwanago. The Town of East Troy is in the northeastern corner of Walworth County, Wisconsin. The north line of the Town of East Troy is the division between Walworth and Waukesha Counties and a portion of the Village of Mukwonago, while the east line of the Town of East Troy is the boundary between Walworth and Racine Counties. South of Town of East Troy lies the Town of Spring Prairie, and westerly is the Town of Troy.

Honey Creek and Spring Creek cut through the territory, along with several unnamed tributaries. Honey Creek flows east to west through the Village and Town of East Troy.

A number of major transportation facilities are present in the town. Specifically, these are:

- Interstate (I) 43
- State Trunk Highway (STH) 20
- State Trunk Highway (STH) 120
- County Trunk Highway (CTH) L
- County Trunk Highway (CTH) J
- A rail line owned by Canadian National Railroad – Wisconsin Central Division

Interstate 43 bisects the territory from the northeast to southwest. Five crossings exist, two are co-located with highway interchanges within the Village of East Troy, the other three are Miramar Road in township PLS Section 10, Townline Road in Section 31 and Stone School Road in Section 2.

Watersheds and Drainage Basins

The East Troy area is located entirely within the Fox River Watershed, the dominant basin of the region. Originating on the Waukesha-Washington County line, the Fox River ultimately flows out of Wisconsin into Illinois.²⁵ However, the majority of the territory proposed for consolidation falls within portions of two sub-watersheds in this system, as seen in Map 3, Appendix C. The southern two-thirds of the area drain to Honey Creek, which flows due east near the center of the territory, and its tributary, Spring Creek. The northern one-third of the territory drains to the Mukwonago River, whose drainage basin is mainly with Waukesha County. All of these rivers and creeks are tributaries to the north-south flowing Fox River.²⁶

Spring Creek, which is the smallest tributary, starts near the south line of the territory, drains the south central area northerly into the Honey Creek. The proponents of consolidation claim with respect to Spring Creek, “the south line of the territory is running the ridge line of the Spring Creek basin, almost an ideal relationship between drainage and governmental line.”²⁷

The territory contains and wholly surrounds, Potter Lake in the northeast, Lake Beulah in the north, Army Lake south of Lake Beulah, and Swan Lake just west of Lake Beulah. The fact that the proposed boundaries do not cut through these lakes contributes to uniformity of lake management.

²⁵ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 23.

²⁶ *Ibid.*

²⁷ *Ibid.*, p. 21. See Maps 3 and 10, Appendix C.

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. Map 4, Appendix C, outlines the soil types present within the Village and Town.

The majority of the soils in the East Troy vicinity are from the Miami-McHenry and Casco-Fox associations. These soils are comprised primarily of clay loam. The two other major soil associations in the East Troy vicinity include Houghton-Palms and Casco-Rodman. Petitioners presented the following list of soil descriptions:²⁸

#1 Houghton-Palms association. Very poorly drained organic soils in depressions and on bottomlands.

#2 Miami-McHenry association: Well-drained soils that have a subsoil of clay loam and silty clay loam; formed in loess and the underlying sandy loam to loam glacial till, on uplands.

#3 Casco-Fox association. Well-drained soils that have a subsoil of clay loam, moderately deep over sand and gravel, on outwash plains and stream terraces.

#4 Casco-Rodman association. Well-drained and somewhat excessively-drained soils that have a subsoil of clay loam and gravelly sandy loam; shallow over gravel and sand, on the Kettle Moraine.

As seen in Map 5, Appendix C, many of the soils found throughout the area proposed for consolidation are suitable for mound sewage disposal systems under Comm 83. Because these areas can develop without sewer, they are susceptible to sprawl as defined by the Southeastern Wisconsin Regional Planning Commission (SEWRPC).²⁹ Coupled with the extensive quantity and quality of agricultural soils in East Troy, development could rapidly expand into areas of prime agricultural soils. However, there are also pockets soils with low Private Onsite Wastewater Treatment Systems (POWTS) suitability. These are concentrated primarily in the flat, poorly drained areas of East Troy that lie south of the Village and south and east of Potter Lake, extending to the east Town boundary. Petitioners claim that the concentration of these soils with low POWTS suitability will prevent significant portions of the area south of I-43 from developing, thus reinforcing the premise of supporting continued agriculture in that area.³⁰ Furthermore, they claim that the Village and Town have demonstrated, through plans and a signed resolution by the Village of East Troy to protect 8,694 acres of land for agricultural/rural residential use, a commitment to agricultural preservation that will help preclude sprawling development.³¹

Dwelling potential (which includes POWTS suitability but also includes soil properties affecting site preparation, construction and continuing limitations for single-family homes with basements)

²⁸ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 27.

²⁹ *Ibid.* p. 29. SEWRPC defines sprawl as development without sewer. Normative urban planning theory would likely say that sprawl also includes absence of association between residential development and schools, retail establishments, and employment centers.

³⁰ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 31.

³¹ *Ibid.*, pp. 111-112.

further restricts the location of development. While this is somewhat concentrated in the prime agricultural soils section, there is again much that can be developed. Therefore, a policy to direct growth away from these prime soils is a goal of East Troy and is discussed further in the Land Use section.

However, examining the location of these prime agricultural soils, they are found principally along the southern and eastern boundary of the Town in an almost semi-circle surrounding the Village and communities surrounding Lake Beulah and Potter Lake as seen in Maps 6a and 6b, Appendix C. The soils also extend outward into the neighboring jurisdictions of Waterford and Spring Prairie, leading to a finding of homogeneity of farm land with these surrounding Towns rather than with the Village or even with lake communities within the Town of East Troy. This is discussed further in the determination section.

Critical Species

While not expressly part of the standard under review (the federal and state adoption of the relevant endangered species acts post-dates the advent of Wisconsin's incorporation statute), the following information presented here may be useful to the Town as it develops plans, policy measures, and ordinances that prospectively recognize and protect the many endangered and threatened species and unique natural communities present in the proposed village.

Under the provisions of s. 29.608, Wis. Stats., Wisconsin assumes responsibility for conserving native wild animals and plants, and for taking steps to enhance their continued survival and propagation for the aesthetic, recreational and scientific benefits for future generations. The Wisconsin Legislature has found that the activities of both individual persons and governmental agencies are tending to destroy the few remaining plant-animal communities in the state. Therefore, the legislature has urged "all persons and agencies to fully consider all decisions in this light."³²

The Wisconsin Department of Natural Resources (WDNR) has established by administrative rule an endangered species and threatened species list. "Endangered species" means any species whose continued existence as a viable component of this state's wild animals or wild plants as determined by the WDNR to be in jeopardy on the basis of scientific evidence. "Threatened species" means any species of wild animals or wild plants which appears likely, within the foreseeable future, on the basis of scientific evidence to become endangered. "Special Concern species" means species with suspected problems of either abundance or distribution, and about which more information will be gathered.³³

The following are the endangered resources that are known or suspected to be rare that occur within or near the project site. They include species that are legally designated as endangered or threatened, as well as those species in the special concern category.

Fish

- *Fundulus dispar* (Starhead Topminnow), State Endangered Species, Imperiled in Wisconsin because of rarity or other factor making it vulnerable to extirpation from the state.
- *Fundulus diaphanus* (Banded Killifish), State Special Concern Species, Rare or uncommon in Wisconsin.

³² *Bohners Lake Determination* (1999).

³³ Section 29.604, Wis.Stats.

SECTION 1(A) HOMOGENEITY AND COMPACTNESS

- *Notropis anogenus* (Pugnose Shiner), State Threatened Species, Rare and imperiled in Wisconsin.
- *Coregonus artedi* (Lake Herring), State Special Concern Species, Rare or uncommon in Wisconsin.
- *Erimyzon sucetta* (Lake Chubsucker), State Special Concern Species, Rare or uncommon in Wisconsin.
- *Etheostoma microperca* (Least Darter), State Special Concern Species, Rare or uncommon in Wisconsin.

Herptiles

- *Emydoidea blandingii* (Blanding's Turtle), State Threatened Species, Rare or uncommon in Wisconsin.
- *Rana catesbeiana* (Bullfrog), State Special Concern Species, Rare or uncommon in Wisconsin, yet apparently secure.

Plants

- *Platanthera flava var herbiola* (Pale Green Orchid), State Threatened Species, Critically imperiled in Wisconsin because of extreme rarity or other factors making it especially vulnerable to extirpation from the state.
- *Carex crawei* (Crawe Sedge), State Special Concern Species, Imperiled in Wisconsin because of rarity or other factors making it very vulnerable to extirpation from the state.
- *Besseyia bullii*, (Kitten Tails), State Threatened Species, Rare or uncommon in Wisconsin.
- *Solidago ohioensis* (Ohio Goldenrod), State Special Concern Species, Rare or uncommon in Wisconsin.

Communities (areas that are native to Wisconsin and which contain prime habitat, including habitat for endangered resource species).

- **Bog Relict:** These boggy, acidic, weakly minerotrophic peatlands occur south of the Tension Zone within a matrix of "southern" vegetation. Bog relicts are isolated from the more extensive, better-developed and much more widespread stands of this community found in the northern part of the state. Acidophiles present can include sphagnum mosses (*Sphagnum* spp), sedges (e.g., few seeded sedge, *Carex oligosperma*), ericaceous shrubs, and insectivorous herbs. Tamarack (*Larix laricina*) is usually the most common tree and poison-sumac (*Toxicodendron vernix*) is often formidably abundant in the understory, especially in the moat (or "lagg") at the upland/wetland interface. Examples in southeastern Wisconsin are all somewhat alkaline and may resemble "shrub-fen" communities described in other states.

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- Emergent Aquatic: These open, marsh, lake, riverine and estuarine communities with permanent standing water are dominated by robust emergent macrophytes, in pure stands of single species or in various mixtures. Dominants include cat-tails (*Typha* spp.), bulrushes (*Scirpus acutua*, *S. fluviatillis*, *S. validus*), bur-reeds (*Sparganium* spp.), giant reed (*Phragmites australis*), pickerel-weed (*Ponterderia cordata*), water-plantains (*Alisma* spp.), arrowheads (*Sagittaria* spp.), and the larger species of spikerush such as (*Eleocharis smillii*).
- Northern Wet Forest: This forest community occurs on nutrient-poor sites with excessively drained sandy or rocky soils. The primary historic disturbance regime was catastrophic fire at intervals of decades to approximately a century. Dominant trees of mature stands include jack and red pines (*Pinus banksiana* and *P. resinosa*) and/or Hill's oak (*Quercus ellipsoidalis*). Large acreages of this forest type were cut and burned during the catastrophic logging of the late 19th and early 20th century. Much of this land was then colonized by white birch (*Betula papyrifera*) and/or quaking aspen (*Populus tremuloides*), or converted to pine plantations starting in the 1920s. Common understory shrubs are hazelnuts (*Corylus* spp.), early blueberry (*Vaccinium angustifolium*) and brambles (*Rubus* spp.); common herbs include bracken fern (*Pteridium aquilinum*), starflower (*Trientalis borealis*), barren-strawberry (*Waldsteinia fragarioides*), cow-wheat (*Melampyrum lineare*), trailing arbutus (*Epigaea repens*), and members of the shinleaf family (*Chimaphila umbellata*, *Pyrola* spp.). Vast acreages of open "barrens" were also planted to pine, or naturally succeeded to densely stocked "dry" forests.
- Southern Sedge Meadow: Widespread in southern Wisconsin, this open wetland community is most typically dominated by tussock sedge (*Carex stricta*) and Canada bluejoint grass (*Calamagrostis canadensis*). Common associates are water-horehound (*Lycopus uniflorus*), paniced aster (*Aster simplex*), blue flag (*Iris virginica*), Canada goldenrod (*Solidago canadensis*), spotted joe-pye-weed (*Eupatorium maculatum*), broad-leaved cat-tail (*Typha latifolia*), and swamp milkweed (*Asclepias incarnata*). Reed canary grass (*Phalaris arundinacea*) may be dominant in grazed and/or ditched stands. Ditched stands can succeed quickly to Shrub-Carr.
- Tamarack Fen: This forested wetland community type is a variant of the Tamarack Swamp, but occurs south of the Tension Zone within a matrix of "southern" vegetation types. Poison-sumac (*Toxicodendron vernix*) is often a dominant understory shrub. Successional stages and processes are not well understood but fire, windthrow, water level fluctuations, and periodic infestations of larch sawfly are among the important dynamic forces influencing this community. Groundwater seepage influences the composition of most if not all stands. Where the substrate is especially springy, skunk cabbage (*Symplocarpus foetidus*), marsh marigold (*Caltha palustris*), sedges, and a variety of mosses may carpet the forest floor. Drier, more acid stands may support an ericad and sphagnum dominated groundlayer.³⁴

Because a comprehensive endangered resource survey has not been completed for this area, there may be other endangered species present in addition to those listed above.

³⁴ Source for the species review is the Wisconsin Department of Natural Resources' Internet site at <http://gomapout.dnr.state.wi.us>.

Environmental Corridors, Wetlands and Natural Areas

The Village and Town's natural resources are predominantly located in environmental corridors (as seen in Tables 8 and 9 in the Land Use section). See Map 7, Appendix C. This map portrays environmentally significant lands in the East Troy area³⁵ and shows five primary environmental corridor systems:

- stretching from the northwest corner of the town east to the northern tip of Lake Beulah;
- surrounding Swan Lake and continuing northeasterly between CTH "J" and Lake Beulah before also including the territory between Lake Beulah and Army Lake;
- Honey Creek as it flows through the Village and Town;
- an area between Army and Potter Lakes; and
- Survey Section 26 north of Miller Road.³⁶

There are also seven natural areas and critical species habitats, located within the Town of East Troy. Identified in the *Regional Natural Area and Critical Species Habitat Protection and Management Plan for Southeastern Wisconsin* (1997), the sites include the Beulah Bog State Natural Area, Swan Lake Wetland Complex, East Troy Tamaracks, Theide Road Tamarack Swamp, Army Lake Lowlands, Potter Lake Tamaracks, Hilburn Sedge Meadow. The SEWRPC recommends all of these areas for protective ownership.³⁷

The *Village of East Troy Comprehensive Land Use Plan* (2000), in tandem with the *Park and Open Space Plan for the Village of East Troy* (1998), complements the regional plans and describes in greater specificity the means to preserve such areas. Primary environmental corridors are to be preserved "essentially [in an] open natural state" and will help to prevent such costly environmental problems as flooding and water pollution which can lead to "wet and flooded basements, foundation failures and excessive clear water infiltration and inflow into sanitary sewerage systems."³⁸ Secondary environmental corridors can also benefit East Troy by facilitating surface water drainage, maintaining valuable pockets of natural resource features and providing corridors for the movement of wildlife.³⁹ Isolated natural areas, which total approximately 347 acres or 5.49% of the total planning area, are typically comprised of wetlands and woodlands and are also to be considered for protection. Floodlands are also critical for managing stormwater as well as providing natural resources habitat, and are to be preserved as essentially natural or open spaces or if currently in agricultural use, to remain as such.⁴⁰

Ambient Air Quality

Walworth County is in attainment of U.S. Environmental Protection Agency (EPA) air quality standards,⁴¹ and because of this, neither the County, nor the Town or Village of East Troy are subject to any specific control measures. However, according to WDNR Air Management Staff,

³⁵ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 20.

³⁶ *Ibid.*

³⁷ *SEWRPC Planning Report No. 42*, September (1997) pp. 500-5001.

³⁸ *Village of East Troy Comprehensive Land Use Plan* (2000) p. 20.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ Wisconsin Air Quality Summary (2001) U.S. Environmental Protection Agency, <http://oaspub.epa.gov/airsdata/adaqs.summary?geotype=co&geocode=55009&geoinfo=%3Fco%7E55009%7EBrown+Co%7EWI&year=2002&fld=county&fld=stabbr&fld=reg&rpp=25,5/28/03>.

Walworth County is very likely to be designated nonattainment for the 8-hour ozone standard by the EPA in April 2004.⁴² Therefore, both the Village and Town of East Troy should encourage compact development, along with related commercial and retail facilities, that shorten trip distances for working, shopping, going to school, etc. The Village and Town should also facilitate transportation alternatives to driving such as transit, walking, and bicycling. This is described further in this section under transportation and land use.

Historical, Archaeological or Architecturally significant resources

Resources situated within an area proposed for incorporation can have statewide or even national importance. The Department considers the existence of such resources as well as actions taken to preserve them. A search of the Wisconsin State Historical Society (WSHS) databases revealed no historic places in either the Village or Town of East Troy on the state or national register of historic places. The types of properties that are eligible for listing on these registers include historic districts, individual buildings, parks, bridges, locomotives, and archaeological sites.

However, the WSHS also collects information on Wisconsin structures and archeological sites that, although they are not listed on the historic register, may potentially have historic value and warrant further examination. There are 76 such historic structures, identified by the State Historical Society of Wisconsin's Wisconsin Architecture and History Inventory, in the proposed area for consolidation. These areas vary in structure and include 52 houses, six retail buildings, three churches, three schools, two museums, two barns, an opera house/concert hall, a railroad marker, two outbuildings, a hotel/motel, a meeting hall, and two miscellaneous structures.⁴³

Also, 12 archaeological and burial sites have been reported for the Town and Village of East Troy.⁴⁴ The WSHS records do not include all of the archaeological sites, mounds, unmarked cemeteries, marked cemeteries, and cultural sites that are present in the state, only those sites that have been reported. Undoubtedly other sites are also present but have not been investigated or have not been reported.

Transportation

The Department reviews modes of transportation within an area proposed for consolidation to determine if the area streets, highways, roads, bikepaths, sidewalks, and other modes of transportation contribute to a finding of compactness and homogeneity under s. 66.0207(1)(a), Wis.Stats. The following review details the state of transportation systems in both the Village and Town of East Troy, as seen on Map 8, Appendix C.

Highways and Roads

As mentioned previously on page 9, a network of state, county and town roads serve the Town and Village of East Troy, including Interstate (I) 43, State Trunk Highway (STH) 20 and STH 120, County Trunk Highway (CTH) L and CTH J. The main thoroughfares of Interstate 43 and STH 20 run diagonally from the southwest to northeast and east-west through of the Town, respectively. These major transportation facilities are designed to facilitate movement through the region and the state rather than movement within the Village and Town of East Troy.

⁴² The unseasonably cold summer of 2000 had relatively low ozone levels, thus allowing the 2000-2002 average to remain in attainment for the 8-hour ozone standard. Walworth County is at risk of reaching non-attainment levels for this same standard during the summer of 2003. EPA will use 2001, 2002, and 2003 data when they make their final nonattainment decision in April of 2004. Per email correspondence with Dennis Koepke, WNDR, 5/28/03.

⁴³ Wisconsin Architecture & History Inventory, www.wisconsinhistory.org/ahi/search.asp?cnty=WL.

⁴⁴ Correspondence from John Broihahn, State Historical Society of Wisconsin, 5/29/03.

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However, there are five crossings of I-43 in the Town and Village of East Troy, two are co-located with highway interchanges (I-43 and STH 20; I-43 and STH 120) within the Village and three are located in the Town at Miramar Road in town PLS Section 10, Stone School Road in Section 2 and Townline Road in Section 31. These crossings facilitate movement throughout the Town and Village, and are likely adequate for the existing level of development and associated population.

As seen in Table 3 below, other through roads in addition to I-43 and STH 120 do exist within the Town and include three additional roads in an east-west direction while only two roads exist in a north-south orientation. Petitioners argue that despite this seemingly lack of connectivity, a series of non-through roads, defined as “roads one to three miles in length that provide internal connectivity yet discourage extraneous through traffic” exist to compensate.⁴⁵ There are four such roads in the east-west orientation and six in the north-south direction.

Table 3: Through- and Non-Through Roads in Consolidated Area

Through Roads in Consolidated Area	Non-Through Roads in Consolidated Area
<i>East-West</i>	<i>East-West</i>
CTH J, west of CTH ES	St. Peters Road (just north of Village)
CTH ES (SW-NE, diagonal, performs some N-S role)	Miramar Road (just north of Potter Lake)
I-43 freeway (SW-NE, also performing some N-S role)	Miramar Drive (north edge of Potter Lake)
STH 20	CTH L (diagonal, airport NE to STH 83)
Honey Creek/Miller Road, east of STH 120	
<i>North-South</i>	<i>North-South</i>
Town Line-Booth Lake Rd (CTH E)(west side)	Stringers Bridge Road (just west of Lake Beulah)
Stone School-Bell School Roads (east side)	Church Street, STH 120 (south from village center)
	East Shore Road (east end of Lake Beulah)
	Carver School Road (STH 20 to Honey Creek Road)
	Hilburn Mill Road (STH 20 to CTH L)
	Honey Creek Road south of Miller Road

While these roads do provide a degree of internal connectivity, there remains relatively few route options to enable residents to move throughout all areas of the town. This could, as the jumbling of farming and subdivisions continues to occur, produce dangerous conditions such as slow moving farm equipment sharing the road with increasing numbers of cars. Conditions such as these can increase the friction between farming and non-farming land uses in an area.

Overall, there are, according to the Wisconsin Department of Transportation (WisDOT), 3.55 miles of County trunk highway and 16.16 miles local roads/streets in the Village of East Troy. Through consolidation, the Town would contribute 13.06 miles of County trunk highway and 50.66 miles of local roads/streets.⁴⁶ During its site visit to the proposed territory, the Department noticed instances, especially in areas surrounding the lakes, where streets and roads vary considerably in pavement condition and do not to have the same right-of-way easement. While this is typical of lake areas in southern Wisconsin that were platted decades ago, it may create safety concerns.

⁴⁵ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 37.

⁴⁶ Wisconsin DOT District 2 – Waukesha 2002 CADDs Base Maps for the Village and Town of East Troy.

Neither the local land use plans of the Village and Town, nor the regional jurisdictional highway plan for Walworth County, adopting in 1994, propose any significant changes to the existing pattern of roadways.⁴⁷

Rail

Built in 1906-7, the East Troy Electric Railroad is a remaining segment of line from when the Village of East Troy was the terminus of a streetcar and interurban train line that ran from Milwaukee. The line currently runs from the Village of East Troy to the Mukwonago interchange where it ends at the Canadian National - Wisconsin Central Division derail, roughly following CTH ES and paralleled by I-43. This section of line survived owing to a need for freight service to sustain the industries located in the area. There is also a mile-long electrified industrial spur running south through the East Troy Industrial Park. Here several companies utilize the spur to ship products.⁴⁸

An additional active rail line exists in East Troy as the Canadian National - Wisconsin Central Division railroad enters the Town of East Troy in the southeast quadrant of Section 24 and exits in the northeast quadrant of Section 2.

Air

The East Troy Municipal Airport, centrally located in the northeast quadrant of Section 21, serves local air traffic. While this airport caters primarily to area businesses and the Alpine Valley entertainment complex, it is also home to over 100 aircraft and offers pilot services, aircraft rentals, repair services and flight instruction.⁴⁹ The closest passenger airports are General Mitchell International Airport in Milwaukee, 30 miles northeast, and Chicago's O'Hare International Airport, located 70 miles south.⁵⁰ A small, private airport is also located in the Town, east of the East Troy Municipal Airport.

Transit

Public transit for East Troy residents is severely limited. The Walworth County Department of Aging offers special services to the elderly and persons with disabilities.⁵¹ For transit to and from Downtown/University of Wisconsin-Milwaukee residents must travel to the Mukwonago (I-43/Hwy 83) Park & Ride in Waukesha County.⁵² There is also a Park & Ride located on CTH L at the East Troy Municipal Airport, however, this location only offers free overnight parking rather than bus services.⁵³

In the summer, there is also an electric trolley run by the East Troy Railroad museum. Running through both the Village and Town, this direct 10-mile course links the Elegant Farmer, a pick-your-own orchard, with the East Troy Railroad Museum. The ride lasts approximately 20

⁴⁷ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 37.

⁴⁸ A Nuts and Bolts Overview of the East Troy Electric Railroad (5/28/03) www.easttroyrr.org/nutsbolts.html.

⁴⁹ *Town of East Troy Land Use Plan* (1994) p. 12; East Troy Municipal Airport (5/28/03) <http://home.wi.rr.com/etairport/business.htm>.

⁵⁰ *Village of East Troy Economic Profile* (6/5/03) http://www.wisrep.org/REP_Sites/WALSITES/1999-2000_village_easttroy_EP.pdf.

⁵¹ *Ibid.*

⁵² <http://www.wisconsincoach.com/fares.htm>

⁵³ Wisconsin Department of Transportation: Travel Information (6/17/03) <http://www.dot.wisconsin.gov/travel/park-ride/pr6455.htm>.

minutes. Passengers can depart from either stop.⁵⁴ This service functions more as a recreational excursion than a transportation option for local residents.

Pedestrian and bicycle

Pedestrian and bicycle options for area residents are also severely limited. With respect to pedestrian opportunities, sidewalks are located primarily within the older neighborhoods of the Village of East Troy. However, recent Village subdivisions have been developed without sidewalks, which does create a transition outward toward the town where sidewalks are not common, yet also limits pedestrian opportunities.⁵⁵ Furthermore, a Departmental site visit found limited or nonexistent shoulders along roadways that could provide pedestrian or bicycle access. There are also no formal bicycle paths in East Troy, though recreational trails are planned in adjacent areas: 1) the NE quadrant of the county along the Sugar Creek in the Town of Spring Prairie, and 2) the Mukwonago River route northwest of East Troy in the Town of Troy.⁵⁶

As indicated earlier in this section on page 16, the lack of suitable conditions for alternate methods of transportation are of particular concern as Walworth County will most likely be in nonattainment status of the 8-hour ozone count. Improving such facilities could help to mitigate these air quality concerns. Also, pedestrian and bicycle facilities provide area residents with a healthy option for moving throughout the community.⁵⁷ This is important for all residents, but particularly those community members who are not able to drive.

Political Boundaries

As seen in Map 1, Appendix C, the political boundaries of the consolidated entity follow the Racine County line on the east and the Waukesha County line to the north, except where the Village of Mukwonago has annexed 1.75 square miles of territory from the Town of East Troy. The boundary to the south follows the Town line with Spring Prairie and the western boundary is a straight line with the Town of Troy, except for a small extension into the Town of Troy that was annexed by the Village of East Troy.

As protection from annexation is often an incentive for town residents desire to consolidate, this section discusses land annexations from the Towns of East Troy and Troy to the Villages of Mukwonago and East Troy, as well as Intergovernmental Agreements that arose in response to such actions. The following paragraphs also describe the boundaries of the school districts and sanitary district that serve East Troy residents.

Annexation

The exterior boundary or perimeter of the Town of East Troy has remained relatively stable over the course of its history, given that it is bounded almost entirely by other towns who similarly lack annexation power. However, in 2000, there were four large annexations totaling 1.75 square mile (approximately 1,120 acres) in Sections 1, 2 and 3 of the Town of East Troy to the Village of Mukwonago. These annexations are currently being litigated based on the “Rule of Reason” -

⁵⁴ East Troy Electric Railroad 2003 Schedule (5/28/03) <http://www.easttroyrr.org/schedule.html>

⁵⁵ *Re: Assessment of Information, East Troy Consolidation* from Russell Knetzger to George Hall (10/6/02) p. 2.

⁵⁶ *Ibid.*

⁵⁷ See *Creating a Healthy Environment: The Impact of the Built Environment on Public Health* (2002), by Richard Jackson, M.D., Chris Kochititzky, MSP. Centers for Disease Control and Prevention. See also *Healthy People 2010* at www.healthypeople.gov. U.S. Department of Health and Human Services.

that the village is taking in more land than it can reasonably use over a very long period of time.⁵⁸ Two smaller annexations from the Town to the Village of Mukwonago have also occurred, one in the mid 1990s comprised of 0.05 sq. mi. in Section 2, and another in 2002, consisting of 7.79 acres in Section 3.⁵⁹ Although petitioners state that “stability of long-known boundaries is a consolidation outcome,”⁶⁰ in fact, the history of area annexations would demonstrate otherwise. This consolidation would cut off the southern growth area of the Village of Mukwonago, an area that based on land use patterns and geography might be better served by Mukwonago, a concern raised by the Village when it became an intervenor in this consolidation proceeding. Furthermore, the perimeter of the consolidated entity was also modified to the west as the Village of East Troy recently annexed 25 acres of land from the Town of Troy⁶¹ This annexation falls within the “planned area” of growth for the consolidated entity, and is discussed further in the Intergovernmental Agreements section below.

The interior boundary, or that which is shared between the Village and Town of East Troy, has been more complex and involves 17 annexations from 1989 onward. These annexations have varied in size from 2.9 acres to 265 acres.⁶² Currently, there is a pending annexation of 98 acres proposed for residential development and to address the Village of East Troy’s stated need for the development of a new municipal well.

Intergovernmental Agreements

Commencing in 2001 and continuing to the present (the fifth agreement with Village of Mukwonago has not been approved), the Town and Village of East Troy as a consolidated entity entered into four Intergovernmental Agreements pursuant to s. 66.0301, Wis. Stats., with the surrounding towns of Waterford, Spring Prairie, Mukwonago and Troy. Three common themes were used in all agreements:

1. That the governing bodies believe they have authority to act for the future consolidation.
2. That in exchange for each town’s support of the East Troy consolidation, each town receives a written and signed Boundary Agreement, the main premise of which is:

*the consolidated entity will not annex territory from a signatory town without the permission of that town.*⁶³

3. That the Agreement will not prevent a town, when approached about annexation of some of its territory, from setting conditions on whether or not to give its approval. The agreements place no limitations on what conditions might be proffered. However, a review of other agreements being executed around the state finds such conditions range from annexation timing or phasing, reimbursement of town tax revenue lost, etc.⁶⁴

⁵⁸ The same argument could be made of the proposed consolidation, where the village will gain 20,100 acres of territory.

⁵⁹ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 3. See also Annexations Master Log (6/25/03) Department of Administration Records. The smaller annexation claimed in the submittal is not locatable in the DOA Master Log.

⁶⁰ *Ibid.* p. 39.

⁶¹ This annexation is also not found in the Master Annexation Log.

⁶² *Ibid.*; *Annexations Master Log* (as of 6/23/03) Department of Administration Records.

⁶³ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 125.

⁶⁴ *Ibid.*

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Petitioners initially intended to craft identical agreements with all four towns in order to make the agreements uniform. However, the actual negotiation resulted in two different town groups. One group consisted of the Towns of Waterford and Spring Prairie and resulted in identical, basic agreements with no extraneous issues. Their agreements also include a mediation process to resolve disputes and a provision that if one element of the agreement is found unenforceable, the entire agreement is voided.⁶⁵

The second group consisted of the towns of Mukwonago and Troy. The boundary agreement with the Town of Mukwonago is unique in that it does not have a time limit, a feature that it shares with that Town's agreement with the Village of Mukwonago. The agreement also binds the consolidated East Troy entity to support the Town of Mukwonago's use of incorporation or consolidation to resolve its own issues, should it choose to do so.⁶⁶

The Boundary Agreement with the Town of Troy is the most complex of the four, using an approach that acknowledges future annexations from its territory to the consolidated entity. In doing so, the parties have agreed to confine annexations to a 1850 foot deep strip of land that runs south from STH 20 to the south side of Section 25, slightly north of I-43. This spans a distance of one and a half miles exactly, and encompasses approximately 300 acres (including the 25 acres recently annexed to the Village of East Troy).⁶⁷ The land to be annexed will be served by sewer and water from the consolidated entity. In exchange, the consolidated village will pay lost taxes to the Town for a ten-year period. Furthermore, the consolidated village will provide sewer and water services to a Town of Troy growth area - an area north of STH 20 and around Booth Lake - without this area being annexed. Finally, the consolidated village will have only limited extraterritorial review authority in certain town areas.

The agreement with the Town of Troy also addresses the jointly managed Veterans Memorial Park, located on the shore of Booth Lake. Management of this park was the "single most protracted subject of the negotiations."⁶⁸ Currently, the Park is managed by the Towns of East Troy and Troy and the Village of East Troy, with commissioners from each municipality serving on a six persons joint park committee. Through surveys of patron use, the costs are currently divided such that the Town of Troy pays 20% and the remaining 80% is divided between the Village and Town of East Troy. Through the Boundary Agreement, park costs will be fixed at 25% (Town of Troy) and 75% (consolidated entity) and the park committee will now consist of three representatives from the Town of Troy and three from the area proposed for consolidation.⁶⁹

A fifth agreement between East Troy and the Village of Mukwonago is currently being negotiated. Issues addressed within the draft agreement recently submitted to the Department provide for Village of Mukwonago growth through the creation of an "attachment area" and the creation of final, permanent boundaries. In the agreement, the town would withdraw with prejudice from the pending annexation litigation and the village would withdraw as intervenor to this consolidation petition.

In all cases, the communities chose to base their agreements on s. 66.0301, Wis. Stats. Section 66.0301, Wis.Stats. are frequently referred to as 'general agreements'. Until 1991 when statutory authority for 'cooperative boundary agreements' was enacted under s. 66.0307, Wis.Stats.,

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 127.

⁶⁸ Ibid.

⁶⁹ Ibid.

communities relied on general agreements to agree to municipal boundaries. General agreements are still commonly used for cooperating with services. Since 1991, communities using general agreements for fixing boundaries have done so at their peril. Because cooperative boundary agreements under s. 66.0307 Wis.Stats., stipulations and orders under s. 66.0225, and revenue sharing agreements under 66.0307, all expressly authorize municipal boundaries – while general agreements do not – the implication has become that general agreements when used alone are not binding with regard to boundaries, and particularly not on future governing bodies. This belief is strengthened by the substantial procedural safeguards that are present within sections 66.0307, 66.0225, and 66.0305, Wis.Stats. to protect landowners’ property rights that are not present with general agreements. These safeguards relate to notice, hearings, public comment, referendums, etc. Because of these reasons, a number of courts in the state have disallowed boundary agreements using s. 66.0301, Wis.Stats. Therefore, although the governing bodies’ effort in drafting all of these general agreements was doubtless in good faith, it is difficult for the Department to rely upon them.⁷⁰ Also, the agreements do not appear to address the land use planning, development, and intergovernmental service issues that are inherent in the incorporation standards under s. 66.0207, Wis.Stats. For example, what land uses are the parties agreeing to permit and maintain on either side of the proposed municipal limit line that will provide for a future harmonious working relationship between the governing bodies? Also, the severability clause in some of the agreements is troubling because the failure of an agreement could remove a basis of the Department’s approval of the consolidation.⁷¹

School District Boundaries

The area proposed for consolidation is served primarily by the East Troy School District, with the extreme southeast corner of the Town served by the Burlington School District, and a small section of the northeast corner by the Mukwonago School District (as seen on Map 10, page 40 in the consolidation submittal). The East Troy District also serves the majority of the Town of Troy, the northern one third of the Towns of Lafayette and Spring Prairie and small portions of the Towns of La Grange and Eagle.

Because the determination of school district boundaries is an entirely separate process from municipal governance, the proposed consolidation of the Town and Village of East Troy will have no effect on school district boundaries. However, as the Department noted in its determination in *Pewaukee* (1998), schools nonetheless have an impact in molding community allegiance through scholastic, social, and recreational activities. Furthermore, coordinated land use policies can help to better align school expansion to new housing.⁷²

Many of these characteristics already exist in the area proposed for consolidation. The Town of East Troy already generates a significant level of community social interaction and allegiance since all public schools are located within the area proposed for consolidation. School sponsored events include an active PTO, and family-oriented events such as an academic fair. Table 4, as follows, outlines the schools located within the area proposed for consolidation.

⁷⁰ The Department did provide information on s. 66.0307, Wis. Stats., the cooperative boundary plan and agreement law, which is binding with regard to municipal boundaries.

⁷¹ 2003 Assembly Bill 130 similarly does not provide for what, if any, recourse should occur in the event that an agreement necessary for the consolidation later fails. This is not a trivial matter, as a recent incorporation approved by the Department relied in part on just such an intergovernmental agreement that one of the parties now disavows. Had s. 66.0307, Wis. Stats., been employed then the Department would have more certainty that contractual obligations would be respected.

⁷² *Ibid*, p. 39.

Table 4: Schools Serving the Village and Town of East Troy Residents

School Name	Grades	Address
Chester Byrnes Elementary School	Kindergarten	2031 Division Street
Doubek Elementary School	1-2	2040 Beulah Avenue
Prairie View Elementary School	3-5	2131 Townline Road
East Troy Middle School	6-8	3143 Graydon Ave.
East Troy High School	9-12	3128 Graydon Avenue
Good Shepherd Lutheran School	PreK-5	1936 Emery Street
St. Peter's Catholic School	K-8	3001 Elm Street
St. Paul's Evangelical Lutheran	Preschool-8	2665 North Street

The vast majority of East Troy students attend schools located primarily within the Village of East Troy. Currently, according to Census 2000, there are 438 students in grades 1-8 and 241 in high school who live in the Town, while there are 381 students in grades 1-8 and 238 in high school from the Village. Given that enrollment is level and trending downward, according to the District Business Manager, there are no plans for any further school construction or added capacity, particularly since a new Elementary School, Prairie View, was constructed within the past few years.⁷³

Sewer Service

The Village of East Troy provides sewer services throughout the Village as well as portions of the Town with force mains that extend to Alpine Valley, Army Lake and Sanitary District #2 around Potter Lake.⁷⁴ Both the Village of East Troy and the Village of Mukwonago Sewer Service Areas (SSA) are found within the area proposed for consolidation, as seen in Map 10, Appendix C. Although the Mukwonago SSA is significantly smaller, recent amendments to enlarge the area are underway.

Sewage from the village and town is handled at the Village of East Troy sewage treatment facility. This plant has a design capacity of 0.7 million gallons per day (mgd) and a Biological Oxygen Demand (BOD) of 1197 pounds per day. As of the year 1998, the average annual flow rate was 0.359 mgd and the BOD was 737 pounds per day, increases of 32% and 24% since 1990, respectively. If demand continues at a similar rate, the existing sewer system should have the capacity to provide services through the year 2020.⁷⁵ However, estimates of future population increases indicate the need to conduct facilities planning to expand the existing treatment plant “at some point during the planning period.”⁷⁶

Expansion of the East Troy SSA was also undertaken in December of 2000 by the SEWRPC, based on a high-growth, decentralized alternative.⁷⁷ The amendment included four separate areas as seen on Map 10, Appendix C. Combined, the four areas added are 0.9 square miles, or an

⁷³ *Re: Assessment of Information East Troy Consolidation* from Russell Knetzger to George Hall (10/6/02) p. 3.

⁷⁴ *Village of East Troy Comprehensive Land Use Plan* (2000) p. 42.

⁷⁵ *Village of East Troy Comprehensive Land Use Plan* (2000) p. 42.

⁷⁶ *Sanitary Sewer Service Area for the Village of East Troy and Environs* (December 2000) p. 17.

⁷⁷ *Ibid*, p. 13.

increase in the SSA of 11%.⁷⁸ Two of the four areas are located north of the current Village boundary and are comprised mainly of agricultural lands with some existing residential use. Future development on private wells and septic was envisioned by the Town plan. The Village is now proposing denser residential development on public sewer and water. Another area is located within one mile of the I-43, STH “20” interchange, to the south and east and consists primarily of agricultural uses. This area is envisioned to accommodate both residential and industrial uses. The final area, located in the southwest corner of the SSA is currently transitioning from agricultural to residential use.⁷⁹

The SEWRPC also approved an amendment of the Mukwonago SSA (lying partially in the Town of East Troy) in December of 2002 to meet the immediate needs of the Village of Mukwonago while their comprehensive SSA plan was being updated. Initially, the Village of Mukwonago requested an addition of 155 acres or an increase in their planned SSA of 3%.⁸⁰ Based on comments from the Town of East Troy suggesting the SSA expansion should only encompass the area in anticipation of the reconstruction of CTH ES in the vicinity, the amendment was reduced to 76 acres or a 1% increase in the SSA. Furthermore, boundary-related negotiations were underway and the SEWRPC viewed the reduction in size as supporting the process.⁸¹ However, despite requests for an increased SSA for the Village of Mukwonago, the Town of East Troy is approving low density residential developments on private well and septic immediately adjacent to this area in Section 3-4. The Village of Mukwonago has incorporated this preexisting land use into their land use plan, but doing so has not necessarily facilitated agreement between the village and the town regarding an appropriate municipal limit line and zone of transition between land uses. This extreme north-east corner of the Town of East Troy, comprising part or all of Sections 2-4, appears to be experiencing rapid platting, as well as transportation infrastructure improvements, that are difficult to capture with readily available digital mapping data.⁸²

Water supply

The Village of East Troy is also served by a municipal water system, comprised of three wells.⁸³ Currently, efforts are underway to acquire land in the Town for the creation of an additional municipal well. However, conflicting data regarding the effect of such a well on Lake Beulah water levels and private wells has generated opposition from Lake Beulah residents and has slowed the process. However, alternative sites have proved unfeasible due to their locations near closed landfills, thus presenting a high probability for contamination from the seepage plumes.⁸⁴

In contrast, much of the Town is served by private, on-site wells and septic systems.

To protect the groundwater of East Troy from certain land use practices and activities that can seriously threaten or degrade groundwater quality and thus the drinking water, the Village of East Troy has enacted a wellhead protection ordinance. This ordinance applies to areas of the village that lie within the *Groundwater Protection Overlay District* that contributes recharge water

⁷⁸ *Sanitary Sewer Service Area for the Village of East Troy and Environs* (December 2000) p. 17.

⁷⁹ *Sanitary Sewer Service Area for the Village of East Troy and Environs* (December 2000) pp. 13-15.

⁸⁰ *Amendment to the Regional Water Quality Management Plan Village of Mukwonago* (2002) p. 1.

⁸¹ *Ibid*, pp. 1, 3.

⁸² From inspection, CTH J and ES provide easy access to nearby Village of Mukwonago retail and commercial facilities for Town residents living around Potter lake, and on the north side of Lake Beulah, including the newer subdivisions developing in parts of Sections 3-4.

⁸³ *Village of East Troy Comprehensive Land Use Plan* (2000) p. 43.

⁸⁴ *Re: Assessment of Information East Troy Consolidation* from Russell Knetzger to George Hall (10/6/02) p. 8.

directly to Well #5. A Groundwater Technical Review Committee oversees this issue and consists of the village administrator, village planning and zoning officer, village engineer, and the superintendent of public works. This committee is charged with: providing objective and scientific technical review of requests for conditional use permits, making recommendations to the Plan Commission to grant or deny conditional use permits based upon the facts discovered in this review, making recommendations on any and all conditions placed on a conditional use permit, and giving advice on matters concerning groundwater. The boundaries of this overlay district are shown on the Village of East Troy's zoning map. The ordinance specifies which land use activities are permitted in the wellhead protection district, and which are prohibited because of their high risk potential to pollute the village's groundwater.

Shopping and Social Customs

The area proposed for consolidation does provide shopping, employment, social and recreational opportunities for area residents.

Shopping and employment

Map 11, Appendix C, shows the locations and types of businesses located in the Town and Village of East Troy. According to Petitioners' submittal, there are a total of 246 businesses in the area, with 222 (90%) located in the Village of East Troy and the remaining 24 (10%) scattered primarily around Lake Beulah and Potter Lake, with additional businesses located in the southeastern area. Many of the Town businesses are more rural in nature and include farms, camps and equine parks.⁸⁵ This skewed ratio between shopping and employment opportunities in the village and town reinforces the idea that town residents rely heavily on neighboring jurisdictions to meet much of their shopping and employment needs. Furthermore, upon Departmental site visit, certain areas of the town were found to be correlated more so with the Village of Mukwonago, given the emerging development on Mukwonago's south side and the transportation access provided by I-43.

The major employment businesses, according to the 2001 SNAP data are listed in the following Table:

Table 5: Major Employers in East Troy

Firm	Employees⁸⁶	Location
SOUTHERN WISCONSIN FOODS LLC	H	2511 MAIN STREET
BUELL MOTORCYCLE CO	G	2815 BUELL DRIVE
PLASTRONICS PLUS INC	G	2735 MAIN STREET
CRUCIBLE MATERIALS CORP	F	2015 ENERGY DRIVE
EAST TROY HIGH SCHOOL	F	3128 GRAYDON AVENUE
EAST TROY MIDDLE SCHOOL	F	3143 GRAYDON AVENUE
FLEXFAB MOLDED PRODUCTS LLCC	F	2030 YOUNG ST
KIWANIS MANOR INC	F	3271 NORTH STEET
RAY'S SHOP RITE	F	3288 W MAIN STREET
SCOT INDUSTRIES MILW	F	2227 NORTH STREET
WISCONSIN PRECISION CAST CORP	F	W405 CTY RD L

(Source: *SNAP Data 2001*)

⁸⁵ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) pp. 46, 58.

⁸⁶ SNAP provides a letter code that indicates a range of employees. This letter code is A = 0, B = 1-4, C = 5-9, D = 10-19, E = 20-49, F = 50-99, G = 100-249, H = 250-499.

Also, Petitioners' list of businesses in the Town and Village of East Troy indicated a wide range of business types, including two local newspapers, a drugstore, nursing home, medical, law, real estate, insurance and accounting offices, a funeral home, airport, restaurants, taverns, motor vehicle sales, auto repair shops, a food market, printing services, a health fitness center, construction and building repairs, and a car wash. These businesses provide some residents of the consolidated area with employment and shopping options, albeit primarily within the Village of East Troy. Again, many residents seek such opportunities elsewhere.⁸⁷

Commercial and industrial economic growth has remained moderate within the Village of East Troy. Recent commercial growth has occurred at CTH ES and Townline Road, and the industrial park had reached build out in 2000. Also, a village approved Tax Incremental Finance District comprised of 23.3 acres of commercial land and 190 industrial land will accommodate future growth of existing industry in the Village and attract new light industrial office and commercial uses.⁸⁸ It is located south of I-43 at Honey Creek Road.

The Town of East Troy's land use plan recommends that commercial growth be directed to STH 20 and CTH ES, an area adjacent to the village. No plans exist for any new industrial development, only the continuation or expansion of current locations.⁸⁹

Recreation

There are a number of recreational opportunities for residents of the village. The Electric Railroad Museum is located two blocks east of the village square and offers exhibits and rides aboard different kinds of trains, including dinner and entertainment excursions. It attracts visitors from throughout the region and state, and functions in conjunction with the village square as the local hub for community activities such as Railroad Days. There are also a variety of festivals held at the village square, including Spring Festival, Harvest Festival, Bluegrass Festival, Corn and Brat Roast, Fourth of July Parade, Fall Fun Days, Ride with Santa, Kiddie Contest and a farmers market from May to August. These events attract hundreds of visitors from all over the Midwest.⁹⁰ Residents also have easy access to the nearby Alpine Valley Music Theater, located at 2699 Hwy D. This is a regional outdoor concert venue that hosts national musical acts and performers and draws people from across Wisconsin and Illinois.⁹¹

Outdoor recreation includes numerous camps, golf at the Lake Beulah County Club and the Alpine Valley Resort, and downhill skiing in winter also at Alpine Valley. Other local events and civic organizations include the Stacey Farms (corn maze, hay rides, pumpkins), the Sky Knights Sport Parachute Club, American Legion Post #188, the East Troy Lions Club (which hosts numerous family events over the Fourth of July Weekend, with carnival rides, live bands and one of the state's largest parades), and the East Troy Chamber, which hosts its annual event over Memorial Day Weekend.⁹²

⁸⁷ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 45.

⁸⁸ *Village of East Troy Comprehensive Land Use Plan* (2000) p. 44.

⁸⁹ *Town of East Troy Land Use Plan* (1994) p. 18.

⁹⁰ East Troy's charms captivate passers-by (April 20, 2002) www.jsonline.com/homes/buy/apr02/36399.asp; Village Profile: East Troy WI (visited 6/20/03) www.villageprofile.com/wisconsin/eastroy/eastroy1.html#events.

⁹¹ Alpine Valley web site (visited 7/11/03) www.alpinevalleymusic.com/default.asp.

⁹² Village Profile: East Troy WI (visited 6/20/03) www.villageprofile.com/wisconsin/eastroy/eastroy1.html#events.

The Village maintains a web site to keep residents apprised of community events and information. The web address is: www.easttroy-wi.com/index.html. Examples of the kinds of information posted on the web site are: current village board members, election information, information about utility fees and how bills may be paid, property taxes, assessments, meeting dates, meeting minutes, required licenses and permits, the East Troy Parks & Recreation Department, emergency contacts and garbage and recycling. The web site also provides links to other sites of interest, to Walworth County residents such as the East Troy Municipal Airport, East Troy Chamber of Commerce, Walworth County, East Troy Public Library, Legal Notices and Alpine Valley Music Theatre.

There are also numerous opportunities for residents to participate in Village of East Troy community governance and leadership including the East Troy Library Board, East Troy Municipal Airport Advisory Committee, Fire District, Plan Commission, Park and Recreation Commission, Booth Lake Memorial Park Board, Consolidation Steering Committee, Joint Board meetings with the Town of East Troy, Village Board, Village Plan Commission & Architectural Review Board, Village of East Troy Technical Review Committee, and the Friends of East Troy Railroad Museum.⁹³

There does not exist a similar web site or newsletter for town residents. Despite numerous requests, Petitioners never provided the Department with information about the social and recreational opportunities that exist in the town. It may be that town residents depend on the village for many of these opportunities. It is also possible that social activity in the town occurs in a variety of scattered settings, such as for example around each of the various lakes. On its site visit, the Department observed numerous private beaches and clubs surrounding these lakes. It is possible that through consolidation, the level of social cohesion between town and village residents may become stronger than it is now.

Parks

The East Troy Parks & Recreation Department, located in the village hall, provides parks, facilities, and recreation programs for the community. The department is governed by a seven-person Parks & Recreation Board which meets on the third Tuesday of each month at the Village Hall. Agendas and minutes of meetings are available on the Village's web site and residents are "invited to attend and are welcome to make suggestions or constructive comments to improve program or facilities that are offered."⁹⁴ Planning for the parks and open spaces of East Troy is detailed in the *East Troy Comprehensive Park and Recreation Plan* (1998), created by the Village of East Troy Parks and Recreation Committee.⁹⁵

The Village of East Troy Parks and Recreation Department also coordinates a number of community programs such as youth baseball, soccer, football, golf, volleyball, tennis, track and field, gymnastics, and cheerleading. Other youth activities include cheerleading camp, skateboarding, rock climbing, canoeing outings, arts and crafts, cooking, swimming and rescue lessons, music, and others. The parks and recreation department also coordinates activities for adults and seniors including sports and exercise classes, horse riding, cards, bingo, cribbage, a community band, and outings to theatre productions, museum, and festivals. All of these

⁹⁴ *Village of East Troy web site* (visited 7/8/03) www.easttroy-wi.com/park_&_rec.htm.

⁹⁵ *Village of East Troy Comprehensive Land Use Plan* (2000) p. 17.

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programs are available to residents of the Village of East Troy, and also to non-residents (including the Town of East Troy residents) for a higher fee.⁹⁶

Parks that are managed by the Board are as follows:⁹⁷

- 1) Playmore Park – Located at the corner of West Street and Graydon Avenue, this park provides a recreational area for pre-school and younger elementary school students.
- 2) Amusement Park – Located on the corner of West Street and Graydon Avenue (across the street from Playmore Park), this park includes a grandstand, athletic fields for baseball and softball, and concession stands. This park is home to the Lion's Club Fourth of July Celebrations.
- 3) Mitchell Park – Located adjacent to Amusement Park, this park consists of 15 acres of open grassy areas. In winter, the park features an ice rink and a small hill for sledding and skiing.
- 4) Village Square – Located at the center of East Troy, the square features a historic bandstand, picnic tables, restrooms, and grassy areas, the square acts as the psychological and physical center of East Troy.
- 5) Booth Lake Memorial Park – Although this park is located in the Town of East Troy, it is owned and operated jointly by the Village of East Troy, Town of East Troy, and the Town of Troy. This park includes a swimming beach, a sheltered picnic area and boat ramp.
- 6) Lynndale Park – Located on the corner of Valley and Ridge Drive in the Village of East Troy, this park includes swings, sand boxes, monkeybars, a baseball backstop, and picnic tables.
- 7) Pulliam Nature Area – This nature area is in the process of being restored to a natural prairie. It can be used for hiking, cross-country skiing, and sledding. It is located on the east side of Thomas Drive, across from the West Kettle Nature Area.
- 8) West Kettle Nature Area - This nature area is used for hiking, cross country skiing and sledding. It is located on the west side of Thomas Drive, directly across from the Pulliam Nature Area.
- 9) Mill Pond Park – Located off STH “G” on the south side of the village, this park has a small pond, pier and walking path. The pond is stocked with fish.

The Village of East Troy Comprehensive Land Use Plan (1994) recommends that the Village needs 17 acres of “community park” and 31 acres of “other park” land in order to adequately serve its residents.⁹⁸ Currently, the Village provides over 73 acres of park land, yet only 12 acres provide active land uses, 14 acres are for passive uses and 47 acres are undeveloped. Therefore, the plan calls for not only a total increase in acreage to meet the 2020 goal of 79 total acres, but also that at least 75% of the newly acquired land be available for active, recreational purposes.⁹⁹

⁹⁶ *Village of East Troy web site* (visited 7/8/03) www.easttroy-wi.com/park_&_rec.htm.

⁹⁷ *Village of East Troy web site* (visited 7/8/03) <http://www.easttroy-wi.com/parks.htm>.

⁹⁸ *Village of East Troy Comprehensive Land Use Plan* (2000), p. 17.

⁹⁹ *Ibid.*, p. 23.

In the Town of East Troy, recreational lands comprise 230 acres, however most of these are privately owned. Located primarily in the northern part of the Town or along the lakes, these areas consist of golf courses, beaches, resorts, sporting clubs, campgrounds and boating facilities.¹⁰⁰ The lack of public park facilities seems to indicate a heavy reliance on village resources to meet the recreational needs of the town residents and creates issues of unequal access for residents, particularly those living in the southern portion of the town.

Churches

There are 11 churches and religious orders in the area proposed for consolidation that also serve as a host for a number of community activities. Petitioners provided the following list:

Table 6: Village and Town of East Troy Churches/Religious Orders¹⁰¹

Name	Location	Village or Town
Calvary Tabernacle	2137 Church Street	Village
First Congregational Church UCC	2935 Union Street	Village
East Troy Bible Church	2660 North Street	Village
Good Shepherd Lutheran Church	1936 Emery Street	Village
New Life Assembly Church	N9590 CTH ES	Town
Sisters of Holy Family	N9080 Southshore Drive	Town
Society of Divine Word	N8855 Seminary Road	Town
St. James United Methodist Church	2942 Austin Street	Village
St. Paul's Lutheran Church	2665 North Street	Village
St. Peter's Catholic Church	1981 Beulah Avenue	Village
United Church of Christ	2931 Union Street	Village

Summary of Current Land Uses

The Village of East Troy has developed in a compact fashion, comprised of low-, medium- and high-density residential, commercial, industrial, park, and open space uses. Future growth areas are allotted around almost the entire perimeter and include low-density residential to the north, industrial and commercial to the south and single-family residential to the west. Recognizing the environmentally sensitive corridors to the east, limited growth is anticipated in this direction.¹⁰² Correspondingly, the only agricultural land within the village is in an 'agricultural/holding district' that is not anticipated to remain in agricultural use in the long-term.

Land uses in the Town of East Troy are opposite those in the village. The town remains dominated by agriculture, with over 50% of land in this category. There are two agricultural land use districts: 'exclusive agriculture districts' (A-1) with a 35 acre land division minimum and 'agriculture-rural districts' (A-2) with a 20 acre minimum. There are also pockets of residential development, primarily surrounding Lake Beulah and Potter Lake, as well as scattered locations

¹⁰⁰ *Town of East Troy Land Use Plan* (1994) p.10.

¹⁰¹ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) pp. 47,58; and East Troy Area Chamber of Commerce (6/26/03) 146.145.203.151/directory/businesslisting.cfm? BID=120&CID=1.

¹⁰² *Ibid.* pp. 115-116.

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interspersed throughout the town. Numerous woodlands and wetlands comprise the other major land uses, as seen in Tables 8 and 9 on page 30.

Examination of land use maps, plat books, zoning maps and a Departmental site visit reveal three broad categories of land use throughout the town: 1) the current urban Village 2) rural farmlands in the Southeast and East, and 3) resort and residential type development around the lakes. Further comparison made clear a distinction between the two lake communities as well the emergence of a potential fifth group, that of low-density residential development, primarily in Sections 2-4. Also, as previously mentioned in the soils section, many of the rural agricultural areas in the south and east were found to relate more to the surrounding Towns of Waterford and Spring Prairie than to the proposed consolidated entity.

This discrepancy among development types in the village and town is further exemplified through a comparison of building permit applications as seen in the table below. Between 1999 and 2003, the town processed approximately 87 building permits with 76 permits for homes with septic systems (87%) and only 11 (13%) for those utilizing municipal sewer. Meanwhile, between 2001-2003, the village processed approximately 44 requests for sewer residential, but none for septic. The village also processed permits for commercial uses, which entailed a wide variety of apartments, condominiums, office buildings, and mini warehouse, among others. Furthermore, comparing the type of rezone requests from 1999-2003, the Town of East Troy had a total of 15,¹⁰³ while the village had six. Within the town, six of the rezones were conversion of A-1 into a classification suitable for development. This is discussed further in Section 1(b) under Rezoning and Building Permit Data.

Table 7: Building Permit Data*

Year	Village of East Troy Residential Building Permits		Town of East Troy Residential Building Permits	
	Sewered	Septic	Sewered	Septic
1999	n/a**	n/a	3	28
2000	n/a	n/a	0	21
2001	23	0	0	12
2002	16	0	2	5
2003	5	0	6	10
Total	44 (100%)	0 (0%)	11 (13%)	76 (87%)

* Approximate numbers based on Applications for Building Permit Data from the Village and Town of East Troy

** data not available for 1999 and 2000 in the Village

The following two tables outline the different composition of land uses within the village and town. Although data from the town is from 1990, it is presented as a comparison.

¹⁰³ According to information received from the Town of East Troy there were 27 rezones from 1999-2003, however 12 were corrections that brought parcels into compliance with the Town’s ordinance.

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Table 8: Village of East Troy Existing and Proposed Acreage

Land Use Category	Existing Acres	Percentage of Total Existing Acres	Existing and Proposed Acres	Percentage of Total Proposed Acres	Change of Acreage	Percent Change of Acres
Low Density Residential(*)	33	0.67	67	1.06	34	103.03
Medium Density Residential	374	7.60	458	7.25	84	22.46
High Density Residential	30	0.61	80	1.27	50	166.67
Mobile Home Park	15	0.30	15	0.24	0	0.00
Commercial*	94	1.91	213	3.37	119	126.60
Industrial	174	3.54	460	7.28	286	164.37
Government	225	4.57	225	3.56	0	0.00
Institutional	139	2.83	139	2.20	0	0.00
Utilities	49	1.00	92	1.46	43	87.76
Parks and Open Space	56	1.14	68	1.08	12	21.43
Agricultural/ Holding*	0	0.00	770	12.19	770	100.00
Wetlands/ Floodplain	41	0.83	41	0.65	0	0.00
Isolated Natural Resource Area	347	7.05	347	5.49	0	0.00
Primary Environmental Corridor	2,145	43.60	2,145	33.95	0	0.00
Secondary Environmental Corridor	246	5.00	246	3.89	0	0.00
Water	952	19.35	952	15.07	0	0.00
Total (**)	4,920	100.00	6,318	100.00	1,398	28.42

(*) Acreage in Village Limits Only

(**) Agricultural/Rural Residential is not included in the table due to the substantial acreage of the district which is 8,694 acres.

Source: Village of East Troy Comprehensive Land Use Plan (2000) p. 10.

Table 9: Town of East Troy Existing Land Use and Acreage - 1990

Land Use	Acres	Percent of Total Acres
Agriculture	12,322	57.80
Wetlands	2,479	11.63
Woodlands	2,041	9.57
Residential	1,276	5.99
Surface Water	1,189	5.58
Transportation, Communications & Utilities	925	4.34
Other Open Space	528	2.48
Recreational	227	1.06
Landfill	158	0.74
Government & Institutional	67	0.31
Extractive	41	0.19
Unused Urban	33	0.15
Commercial	23	0.11
Industrial	10	0.05
Total	21,319	100

Source: Town of East Troy Land Use Plan (1994)

Section 1(a) Determination of Homogeneity and Compactness

As stated in the Introduction, Petitioners are seeking to consolidate an entire semi-rural township with a developed village. However, the homogenous and compact standard present a dilemma for the Department when considering the consolidation of a rural entity with an urban one, as proposed by Petitioners. Must all of the proposed territory meet the standard or is it acceptable for only a portion to meet the standard? For example, with regard to social opportunities, does it matter that the town is not a provider of opportunities, but rather a user? Or does the fact that the village provides these opportunities mean that the entire territory proposed for consolidation meets the standard?

The Department researched the legislative intent behind this statute in order to answer this question. However, the Wisconsin Legislative Council records indicate that discussion of the 1959 Urban Problems Committee focused mainly on incorporation. Consolidation as a whole, much less the above specific questions, did not receive the committee's attention.

The Department concludes that the only practical interpretation of the statute is that an urban city or village consolidating with a rural town must be compact and homogenous in its entirety. This is consistent with the statutory language. Section 66.0207(1)(a), Wis.Stats. commences with: "The *entire* territory of the proposed city or *village shall be reasonably homogenous and compact*, taking into consideration..." (emphasis added). Petitioners interpretation of the statute would render this standard meaningless and undermine the legislative history behind incorporation, along with many years of Department and judicial precedent interpreting the phrase 'homogeneity and compactness'. This is not to say that whole town incorporations or consolidations are not possible. For example, the whole town incorporations of *Pewaukee* (1998) *Bellevue* (2002), and *Mount Pleasant* (2003) are examples where the territory was found to be homogenous and compact. Petitioners in all three of these examples were able to show that the lands within the territory propose for incorporation had some internal connection and was logical from natural resources, transportation, social, political, and economic perspectives.

The following paragraphs provide the finding with regard to each aspect of the homogeneity and compactness standard.

Natural boundaries

The east line of the Town of East Troy is reasonable congruent with Honey Creek and the related environmental corridor, as illustrated on Map 7, and other maps in Appendix C. Similarly, the primary environmental corridor which extends nearly three miles along the north boundary of the Town of East Troy, along with the associated large private land holdings, helps to define a point of demarcation between potential jurisdictions. But for Sections 1-4, and 12, the natural characteristics that would define a boundary are absent, as they are for the southern and western boundaries of the Town of East Troy. For this reason, natural boundaries do not define the proposed consolidated municipal limit line.

Natural drainage basin

Map 3, Appendix C, illustrates that the Town of East Troy lies in two sub-watersheds, as discussed earlier on page 8. The divide between the Mukwonago River and the Sugar and Honey Creeks sub watersheds lies at the existing northerly edge of the Village of East Troy. What this implies is that the residents surrounding Lake Beulah, and the Lake Beulah Management District, may have issues and concerns that differ from the residents of the Village. This difference was made evident during the evaluation of the proposed 98-acre annexation that would extend the Village boundary into the Mukwonago River sub-watershed, for which the Department received

correspondence commenting particularly on the proposal to site a municipal well in the Mukwonago River sub-watershed.

The statutory purpose of s. 66.0207(1)(a), as it applies to drainage basins is ostensibly to assure a common and coordinated approach to managing water resources should the Department approve the consolidation petition.¹⁰⁴ At this date, the municipal well conflict remains unresolved. Evaluation and approval or disapproval of the well is currently lodged with the Southeastern District of the WDNR for evaluation and a decision. The Department cannot conclude that homogeneity between the Town and Village is satisfied.

Soils

As described on pages 10 and 11, and portrayed on Map 4, Appendix C, soil associations in the Town of East Troy, particularly as they extend into the Towns of Spring Prairie, Town of Troy, and Town of Lafayette, suggest greater homogeneity with these towns and the associated farmland than with the Village of East Troy and the lake communities in the Town of East Troy.

Present and potential transportation facilities

There are several road networks discernable in the Town and Village, dictated by the agricultural character of the Town, the settlement patterns around the principle lakes, and the Village of East Troy. County Trunk Highways and I-43 help to knit these three patterns together. One anomaly is the greater association of the transportation network with the Village of Mukwonago for clusters of residential development lying north of Lakes Beulah and Potter. This connectivity is evidenced by the rapid commercial/retail development, and associated vehicular traffic that is necessitating surface transportation network improvements in the northeast corner of the Town of East Troy and the Village of Mukwonago. For reasons of landforms, lakes, and watercourses, transportation access is not homogenous throughout the Town of East Troy.

Previous political boundaries

The political boundaries of the territory petitioned for incorporation are largely those created by the existing survey town borders. Currently the boundary of the Town with the Village of Mukwonago remains in litigation and is the subject of a proposed boundary agreement previously discussed on page 20. As stated previously, this consolidation would serve to cut off the southern growth area of the Village of Mukwonago, an area that, based on land use patterns and transportation network, exhibits more relationship to the Village of Mukwonago than to the proposed consolidated entity.

With respect to the several intergovernmental agreements, Petitioners and the participating municipalities should be congratulated on reaching a harmonious accord. However, these agreements place the Department in the awkward position of accepting statements that may not truly bind the parties due to the nature of the type of agreement used, the content, and also because of the severability clauses.

Boundaries of school districts

As stated in previous Departmental determinations, school district boundaries are no longer subject to municipal influence, therefore the proposed consolidation will have no effect on school

¹⁰⁴ As examples of the Lake Beulah Management District's concerns, see "An Aquatic Plant Management Plan for Lake Beulah," prepared for the Lake Beulah Management District by Lynn Carlson, Glen Kreinbrink, and Phil Davis (April 2000); and letter from David Skotarszak, Chairman (Lake Beulah Management District), to Phillip C. Evenson, AICP, Executive Director, SEWRPC, dated June 21, 2003 (relating to concerns about the Village application for a municipal well submitted to the WDNR).

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district boundaries. However, schools nonetheless have an impact in molding community allegiance through scholastic, social, and recreational activities. With one exception, all of the schools in the East Troy Community School District lie in the Village.

Shopping and social customs

Similarly, shopping and social opportunities also primarily occur in the village. The town does have some recreation facilities, but the majority appear to be private and restricted to either club members or resident members of homeowner associations. The fairly developed nature of the village's web site, village square, social groups, and parks and recreation opportunities all seem to indicate that the most organized social activity is occurring within the Village and not the Town. Despite repeated requests, the Department did not receive information about town social and recreational opportunities. However, it is reasonable to assume that a large number of town residents utilize those opportunities available in the village.

Conclusion

The Department finds that the village and town lands comprising the territory proposed for consolidation, when taken together as a whole, do not meet the homogeneity and compactness standard.

SECTION 1(B), TERRITORY BEYOND THE CORE

The standard to be applied as found in s. 66.0207(1)(b), Wis.Stats, and reads as follows:

The territory beyond the most densely populated one-half square mile specified in s. 66.0205 (1) or the most densely populated square mile specified in s. 66.0205 (2) shall have an average of more than 30 housing units per quarter section or an assessed value, as defined in s. 66.0217 (1) (a) for real estate tax purposes, more than 25% of which is attributable to existing or potential mercantile, manufacturing or public utility uses. The territory beyond the most densely populated square mile as specified in s. 66.0205 (3) or (4) shall have the potential for residential or other land use development on a substantial scale within the next three years. The Department may waive these requirements to the extent that water, terrain or geography prevents such development.

This standard imposes different tests depending upon whether or not the territory is intended to be incorporated either as an “isolated” or “metropolitan” city or village. The first part of this standard pertains only to “isolated” villages or cities, and permits one of two criteria to satisfy the standard: 30 housing units average per quarter section; or 25 percent or greater assessed value which is attributable to “existing or potential mercantile, manufacturing, or public utility uses.” Filing as a “metropolitan” village or city, as defined by the second sentence of (1)(b), requires the Department to find that territory lying beyond the most densely populated square mile shall have the potential for residential or other land use development on a substantial scale within three years, and authorizes the Department to waive those areas where “water, terrain, or geography presents such development.”

Although apparently the Petitioners have filed as an “isolated” village or fourth class city, the Department finds that the area proposed for consolidation is in fact “metropolitan” based on research conducted by the Southeastern Wisconsin Regional Planning Commission (using 1999 population data for cities and villages). This research, reduced to map form, indicates that contiguous U.S. Public Land Survey Sections that contain at least 100 persons per square mile (based on 1995 town population data) extend from the cities of Muskego, New Berlin, and Waukesha, including the Village of Mukwonago, to include Sections 34-36, Public Land Survey Township of Mukwonago, adjacent to Sections 1-3, Town of East Troy. Given the extent of development in these Sections, the Department has reason to believe these Public Land Survey Sections cause this petition to be “metropolitan” for the purpose of this statutory determination.

The most densely populated square mile of the territory proposed for consolidation, as specified in s. 66.0205(3), Wis. Stats., is the area contained in the northern portion of Section 29 and the southern portion of Section 20 in the Village of East Troy. This area includes high- and medium-density residential dwellings, a mobile home park, commercial and industrial developments. Much of the area beyond this most densely populated core within the Village of East Troy is also developed.

However, when looking at the entire area proposed for consolidation, much of the land in the Town of East Troy is dominated by agriculture. See Table 9 at page 30. Areas beyond the core qualifying for the statutory waiver have to do with “water, terrain or geography” (and include, for example, Lakes Beulah and Potter, Swan and Army; and for “terrain,” areas of woodlands, wetlands, and flood plains in corridors designated by the regional and county planning commissions for preservation from both farming and extensive urban development). Petitioners argue that prime farmland soils and the farmland use designated in the town, county, and regional

plans for preservation, and zoned for exclusive agricultural use should similarly be waived. However, despite the presence of prime agricultural lands in the Town of East Troy and the Town's desire to preserve this natural feature, the Wisconsin Court of Appeals has ruled that "Agricultural zoning... is not a natural feature prohibiting development; zoning is a legislative choice limiting development". See *Redford v. Wisconsin Dept. of Dev. (In re Pewaukee)*.¹⁰⁵

Furthermore, Petitioners argue that an agricultural land waiver is warranted because the legislature has indirectly indicated its intent that agricultural preservation be a consideration in favorably evaluating large-size incorporations and consolidations."¹⁰⁶ Petitioners argue that this intent can be seen through legislative initiatives such as the farmland preservation program and use-value assessment of agricultural land, which were not in existence in 1959 when the incorporation/consolidation statute was enacted. Because of the increased importance given by the legislature to agriculture since 1959, as evidenced by these agricultural programs, Petitioners exhort the Department to grant an agricultural waiver in this case of Town agricultural lands from the Territory Beyond the Core standard under 66.0207(1)(b), Wis.Stats.

The Department declines to grant such a waiver. First, the Department believes that this issue is resolved in *Redford v. Wisconsin Dept. of Dev. (In re Pewaukee)*, where the court ruled that agriculture is not a natural feature that prohibits development. Second, the Department does not agree with Petitioners that it has the discretion and authority to expand the types of land areas and uses eligible for waiver to include agricultural lands. This is the responsibility of the legislature. If the legislature believes that agricultural lands should be included in the types of land forms and uses that may be waived from the requirements of the Territory Beyond the Core standard, it can amend the statutes to do so. Third, neither the farmland preservation program nor the use-value assessment of agricultural lands initiative prevent the conversion of farmland into other uses. In other words, there are no certainties that these laws will prevent the development of farmland in East Troy. This can be seen in the successive Urban Service Area revisions that expand the Urban Service Area Boundary into the Town of East Troy on prime agricultural soils. See Maps 10 and 14, Appendix C. Because of this uncertainty, and also because of the two other points made in this paragraph, the granting of an agricultural waiver is inappropriate.

However, the Department's denial of waiver should not be construed to mean that the Village and Town of East Troy are not trying hard to preserve farming and agricultural lands (see the following Comprehensive Plan section for written documentation of their commitment to agricultural preservation). It just means that agricultural lands cannot be used to avoid satisfying the Territory Beyond the Core standard for consolidation. It is significant that the village and town did not utilize the cooperative boundary agreement statute under s. 66.0307, Wis.Stats. which could have accomplished a plan for agricultural preservation as well as fixing future boundaries. The Department did provide Petitioners with information about, and assistance with, cooperative boundary agreements on a number of occasions.

Because Petitioners request for an agricultural waiver to the Territory Beyond the Core standard is denied, the Department applies its customary analysis with regard to this standard. The following paragraphs analyze: 1) plans affecting the territory 2) sewer service areas 3) rezoning data, and 3) building permit data in order to determine whether or not the territory lying beyond the most densely populated square mile has the potential for residential or other land use development on a substantial scale within three years.

¹⁰⁵ *Redford v. Wisconsin Dept. of Dev. (In re Pewaukee)*, 186 Wis. 2d 515; 521 N.W. 2d 453 (Ct. App. 1994).

¹⁰⁶ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) pp. 61-63.

Plans

Plans for or affecting the town and village all recommend continued agricultural land use. Specifically, the *Land Use Plan for Southeastern Wisconsin Region: 2010* (1997), the *Town of East Troy Land Use Plan* (1994), the *Village of East Troy Comprehensive Land Use Plan* (2000) and *A Land Use Plan for Walworth County: 2020* (2001) all show strong continued agricultural land use in the Town of East Troy.

Significantly, the Town of East Troy plan presents a commitment to the protection of extensive areas of agricultural land, as evidenced in their Plan Goals & Objectives:¹⁰⁷

1. Maintain the Town's rural atmosphere and features recognizing that agricultural land preservation and open space protection are the primary means of preserving the Town's rural landscape.
2. Protect the Town's prime agricultural lands, as identified by NRCS, SEWRPC and Walworth County.
3. Protect and preserve natural resources including wetlands, floodplains, stream corridors, steep slopes, endangered species, wildlife habitats, woodlands, and other key features identified in the future.
4. Provide for limited residential development in the Town and direct substantial residential development to areas that are adequately served by public sewer and that area adjacent to existing development.

The Village of East Troy, recognizing the need to grow in a fashion consistent with the surrounding municipalities, explicitly acknowledges both the Town of East Troy and the Town of Troy's land use plans and goals. Specifically, the village signed a resolution designating 13.5 sq. miles of Agricultural/Rural Residential land use in the Town to be preserved as "rural openness and a lifestyle based on farming and a minimization of urban sprawl".¹⁰⁸ The combination of land use plans and resolutions present a policy commitment to preserving agricultural land, an approach that should direct new growth in a more compact fashion. This approach does not, however, contribute to a finding of developability within three years.¹⁰⁹

Sewer Service Area

As indicated in the sewer service area discussion at page 22, the current Village of East Troy Sewer Service Area (SSA) includes the entire Village, but only a small portion of the Town that surrounds Potter Lake. The Village of Mukwonago has also extended their SSA into the Town from the north, and while this currently covers relatively little territory at the present time, it may soon be extended south to existing development on the north side of Potter Lake. Plans for the area call for development to remain relatively concentrated within these SSA areas. Much of the town lands beyond the SSA delineations have soil structures capable of supporting individual on-site sewage treatment, either with traditional septic tank and soil leachfield, or with tank and mounded soil leachfield (or other variations allowable by Wis. Admin Code Comm 83). This type of unsewered growth can be unplanned and is what the Town and Village are striving to

¹⁰⁷ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) pp. 110.

¹⁰⁸ *Ibid*, p. 112. (Village of East Troy Resolution Affirming the Preservation of Agriculture and Rural Open Space Uses of Lands in the Town of East Troy Walworth County, Wisconsin).

¹⁰⁹ This is precisely the type of problem which 2003 Assembly Bill 130 seeks to address and resolve, by requiring that the consolidating entities develop and approve a comprehensive development plan pursuant to s. 66.1001, Wis. Stats.

eliminate.¹¹⁰ Although this policy is a laudable one, it again does not support a finding of developability within three years. An example of a whole-town incorporation that did meet this standard is *Bellevue* (2002), where the SSA covered the entire town and complete build-out at urban densities was anticipated within three years.

Rezoning & Building Permit Data

Petitioners assert that the “East Troy township faces growth pressures over most of its territory.”¹¹¹ However it is the level or rate of such development that is significant in this determination. Rezoning and building permit data are often indicative of market forces in a community. From 1999-2003, 15 rezones were requested within the town¹¹² and 6 in the village¹¹³, for a total of 21 in the proposed consolidated territory. Compared to recent whole town incorporations processed by the Department, this number is significantly far less. For example, over a five year period, the Town of Bellevue (now the Village of Bellevue) had 58 rezone requests and in a two year period from 2000-2002 the Town of Mount Pleasant had 41 rezone requests.

Building permit data also shows moderate levels of growth in the proposed consolidated area, with 76 building permit applications in the town from 1999-2003 and 78 applications in the village from 2001-2003. Again, compared to other similarly sized incorporations, East Troy has significantly less building activity. For example, the Town of Mount Pleasant averaged 98 single family residential permits issued per year while the Village of Bellevue averaged 42 per year.¹¹⁴

The modest building activity occurring in the proposed consolidated area as seen in rezone and building permit data contributes to a finding that the territory does not have the potential for significant development within the next three years.

Section 1(b) Territory Beyond the Core Determination

Given the large amount of undeveloped land in the territory beyond the most dense square mile, the fact that plans for the area call for continued agricultural use, the fact that SSA’s cover only a portion of the territory, and the fact that building activity has been modest over the past 5 years, the Department finds that the land proposed for consolidation does not have the potential for development within three years.

¹¹⁰ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) pp. 110.

¹¹¹ *Ibid*, p. 71.

¹¹² In addition to these 15, there were an additional 12 rezone requests that addressed corrections.

¹¹³ This number excludes a project that “cleaned up errors from an old map.” Correspondence from Judy Weter, Administrator Village of East Troy to George Hall (6/17/03).

¹¹⁴ *Mount Pleasant* (2003) p. 41 and *Bellevue* (2002) p. 39.

SECTION 2(A) TAX REVENUE

The standard to be applied is found in s. 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.

Local service expenditures vary greatly across Wisconsin communities and are determined by the needs and expectations of the local populace. For this reason, the Department recognizes the need for a range of service levels and does not hold communities to fixed standards. With this consideration in mind, the Department does compare municipalities sharing similar characteristics to determine whether a proposed budget is generally reasonable and able to support the desired level of municipal services. Petitioners, through an initial Citizen Consolidation Steering Committee, concluded that consolidation of the two communities would be financially feasible and that merger of staff would produce a more efficient and broad scope of services.¹¹⁵ To further ascertain the effects of a consolidation, the Committee retained the firm of Virchow Krause & Company who created the *Municipal Consolidation Study: Village of East Troy and Town of East Troy* (2001). The study determined:

The communities, if they had merged as of January 1, 2001, would be able to offer a better level of service while realizing about a 4% overall savings in total costs compared to the per-merger government costs; that although total needed tax revenues will be lower by that 4%, while sustaining an equal or better level of service, the property tax contribution between the village and the town will adjust so as to lower property taxes 13% in what is now the village but raise them 5% in what is now the town area. This is due to the equalization of different tax bases.¹¹⁶

Revenue

Several assumptions were included in the Virchow Krause study. These are that: (1) the Merged Communities Revenue Forecast are revenues for both entities added together, unless otherwise noted; (2) the general property tax for local purposes was set at that required by the budget while (3) taxes from municipally owned utilities were unchanged from the 2001 budget for the stand-alone village; (4) intergovernmental revenues were based on Department of Revenue 2001 figures of \$574,153 and then decreasing 5% thereafter for shared taxes from the state, while (5) state road aid-allotment was assumed to remain the same from the 2001 budget for pre-consolidated entities.¹¹⁷

Since the Virchow Krause study was completed, the state financial crisis has resulted in proposed state shared revenue reductions. Proposed reductions from estimated 2003 aid under current law, under either 2003 Senate Bill, or the Legislature's cost-based amendments, and for the Village of East Troy range from \$63,191 (a 12.9% reduction), to \$51,306 (a 10.5% reduction). For the Town of East Troy, these reductions amount to (for SB 44) \$63,257 (a 58.8% reduction), and for the across the board percentage reduction, \$12,868 (a 12% reduction).¹¹⁸ Using the worst case

¹¹⁵ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 3.

¹¹⁶ *Ibid*, p. 11.

¹¹⁷ *Ibid*, see pp. 82-89, 173-192.

¹¹⁸ See "Estimated State Aid to Municipalities Under Proposal by the Joint Committee on Finance (6/13/03), Memo, Attachment 1, and Attachment 2, at http://www.legis.state.wi.us/lfb/LFBPublications_ButtonPages/Publications_Main.htm

estimates, the pre-consolidation 2001 estimated Village local-purpose levy would have increased from approximately \$7.04 to \$7.39 per thousand of equalized value; and the Town's estimated 2001 local-purpose levy appears to increase from \$1.92 to \$2.07 per thousand of equalized value. The differences in fiscal impact resulting from these estimated percentage increases reflect the increased reliance on state shared aids by the Village (13.5%), compared to the Town (5.7%). Using the Virchow Krause estimated¹¹⁹ consolidated mill rate of \$3.42/\$1,000 of equalized value, it appears that the effect of applying state-shared revenue reductions¹²⁰ may increase the consolidated mill rate by approximately 6%, to \$3.63/\$1,000 of property valuation.

Table 11: General Fund Revenue Projections for the Consolidated East Troy*

	Adjusted Village	Adjusted Town	Consolidation Adjustments	Total
Taxes (net of tax levy)	71,300			71,300
Intergovernmental revenue	615,031	252,453		867,484
Licenses and permits	82,590	34,365		116,955
Fines, forfeitures and penalties	90,000	85,000		175,000
Public charges	71,650	44,360		116,010
Special assessments		7,500		7,500
Cash Balance Applied				
Miscellaneous revenues	27,500	150,866		178,366
Commercial revenues	79,300			79,300
Total Revenues (net of tax levy)	1,037,371	574,544		1,611,915

Source: Municipal Consolidation Study: Village of East Troy and Town of East Troy; Virchow Krause & Company

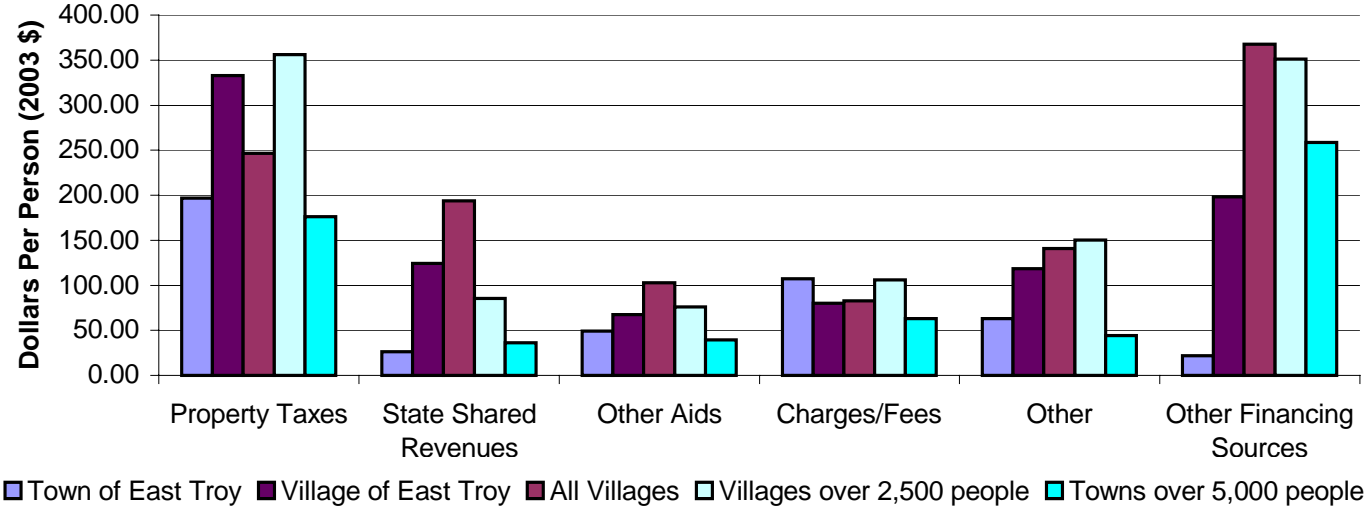
* For the year ended 12/31/01

As seen above in Table 11 and the following three graphs, there is a difference among sources of revenue between the Village and Town of East Troy. While the largest percent of Town and Village revenue is derived from the property tax, the Town relies heavily on charges and fees and other revenue sources, a system which provides a level of equity to the divergent levels of services demanded in the Town. The Village, in contrast, relies more heavily on state shared revenue and other financing sources, yet consolidation would require a singular method for revenue collection. Reconciliation of the two methods could result in a loss of the more equitable cost distribution to the variety of service demands among Town residents, and also with Village residents, given the scattered population clusters in the consolidated entity, with varying degrees of accessibility.

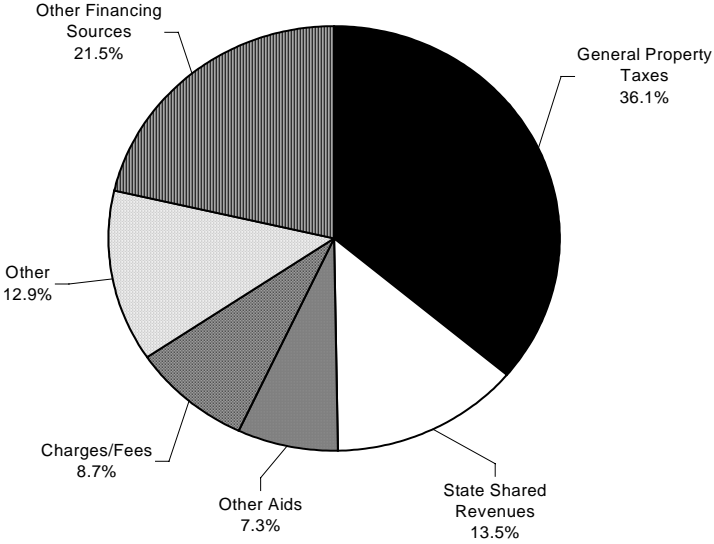
¹¹⁹ *Submittal in Support of the Consolidation of the Village and Town of East Troy (2002)* p. 174

¹²⁰ The actual amounts of shared revenue reductions may not be known for several weeks.

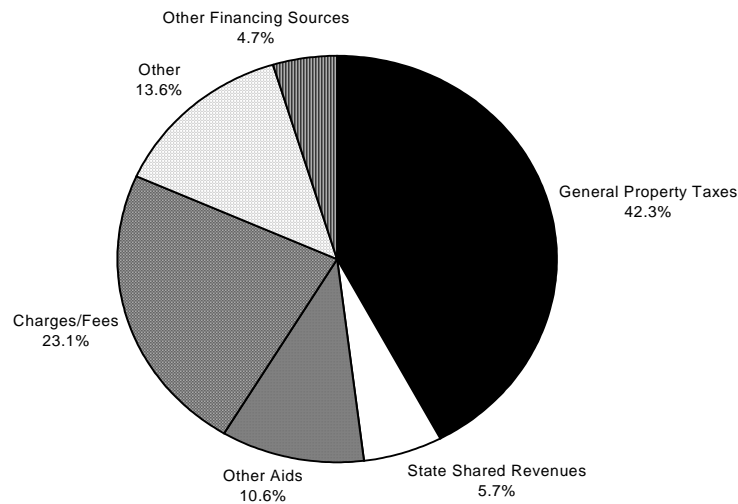
Graph 1: Per Capita Revenues 2001



Graph 2: Village of East Troy Revenue Shares 2001



Source: Data from Wisconsin Department of Revenue; University of Wisconsin, Department of Agricultural and Applied Economics and UWEX Local Government Center

Graph 3: Town of East Troy Revenue Shares 2001

Source: Data from Wisconsin Department of Revenue; University of Wisconsin, Department of Agricultural and Applied Economics and UWEX Local Government Center

Expenditures

A consolidated Village and Town of East Troy is estimated by Virchow Krause to require 4.26% less than the sum of the actual 2001 combined budgets due to anticipated efficiencies. Specifically, consolidation of general government is anticipated to reduce administrative/clerical expenditures by \$30,800 and judicial costs by \$15,000 by retaining one part time clerk and one municipal judge. These savings represent reduced salary, fringe and associated operating costs. Board/governance would be reduced by \$13,500 for one chief elected official and two board members. This also assumes a seven member board (savings with a nine member board would be approximately half this amount). Combining the village and town police departments will result in one department twice the current size of each, as would also happen with combining the public works departments. As a result of combining these departments, public safety costs would be reduced by \$71,275 (salary and fringe benefits of one police officer and reductions in overtime) and public works costs would be reduced by \$8,500 in overtime cost savings.

Table 12: General Fund Expenditure Projections for Consolidated Entity*

	Adjusted Village	Adjusted Town	Consolidation Adjustments	Total
General Government	400,368	326,250	(59,300)	667,318
Public safety	754,848	622,080	(71,275)	1,305,653
Public works	414,466	551,366	(8,500)	957,332
Culture, recreation and education	118,316	39,500		157,816
Conservation and development	36,134	3,300		39,434
Total	1,724,132	1,542,496	(139,075)	3,127,553

Source: *Municipal Consolidation Study: Village of East Troy and Town of East Troy*; Virchow Krause & Company

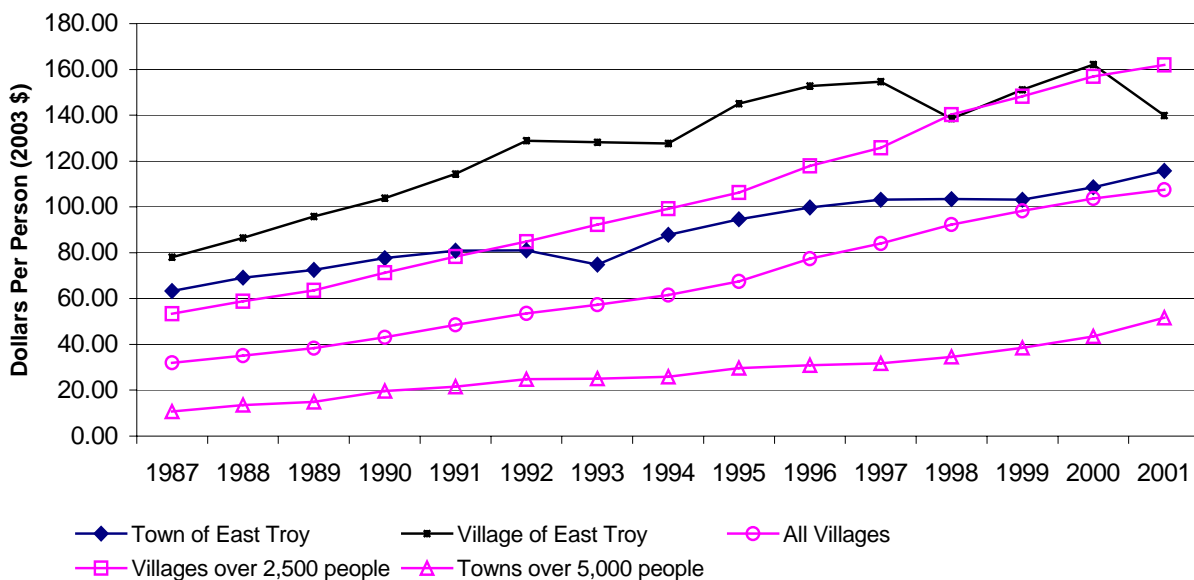
* For the year ended 12/31/01

Consolidation is anticipated to result in a cost savings of approximately \$139,075 for the two communities as seen in Table 12, above. The Town and Village are both spending at or beyond comparable levels for law enforcement to other Village communities, but with respect to fire expenditures, the Town is more comparable to other Towns than with the Village. Also, as mentioned in the determination of Section 1(A), spending on culture and recreation is minimal in the Town, suggesting that recreation is essentially “privatized” through various private clubs and homeowner associations with lake access, or that residents find opportunities in surrounding communities or in the Village of East Troy where there are extensive programs and facilities. This is a political and social preference issue that is not addressed in the consolidated budget (nor are financial allowances made for combining and reconciling local adopted plans and ordinances).

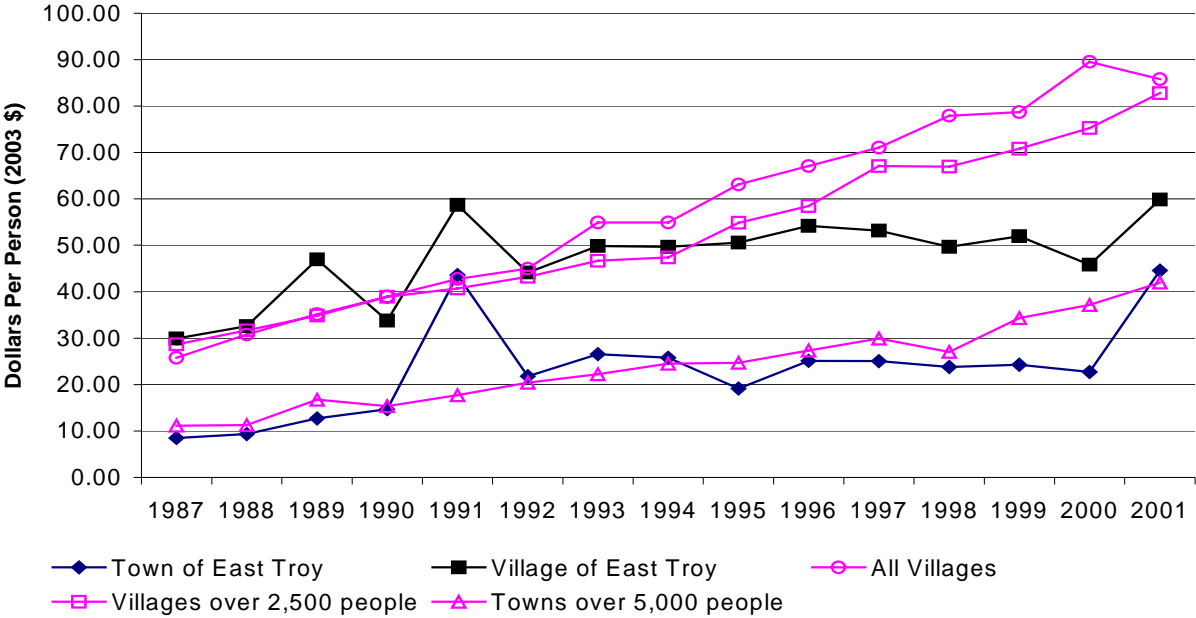
However, no analysis was provided by petitioners or Virchow Krause for the most expensive of the public services, including an analysis of the condition of public infrastructure (roads, water and sewage treatment and distribution systems, along with public buildings), prospective capital improvement budgets, and the levels of fire and police protection, including Insurance Services Organization (ISO) analysis of the fire department and the type and number of incidents responded to by the police department. The provision of these items under consolidation is assumed to be constant, whereas a new political body and combined electorate could easily exert other priorities and preferences. An example of the potential differences (with associated cost and benefit implications for the municipal risk) are the respective Town and Village policy positions relating the siting and development of a new municipal well, with potential groundwater and residential development implications.

The Town currently has almost half the debt of the Village. The Village of East Troy’s debt is \$790,000 out of the maximum allowed based on a percentage of equalized value of \$8,925,000, or 8.8%. The Town of East Troy’s debt is \$399,000 out of the maximum allowed of \$20,330,000, or 1.9%. This results in a \$1,189,000 (4.06%) debt for the consolidated entity, with a maximum allowable debt ceiling of \$29,255,000.

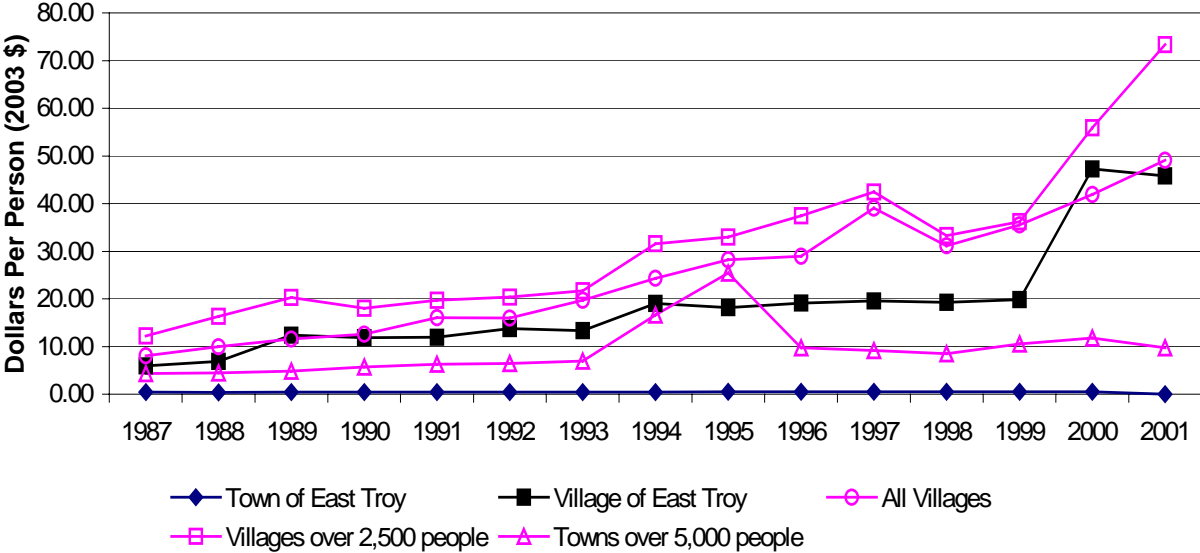
Graph 4: Per Capita Law Enforcement Comparison



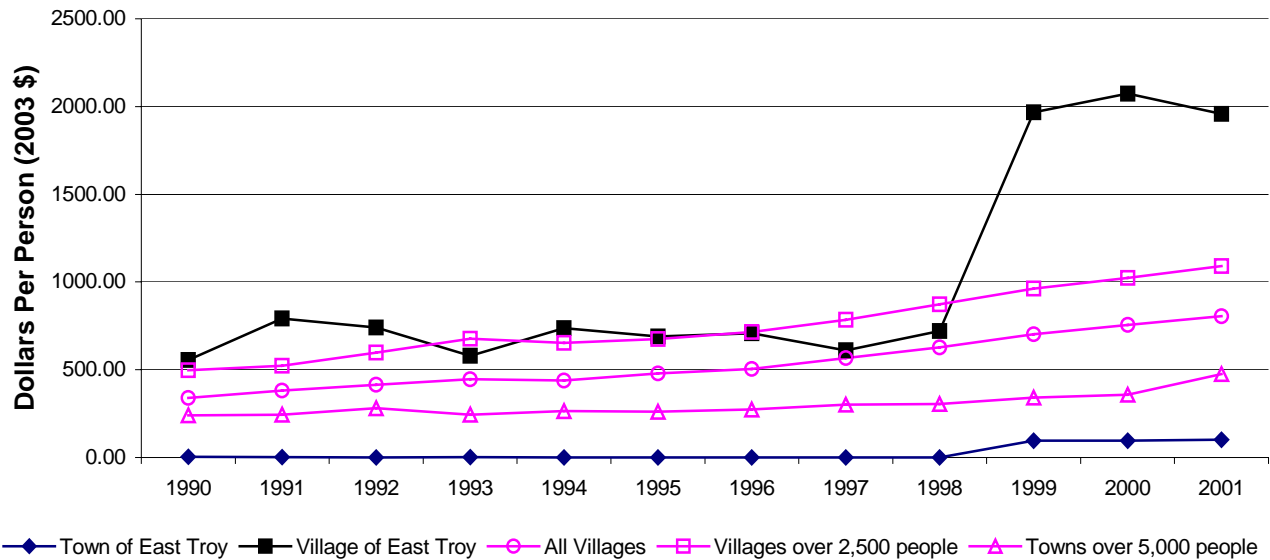
Graph 5: Per Capita Fire Expenditures Comparison



Graph 6: Per Capita Culture and Education Comparison



Source: Data from Wisconsin Department of Revenue, University of Wisconsin, Department of Agricultural and Applied Economics & UWEX Local Government Center

Graph 7: Per Capita Total General Obligation Debt Comparison

Source: Data from Wisconsin Department of Revenue, University of Wisconsin, Department of Agricultural and Applied Economics & UWEX Local Government Center

Property tax base

The Town of East Troy as of January 1, 2000 had approximately 2.3 times the equalized value of the Village: Town of East Troy = \$406,600,000; Village of East Troy = \$178,500,000. Consolidation would result in a village with a total equalized value of \$585,100,000.¹²¹ As of 2002, the respective equalized values are \$217,945,448 (including real and personal property) for the Village, and \$488,562,424 for the Town.¹²²

Property tax rates

The following Tables outline the 2001 Tax rates for the Village and Town, which translates into a 12.6% decrease for Village residents and a 4.6% increase for the Town residents.

Table 13: Existing and Combined 2001 Property Tax and Mill Rates

Market Value	Village of East Troy \$20.88	Town of East Troy \$17.43	Combined Mill Rate \$ 18.24
	Property Tax	Property Tax	Property Tax
100,000	2,088	1,743	1,824
150,000	3,132	2,615	2,737
200,000	4,176	3,487	3,649
250,000	5,221	4,359	4,561
300,000	6,265	5,230	5,473
1,000,000	20,882	17,435	18,245

Source: *Municipal Consolidation Study: Village of East Troy and Town of East Troy*; Virchow Krause & Company

¹²¹ *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 5.

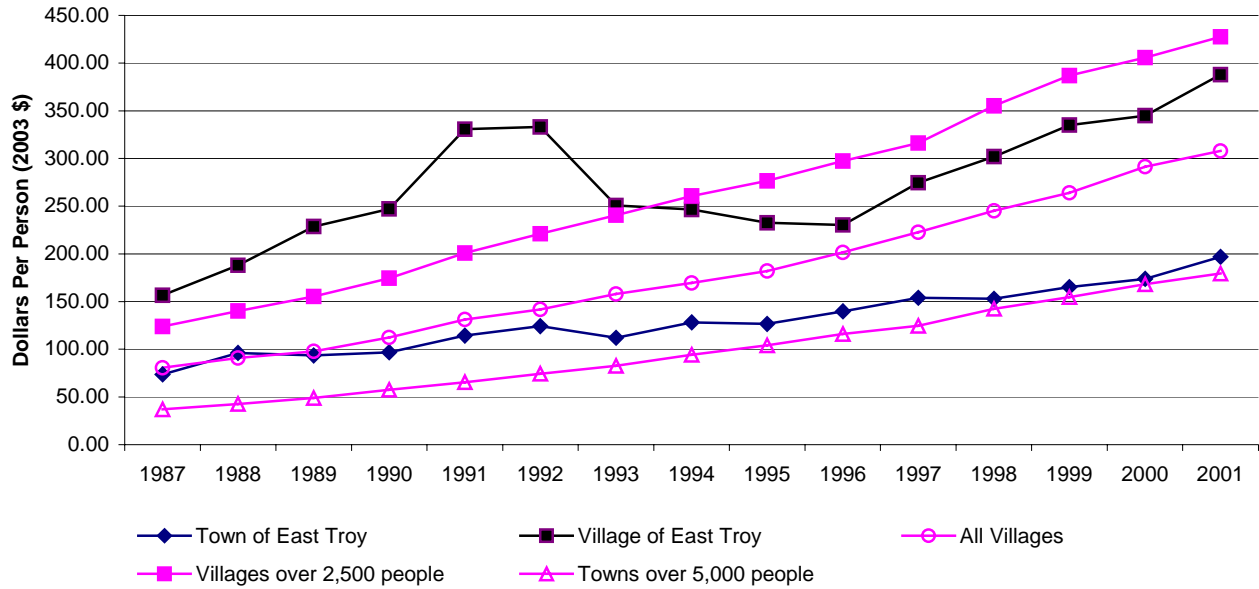
¹²² Municipal equalized values can be found at the following location on the Dept. of Revenue web site: <http://www.dor.state.wi.us/equ/02strwal.pdf>.

Table 14: Projected Impact on Village and Town Taxpayers

Market Value	Impact for Village Taxpayers	Impact for Town Taxpayers
	Property Tax	Property Tax
100,000	(264)	81
150,000	(395)	122
200,000	(527)	162
250,000	(660)	202
300,000	(792)	243
1,000,000	(2,637)	810

Source: *Municipal Consolidation Study: Village of East Troy and Town of East Troy*; Virchow Krause & Company

Graph 8: Per Capita Total Taxes Comparison



Source: Data from Wisconsin Department of Revenue, University of Wisconsin, Department of Agricultural and Applied Economics & UWEX Local Government Center

Section 2(A) Determination

Based on the foregoing financial information and the Virchow Krause study, the Department determines that the consolidated budget is reasonable (even though preferences for types and levels of services may well change), and that there is sufficient tax base from which to provide a level of services at a tax rate which compares favorably with tax rates in similar areas, and that this standard is therefore met.

SECTION 2(B) LEVEL OF SERVICES

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

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

No certified copy of a resolution to annex the territory as provided for by s. 66.0203(6), Wis.Stats., was submitted to the circuit court. Therefore, this standard is not applicable.

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

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

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

This requirement does not apply because the consolidation of the entire Town and Village of East Troy is the subject of this proceeding that would result in no remainder of the town.

SECTION 2(D), IMPACT UPON THE METROPOLITAN COMMUNITY

The standard to be applied is found in s. 66.0207(2)(d) 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.

“Metropolitan community” is defined 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.¹²³

As discussed previously on page 34, the Department finds that the consolidation falls within the sphere of the cities of Waukesha, New Berlin, and Muskego, which has a combined population that is several multiples beyond the 25,000 statutory population standard. While its southwestern boundary is slightly more than five miles from the Village of Mukwonago boundary, the intervening sections of land in the Towns of Waukesha and Mukwonago are undergoing urbanization and have surpassed the “100 persons or more per square mile” standard in the statute.

The metropolitan community for this determination includes the Towns of East Troy and Mukwonago, and the Villages of East Troy and Mukwonago. Some of these communities share similar natural features and environmental resources. For instance, many share a natural drainage basin system that creates metropolitan-wide recreational opportunities as well as policy challenges such as the siting of municipal wells, maintaining farmland in the face of development pressure, and providing a coordinated response to transportation and other issues associated with urban development. Additionally, many of these communities share some of the same infrastructure systems and public services, such as the East Troy Community School District for example.

The Department is required by statute to consider the impact of the proposed consolidation on the ability of local governments to address issues affecting the resources of the metropolitan community, and the infrastructure and services available to the residents of the metropolitan community. In addition, an examination into the legislative history also underscores the importance of considering the metropolitan impact, as indicated by the court in *Westring v. James*.¹²⁴

The legislative note attached to Assembly Bill No. 226, A, of the 1959 legislative session reads in part: ‘the 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

¹²³ §66.0201(2)(c), Wis.Stats.

¹²⁴ *Westring v. James*, 71 Wis.2d 462 (1975).

SECTION 2(D) IMPACT UPON THE METROPOLITAN COMMUNITY

incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community of which the territory is a part.¹²⁵

A “metropolitan impact standard” review includes consideration of the existence of land use plans, adopted either by the county or by neighboring jurisdictions that may suggest how the territory petitioned for incorporation would otherwise be developed and served. Existing planning implementation mechanisms are reviewed for potential conflicts in the community visions reflected by these plans. The Department must also determine that Petitioners have established that the proposed consolidation will not have a negative impact on metropolitan issues such as service provision, infrastructure development and maintenance, and environmental resource protection.

The Court in *Pleasant Prairie v. Local Affairs Dept.*, 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 finding places a very substantial burden on the proponent of incorporation.¹²⁶

In *Pleasant Prairie (II) v. Local Affairs Dept.*, the court 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.¹²⁷

The Town and Village of East Troy are located at the fringe of the Waukesha metropolitan region, situated in a location where three counties come together, and correspondingly these communities are feeling the pressures of edge development that affects their economic, social and environmental conditions.

The very principal of consolidation between the two communities demonstrates a level of cooperation between jurisdictions that were previously antagonists. However, there is no land use plan for the consolidated entity as a whole, nor has the Department received information that a plan will be forthcoming. Communication also continues to present problems, often on topics that could possibly be better resolved through a cooperative boundary agreement under s. 66.0307, Wis.Stats. than through consolidation. Furthermore, the neighboring Village of Mukwonago has filed as an intervenor in opposition to this consolidation proceeding. They cite concerns that a permanently fixed boundary could inhibit the Village of Mukwonago’s growth and planning needs. As previously mentioned in Section 1(a), the Village of Mukwonago and the entity proposed for consolidation are currently negotiating an agreement to resolve these issues. However, this agreement has not yet been signed.

¹²⁵ From 396-397 of the legislative note attached to Assembly Bill No. 226, A, of the 1959 legislative session and cited in *Westring v. James*, 71 Wis.2d 462 (1975).

¹²⁶ *Pleasant Prairie v Local Affairs Dept.*, 108 Wis.2d 465 (1982), pg 481.

¹²⁷ *Pleasant Prairie (II) v. Local Affairs Dept.*, 113 Wis.2d 327 (1983), pg. 333.

Cooperation with area jurisdictions

The proposed consolidation of the Town and Village of East Troy has already initiated a cooperative approach with surrounding municipalities through the s. 66.0301 Wis. Stats. general agreements created with the Towns of Mukwonago, Spring Prairie, Waterford and Troy and the Village of Mukwonago that were discussed in Section 1(a) of this determination. There are also unwritten and informal agreements between area communities, including mutual aid for police backup, and for fire apparatus and manpower. Five communities share fire and rescue services (Village of East Troy, Town of East Troy, and portions of the Towns of Troy, Spring Prairie, and Lafayette). Also, in emergencies such as heavy snowfall, some mutual aid occurs between public works departments. These agreements tend to be between department chiefs or heads of public works.¹²⁸

Much of the planning in East Troy attempts to align policies with neighboring jurisdictions. However, a comparison of the *Regional Land Use Plan for Southeastern Wisconsin: 2020* (which outlines a growth area to the west into the Town of Troy in terms of both land use development as well as protection of prime agricultural soils) to the recent amendment to the SSA of East Troy (which already included extensive territory to the south and then added additional acreage in the south) reveals a contradiction between plan and action, indicative of impending growth rather than preservation. Also, according to *A Land Use Plan for Walworth County* (2001), the Town of East Troy currently “excludes from the town-recommended farmland preservation area certain lands which are currently zoned A-1 under County zoning.”¹²⁹ In response, the SEWRPC recommends the Town and County jointly review these areas and subsequently act to retain or amend appropriate plans and zoning. However, it appears that this has not been resolved. Town officials have also indicated that they are opposed to the use of conservation subdivisions to accommodate rural-density residential development, even through the County plan “strongly encourages the use of conservation subdivision designs” for those developments within environmentally sensitive areas that are in accordance with the Plan.¹³⁰

Housing

The Village of East Troy provides a wider diversity of housing types and ownership options for residents than the Town of East Troy, which is dominated by single family housing as seen in Table 15 below.

Table 15: Housing Type and Amount

Type of housing	Village of East Troy Number and Percentage of Units	Town of East Troy Number and Percentage of Units
1 unit detached	878 (63.9%)	1,678 (94.5%)
2 units	94 (6.8%)	24 (1.4%)
3 or 4 units	31 (2.3%)	6 (.3%)
5 to 9 units	209 (15.2%)	7 (.4%)
10-19 units	17 (1.2%)	10 (.6%)
20 or more units	73 (5.3%)	0
Mobile homes	56 (4.1%)	24 (1.4%)

¹²⁸ *Re: Assessment of Information, East Troy Consolidation* (2002) p.10.

¹²⁹ p. 68.

¹³⁰ *A Land Use Plan for Walworth County Wisconsin: 2020* (2001) p. 70, 74.

The Village, in their *Comprehensive Land Use Plan* (2000), calls for the maintenance of a diverse housing stock, providing for “a variety of housing types...and “life-cycle” housing for different economic levels.”¹³¹ Ownership options vary to include owner-occupied, rental, condominium, and leased housing. The Town, however, does not address housing stock in their land use plan. Furthermore, the Town has 287 seasonal, recreational, or occasional use housing units, or 16.4% of their total housing stock for (from 2000 Census) whereas the village has only 6 of these units or 0.4%. These characteristics can limit the availability of affordable housing options for year-round residents and is reflected in the discrepancy between the Town median home value of \$171,700 in comparison to \$131,500 in the Village. While the variety of housing-related choices mean that people of all ages and incomes can live in the Village of East Troy, the Town of East Troy does not have the same level of diversity to help fulfill regional housing needs, as promoted by the SEWRPC.

Section 2(D) Determination

Petitioners provided an essay on the metropolitan standard in general¹³² but said very little about current existing issues of common interest and concern among the several area communities, and how the Town and Village of East Troy would seek to address them as a consolidated entity. For example, 95% of the existing housing stock in the Town of East Troy are single-family residences; how does this percentage address area-wide housing needs? Have cross-boundary natural resource issues been identified and solutions proposed that utilize collaborative zoning and land development practices that span jurisdictional lines? Have the implications of growth along the I-43 corridor been considered and planned for?¹³³

Instead, petitioners submitted the four boundary agreements crafted with the surrounding jurisdictions as evidence of cooperation and resolution of the effects the consolidated entity will have in the metropolitan area. These agreements are commendable and lay a foundation for future collaboration efforts. However, their non-binding nature, along with the fact that the agreement to resolve the Village of Mukwonago’s concerns is still uncompleted, makes it difficult for the Department to rely on them. Such non-binding agreements also leave open the possibility for the proposed consolidated entity of East Troy to dominate its predominately rural, town neighbors once such a large area has been granted home rule authority. Furthermore, these agreements do not address the issues that the incorporation/consolidation standards encompass. They are less comprehensive than the intergovernmental agreements and coordinated Urban Service Area planning entered into by other incorporation petitions. For example, the degree of problem identification and extensive commitments made in intergovernmental agreements between the Town of Mount Pleasant, the Village of Sturtevant and City of Racine in Mount Pleasant (2003) gave the Department certainty that municipal obligations would be fulfilled and that the approval of the incorporation could proceed.

Moreover, Petitioners aforementioned essay on the metropolitan impact standard leaves the general impression that responsibility for programmatic implementation has been taken away by the state, and that is simply not true. In reality, metropolitan issues remain heavily influenced by local actions. For example, Wisconsin’s urban service area policy has resulted in hundreds of square miles of low-density residential development isolated from retail, commercial and employment centers. Is this sound urban policy? If this were true, then the Alliance of Cities

¹³¹ *Village of East Troy Comprehensive Land Use Plan* (2000) p. 7.

¹³² *Submittal in Support of the Consolidation of the Village and Town of East Troy* (2002) p. 163.

¹³³ According to a May 15, 2003 article in the East Troy Times, there have been proposals for the Village of East Troy’s TIF district (located near by I-43) to change from industrial to residential development given the downturn in sales for industrial buildings.

SECTION 2(D) IMPACT UPON THE METROPOLITAN COMMUNITY

would have had no reason to commission the “Wisconsin Metropatterns: Regional Cooperation, Economic Growth and Environmental Protection.”¹³⁴

Therefore, acknowledging that local decisions do affect metropolitan conditions, the Department must weigh the proposed consolidated entity of East Troy in such light. For the aforementioned reasons, the Department cannot make an express finding that the proposed consolidation will not hinder the solution of metropolitan issues. Therefore, the metropolitan impact requirement is not met.

¹³⁴ Study authored by Myron Orfield and Thomas Luce (February 2002).

APPENDIX A: REFERENCES

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APPENDIX B: INCORPORATION AND CONSOLIDATION HISTORY

MUNICIPAL INCORPORATION-CONSOLIDATION SUMMARY
August 2003

Incorporation Number	Municipality	Isolated or Metropolitan	Village or City	Date of Determination	County	Population	Area-Square Miles	Approved	Referendum-Yes	Referendum-No	Dismissed	Standard(s) not met
1	Rudolph	I	V	1/11/1960	Wood	260	0.97	X	X			
2	Forestville	I	V	1/28/1960	Door	324	0.504	X	X			
3	Francis Creek	I	V	3/1/1960	Manitowoc	328					X*	
	Francis Creek	I	V	2/28/1960	Manitowoc	328		X	X			
4	Cushing	I	V	10/18/1961	Polk	1180	0.376				X	s. 66.015
5	Preble	M	C	3/6/1962	Brown	12245					X	1a,1b,2a,2b,2d
6	Waubeka	I			Ozaukee	400					Inquiry Only	
7	Lake Como	I	V	7/20/1962	Walworth	900	4.11	X		X		
8	Mt. Calvary	I	V	10/17/1967	Fond du Lac	564	~1	X	X			
9	Maribel	I	V	7/15/1963	Manitowoc	250	0.781	X	X			
10	Genessee Depot	I	V	12/15/1963	Waukesha	350	0.94	X		X		
11	Germantown	M	V		Washington	5100					Invalid Petition	
12	Pewaukee	M			Waukesha						Petition for Consolidation	
13	Merton	I			Waukesha						Added to Moraine Lakes Petition	
14	Egg Harbor	I	V	5/8/1964	Door	192	0.793	X	X			
15	Rockfield	M	V	8/5/1964	Washington	610	6.5				X	All
16	Kelly Lake	I			Oconto	150					Inquiry Only	
17	Muskego	M	C	9/15/1964	Waukesha	10497	~30	X	X			
18	Moraine Lakes	M	V	2/17/1965	Waukesha	3077	28				X	1a,1b,2d
19	Plover	M	V	4/9/1965	Portage	1000	3.25	X		X		
20	Pleasant Prairie	M	V	9/9/1965	Kenosha	10287	36				X	1a,2b,2d
21	Salem	M	V	2/23/1966	Kenosha	5500	34				X	1a,1b #
22	Campbell	M	V	4/29/1966	La Crosse	2900	12.3	X		X		
23	Howards Grove-	I	V	3/14/1967	Sheboygan	927	<1	X	X			
	Millersville	I										
24	Nichols	I	V	7/20/1967	Outagamie	181	0.9	X	X			
25	Sherwood	I	V	1/8/1968	Calumet	365	1.37				X	1a,1b #
26	Sherwood	I	V	4/30/1968	Calumet	365	0.95	X	X			
27	Stettin	M	V	10/7/1968	Marathon	3582	8				X	1a,1b, #
28	Bristol	I	V	1/14/1969	Kenosha	2500	36				X	1a,1b
29	Lake Como	I	V	6/2/1969	Walworth	900	1.8	X		X		
	Brice Prairie	I		8/6/1969	La Crosse	600					Inquiry Only	
30	Plover	I	V	1/8/1971	Portage	2200	12.5				X*	
31	Kellnersville	I	V	4/8/1971	Manitowoc	290	0.52	X	X			
32	Plover	I	V	6/30/1971	Portage	2600	~8	X	X			
33	Moraine Lakes	M	V	6/2/1972	Waukesha	4424	28.75				X	1a,1b,2d
34	Pewaukee	M	C	6/14/1972	Waukesha	7551	27.5				X	1a,1b,2b,2d
35	Allouez	M	V	1/8/1973	Brown	13743	5.1				X	2d

STANDARDS FOR DETERMINATION (s. 66.0207)

- 1a. Characteristics of the territory
- 1b. Territory beyond the core
- 2a. Tax Revenue
- 2b. Level of service
- 2c. Impact on the remainder of the town
- 2d. Impact on the metropolitan community

DISPOSITION OF THE PETITION

X* Dismissed with recommendation to refile with altered boundaries

X+ Dismissed by request of petitioners

End of evaluation

V* Consolidation

Prepared by: Municipal Boundary Review, WI DOA

MUNICIPAL INCORPORATION-CONSOLIDATION SUMMARY
August 2003

Incorporation Number	Municipality	Isolated or Metropolitan	Village or City	Date of Determination	County	Population	Area-Square Miles	Approved	Referendum-yes	Referendum-no	Dismissed	Standards) not met
36	Hewitt	I	V	1/30/1973	Wood	1056	0.5	X	X			
37	Winter	I	V	4/20/1973	Sawyer	1009	0.55	X	X			
38	French Island	M	V	5/11/1973	La Crosse	3327	12.4				X	1a,1b,2b,2d
39	Warrens	I	V	5/21/1973	La Crosse	276	0.6	X	X			
40	Newburg	I	V	8/16/1974	Wash/Ozauk	630	0.75	X	X			
41	Crivitz	I	V	5/21/1974	Marinette	960	1.25	X	X			
42	French Island	M	V	12/27/1977	La Crosse	3288	12.4				X	1a,1b,2b,2d
43	Medary	M	V	3/1/1977	La Crosse	2643	18.8				X	1a,1b,2b,2d
44	Ashwaubenon	M	V	6/21/1977	Brown	13760	9.47	X	X			
45	Pewaukee	M	C	9/1/1977	Waukesha	8571	28.7				X	1a,1b,2d
46	Okauchee Lake	I	V	12/5/1977	Waukesha	3160	3.25	X		X		
47	Nelson	I	V	3/27/1978	Buffalo	370	1.44	X	X			
48	Arpin	I	V	7/20/1978	Wood	336	0.5	X	X			
49	Bridgeview	M	V	5/1/1978	Winnebago	11518	12.2				X	1a,1b,2b,2d
50	Lisbon	M	C	12/19/1979	Waukesha	8230	32.7				X	1a,1b,2b,2d
51	Pleasant Prairie	M	V	1/9/1980	Kenosha	12611	36				X	1a,1b,2b,2d
52	Potter	I	V	7/16/1980	Calumet	296	0.505	X	X			
53	Fitchburg	M	C	6/26/1981	Dane	11000	34.5				X	1a,1b,2b,2d
54	Chain O'Lakes	I	V	10/28/1982	Waupaca	2400	5.75	X		X		
55	Grand Chute	M	V	3/25/1985	Outagamie	7694	10.2				X	1a,1b,2b,2d
56	Allouez	M	V	8/15/1985	Brown	15100	5.1	X	X			
57	Oakdale	I	V	1/31/1986	Monroe	197	0.7	X		X		
58	Oakdale	I	V	11/2/1987	Monroe	197	0.7	X	X			
59	Pewaukee	M	V*	9/1/1988	Waukesha	14000+	28.8				X*	1a,1b,2b,2d
60	Blue Spring Lake	I		7/17/1989	Jefferson	204					X+	
61	Delevan Lake	I	V	11/22/1989	Walworth	2098+	6.9				X	1a
62	Pewaukee City	M	C	5/31/1991	Waukesha	10000	~25				X	1a,1b,
63	Powers Lake	I	V	4/29/1992	Kenosha	1283	4.45				X	1a
64	Stone Bank	I	V	1/23/1995	Waukesha	2300	6.6				X*	1a
65	Weston	M	V	10/31/1995	Marathon	9639	13.4	X	X			
66	Pewaukee	M	C	12/11/1998	Waukesha	9621	24	X	X			
67	Bohners Lake	I	V	3/25/1999	Racine	1970	2.44	X		X		
68	Brookfield	M	V	6/4/1999	Waukesha	6243	5.53				X	1a, 2d
69	Powers Lake II	I	V	10/15/1999	Kenosha	1329	-3.5				X	1a
70	Sheboygan	M	V	2/14/2000	Sheboygan	5114	~9				X	1a,2b,2d
71	Waukesha	M	V	4/17/2000	Waukesha	8333	22.41				X	1a,2b,2d
72	Pell Lake	I	V	12/1/2000	Walworth	3000	2.75	X		X		
73	Bridgeport	I	V	11/30/2001	Crawford	946	16.88				X	1a
74	Brookfield II	M	V	11/30/2001	Waukesha	6400	5.53				X	1a,2d
75	Kronenwetter	M	V	8/19/2002	Marathon	4172	11.04	X	X			
76	Bellevue	M	V	9/3/2002	Brown	12028	14.5	X	X			
77	Lake Hallie	M	V	10/10/2002	Chippewa	4650	14.22	X	X			
78	Suamico	M	V	4/21/2003	Brown	9399	17	X	X			
79	Mount Pleasant	M	V	6/5/2003	Racine	23629	35.15	X	X			

STANDARDS FOR DETERMINATION (s. 66.0207)

- 1a. Characteristics of the territory
- 1b. Territory beyond the core
- 2a. Tax Revenue
- 2b. Level of service
- 2c. Impact on the remainder of the town
- 2d. Impact on the metropolitan community

DISPOSITION OF THE PETITION

X* Dismissed with recommendation to refile with altered boundaries

X+ Dismissed by request of petitioners

End of evaluation

V* Consolidation

Prepared by: Municipal Boundary Review, WI DOA

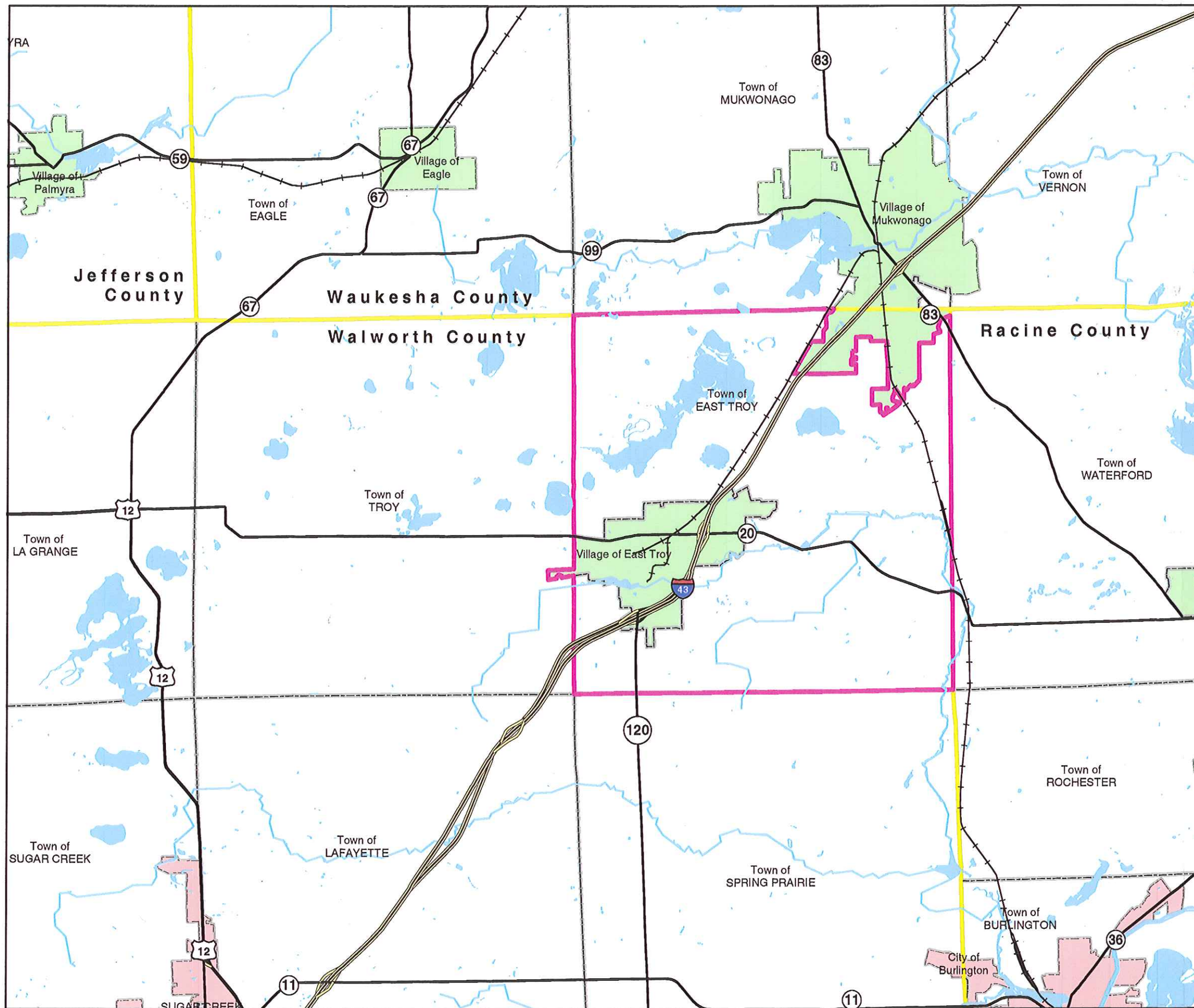
APPENDIX C: MAPS

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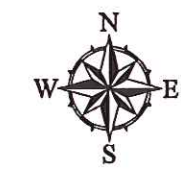
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Map 1

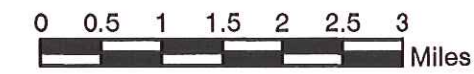
Regional Context






- Consolidation Boundary
- Interstate Highways
- U.S. Highways
- State Trunk Highways
- Railroads
- Water Bodies
- County Boundaries
- Cities
- Villages
- Towns

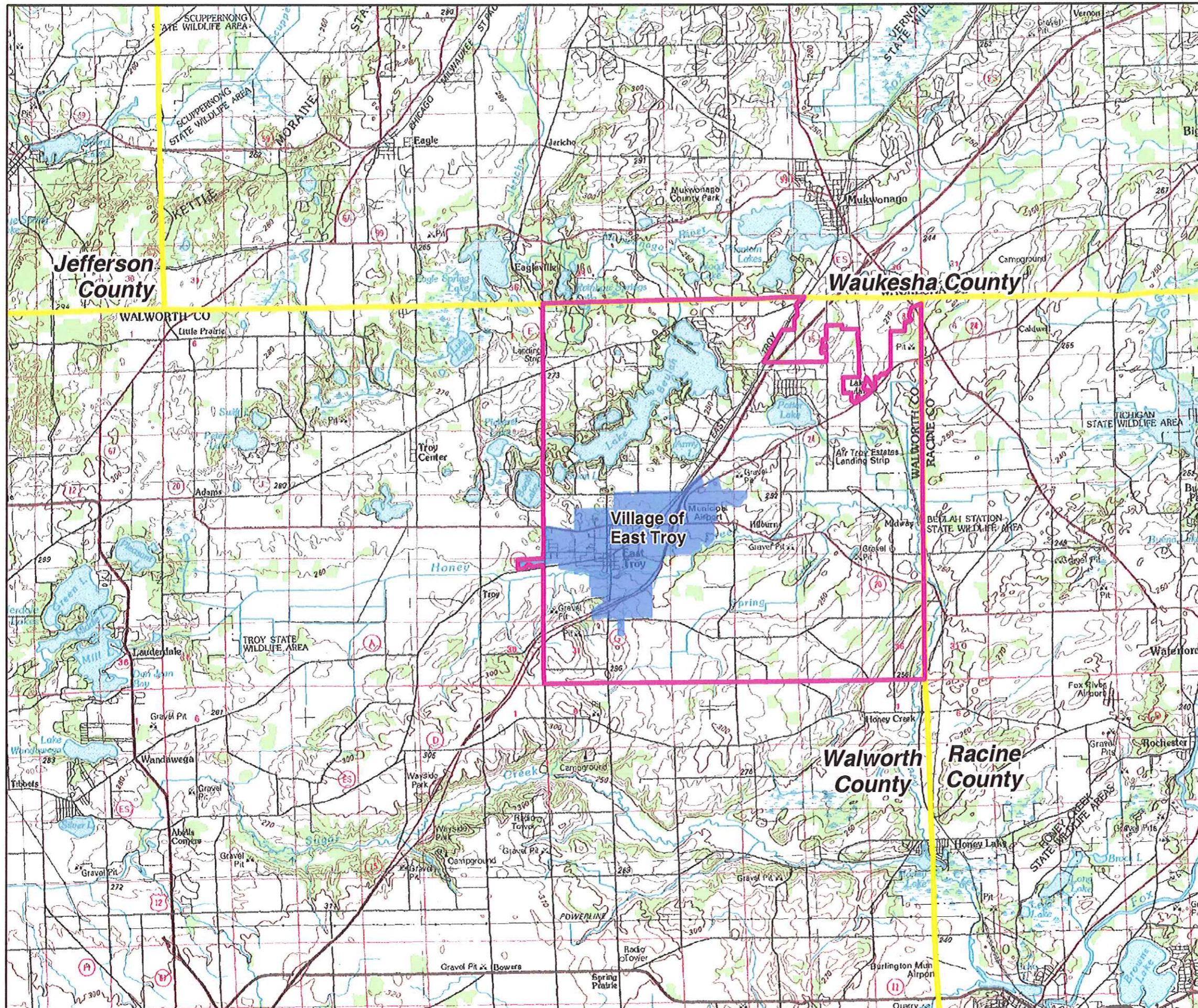


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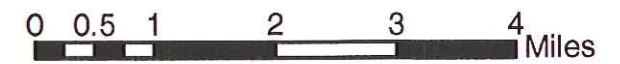


Map 2 Topography

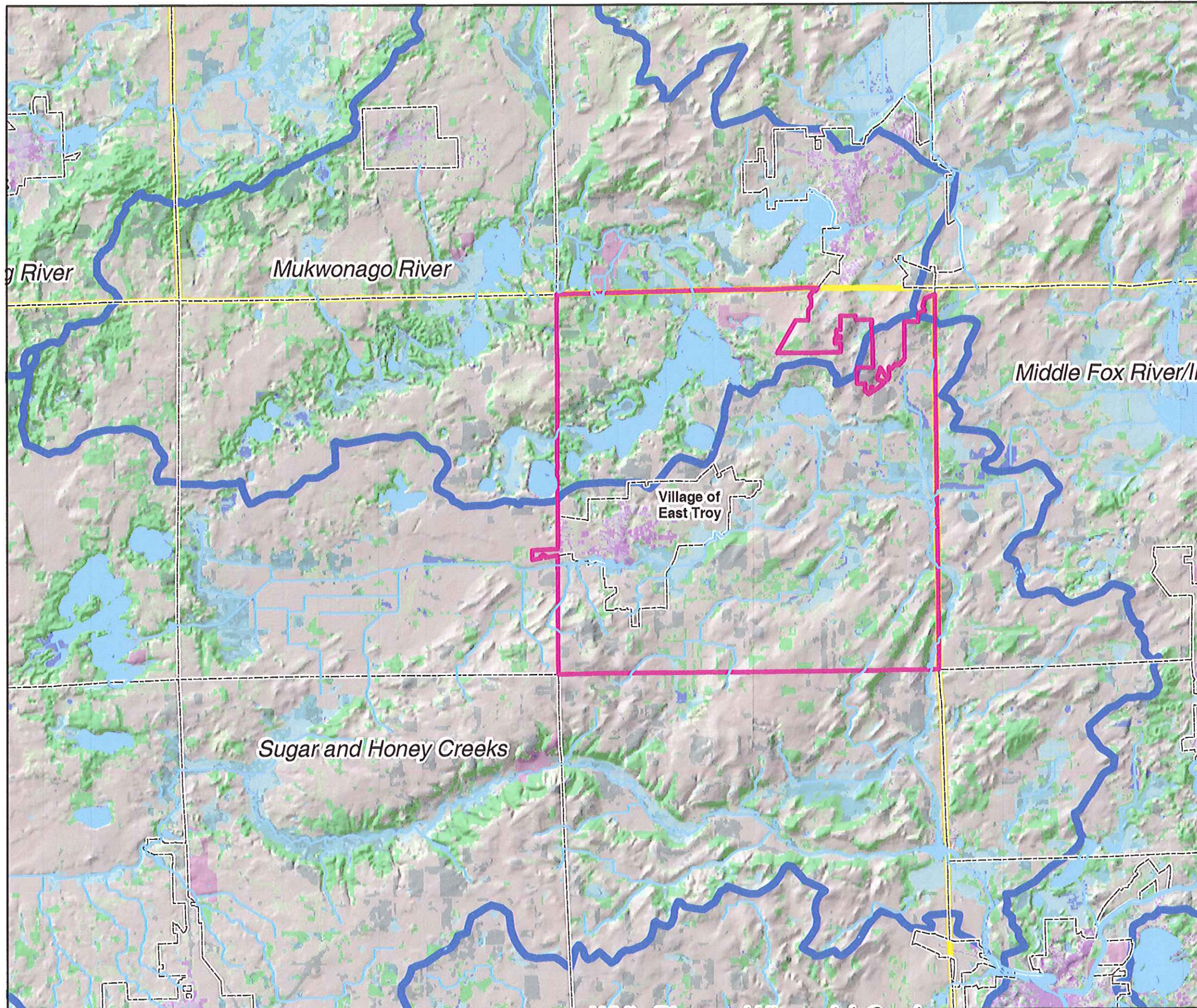
-  Consolidation Boundary
-  Village of East Troy
-  County Boundaries





WTM 83 (91)
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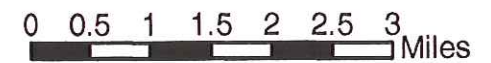
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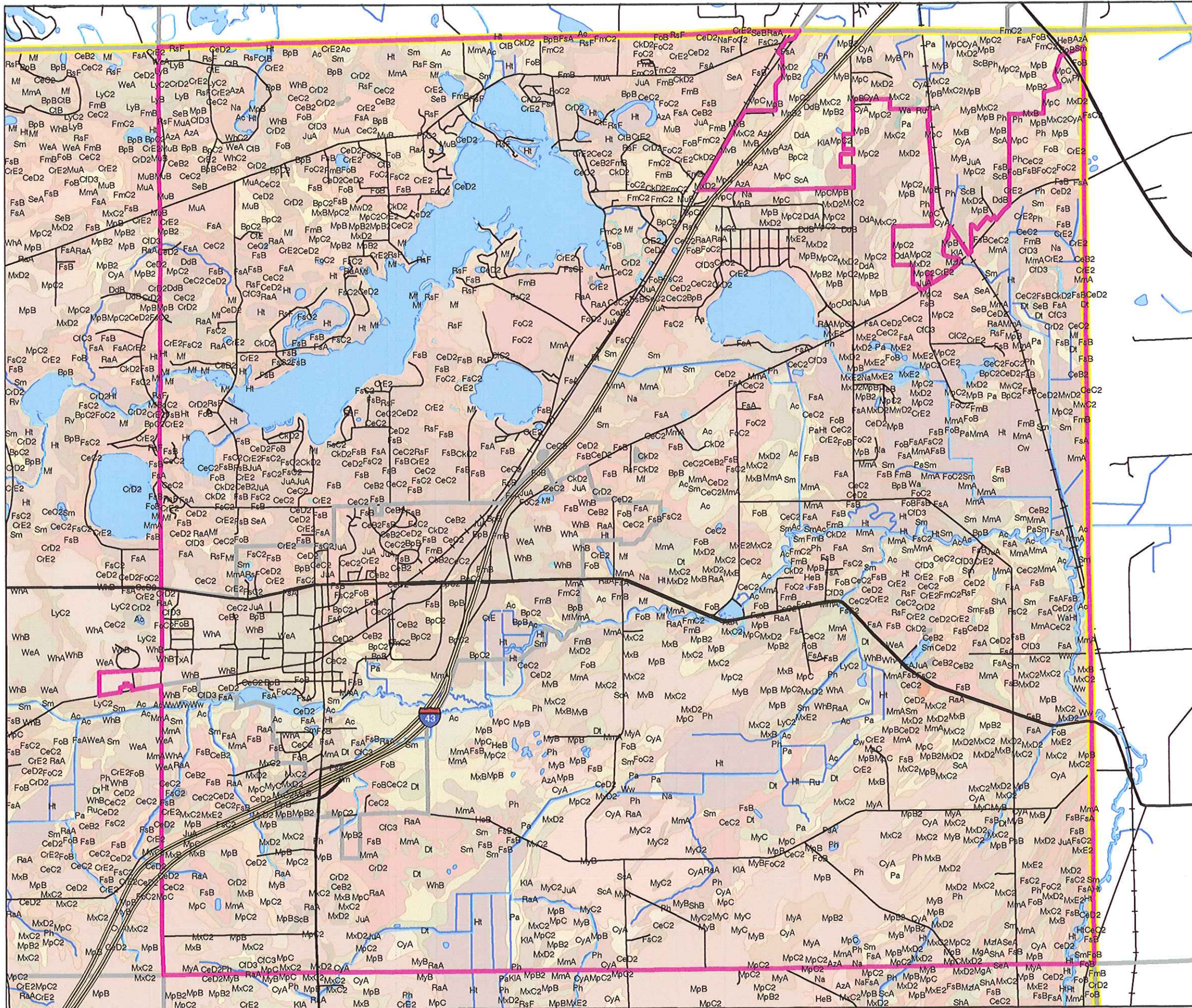
-  Lakes
-  County Boundaries
-  Rivers & Streams
-  Watershed Boundaries
-  Municipalities
-  Consolidation Boundary



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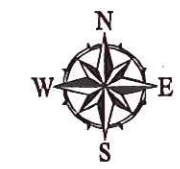


Map 4 USDA NRCS Soil Mapping Units



-  Consolidation Boundary
-  2002 Municipalities
-  County Boundaries

See Table of Soil Mapping Unit Symbols and Soil Series Names.



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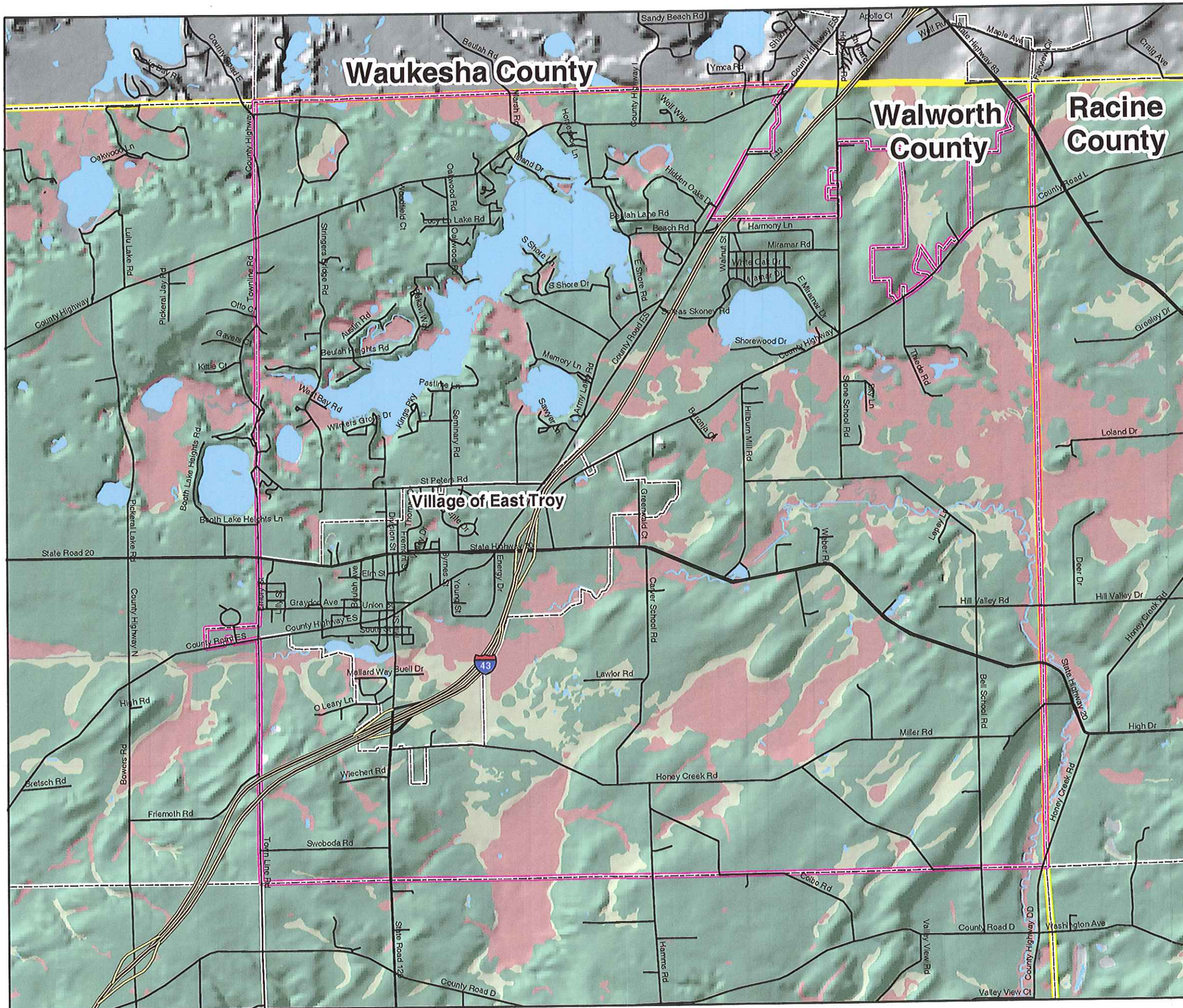
Table 16: East Troy Area Soils

SMU	Soil Mapping Unit
Ac	ADRIAN MUCK
Am	ALLUVIAL LAND
AzA	AZTALAN LOAM, 1 TO 3 PERCENT SLOPES
BpB	BOYER COMPLEX, 2 TO 6 PERCENT SLOPES
BpC2	BOYER COMPLEX, 6 TO 12 PERCENT SLOPES, ERODED
CeB2	CASCO LOAM, 2 TO 6 PERCENT SLOPES, ERODED
CeC2	CASCO LOAM, 6 TO 12 PERCENT SLOPES, ERODED
CeD2	CASCO LOAM, 12 TO 20 PERCENT SLOPES, ERODED
CfC3	CASCO SOILS, 6 TO 12 PERCENT SLOPES, SEVERELY ERODED
CfD3	CASCO SOILS, 12 TO 20 PERCENT SLOPES, SEVERELY ERODED
CkD2	CASCO-FOX LOAMS, 12 TO 20 PERCENT SLOPES, ERODED
CiC2	CASCO-FOX SILT LOAMS, 6 TO 12 PERCENT SLOPES, ERODED
CrD2	CASCO-RODMAN COMPLEX, 12 TO 20 PERCENT SLOPES, ERODED
CrE2	CASCO-RODMAN COMPLEX, 20 TO 30 PERCENT SLOPES, ERODED
CtB	CHELSEA FINE SAND, 1 TO 6 PERCENT SLOPES
CtE	CHELSEA FINE SAND, 6 TO 30 PERCENT SLOPES
Cw	COLWOOD SILT LOAM
CyA	CONOVER SILT LOAM, 1 TO 3 PERCENT SLOPES
DdA	DODGE SILT LOAM, 0 TO 2 PERCENT SLOPES
DdB	DODGE SILT LOAM, 2 TO 6 PERCENT SLOPES
Dt	DRUMMER SILT LOAM, GRAVELLY SUBSTRATUM
FmB	FOX SANDY LOAM, 1 TO 6 PERCENT SLOPES
FmC2	FOX SANDY LOAM, 6 TO 12 PERCENT SLOPES, ERODED
FoB	FOX LOAM, 2 TO 6 PERCENT SLOPES
FoC2	FOX LOAM, 6 TO 12 PERCENT SLOPES, ERODED
FsA	FOX SILT LOAM, 0 TO 2 PERCENT SLOPES
FsB	FOX SILT LOAM, 2 TO 6 PERCENT SLOPES
FsC2	FOX SILT LOAM, 6 TO 12 PERCENT SLOPES, ERODED
HeB	HEBRON LOAM, 1 TO 6 PERCENT SLOPES
Ht	HOUGHTON MUCK
JuA	JUNEAU SILT LOAM, 1 TO 3 PERCENT SLOPES
KIA	KENDALL SILT LOAM, 1 TO 3 PERCENT SLOPES
LyB	LORENZO LOAM, 2 TO 6 PERCENT SLOPES
LyC2	LORENZO LOAM, 6 TO 12 PERCENT SLOPES, ERODED
Mf	MARSH
MgA	MARTINTON SILT LOAM, 1 TO 3 PERCENT SLOPES
MmA	MATHERTON SILT LOAM, 1 TO 3 PERCENT SLOPES
MpB	MCHENRY SILT LOAM, 2 TO 6 PERCENT SLOPES
MpB2	MCHENRY SILT LOAM, 2 TO 6 PERCENT SLOPES, ERODED
MpC	MCHENRY SILT LOAM, 6 TO 12 PERCENT SLOPES
MpC2	MCHENRY SILT LOAM, 6 TO 12 PERCENT SLOPES, ERODED
MuA	METEA LOAMY FINE SAND, 0 TO 2 PERCENT SLOPES
MuB	METEA LOAMY FINE SAND, 2 TO 6 PERCENT SLOPES
MvB	MIAMI SANDY LOAM, SANDY LOAM SUBSTRATUM, 2 TO 6 PERCENT SLOPES
MwC2	MIAMI LOAM, 6 TO 12 PERCENT SLOPES, ERODED
MwD2	MIAMI LOAM, 12 TO 20 PERCENT SLOPES, ERODED
MxB	MIAMI LOAM, SANDY LOAM SUBSTRATUM, 2 TO 6 PERCENT SLOPES
MxC2	MIAMI LOAM, SANDY LOAM SUBSTRATUM, 6 TO 12 PERCENT SLOPES, ERODED

MxD2	MIAMI LOAM, SANDY LOAM SUBSTRATUM, 12 TO 20 PERCENT SLOPES, ERODED
MxE2	MIAMI LOAM, SANDY LOAM SUBSTRATUM, 20 TO 35 PERCENT SLOPES, ERODED
MyA	MIAMI SILT LOAM, 0 TO 2 PERCENT SLOPES
MyB	MIAMI SILT LOAM, 2 TO 6 PERCENT SLOPES
MyC	MIAMI SILT LOAM, 6 TO 12 PERCENT SLOPES
MyC2	MIAMI SILT LOAM, 6 TO 12 PERCENT SLOPES, ERODED
MzfA	MUNDELEIN SILT LOAM, 1 TO 3 PERCENT SLOPES
Na	NAVAN SILT LOAM
Pa	PALMS MUCK
Ph	PELLA SILT LOAM
PsA	PLANO SILT LOAM, 0 TO 2 PERCENT SLOPES
PsB	PLANO SILT LOAM, 2 TO 6 PERCENT SLOPES
RaA	RADFORD SILT LOAM, 0 TO 3 PERCENT SLOPES
RsF	RODMAN-CASCO COMPLEX, 30 TO 45 PERCENT SLOPES
Ru	ROLLIN MUCK, DEEP
ScA	ST. CHARLES SILT LOAM, 0 TO 2 PERCENT SLOPES
ScB	ST. CHARLES SILT LOAM, 2 TO 6 PERCENT SLOPES
SeA	ST. CHARLES SILT LOAM, GRAVELLY SUBSTRATUM, 0 TO 2 PERCENT SLOPES
SeB	ST. CHARLES SILT LOAM, GRAVELLY SUBSTRATUM, 2 TO 6 PERCENT SLOPES
ShA	SAYLESVILLE SILT LOAM, 0 TO 2 PERCENT SLOPES
ShB	SAYLESVILLE SILT LOAM, 2 TO 6 PERCENT SLOPES
Sm	SEBEWA SILT LOAM
TxA	TROXEL SILT LOAM, 0 TO 3 PERCENT SLOPES
Wa	WALLKILL SILT LOAM
WeA	WARSAW LOAM, 0 TO 2 PERCENT SLOPES
WhA	WARSAW SILT LOAM, 0 TO 2 PERCENT SLOPES
WhB	WARSAW SILT LOAM, 2 TO 6 PERCENT SLOPES
WhC2	WARSAW SILT LOAM, 6 TO 12 PERCENT SLOPES, ERODED
Ww	WET ALLUVIAL LAND

Map 5

POWTS Suitability

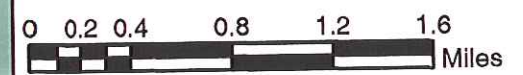


-  Consolidation Boundary
-  Interstate Highways
-  U.S. Highways
-  State Trunk Highways
-  Local Roads
-  2002 Municipalities
-  County Boundaries
-  Water Bodies
-  High
-  Moderate
-  Very Low

Estimated probability that the map unit includes a suitable site for an alternate (engineered) POWTS system.

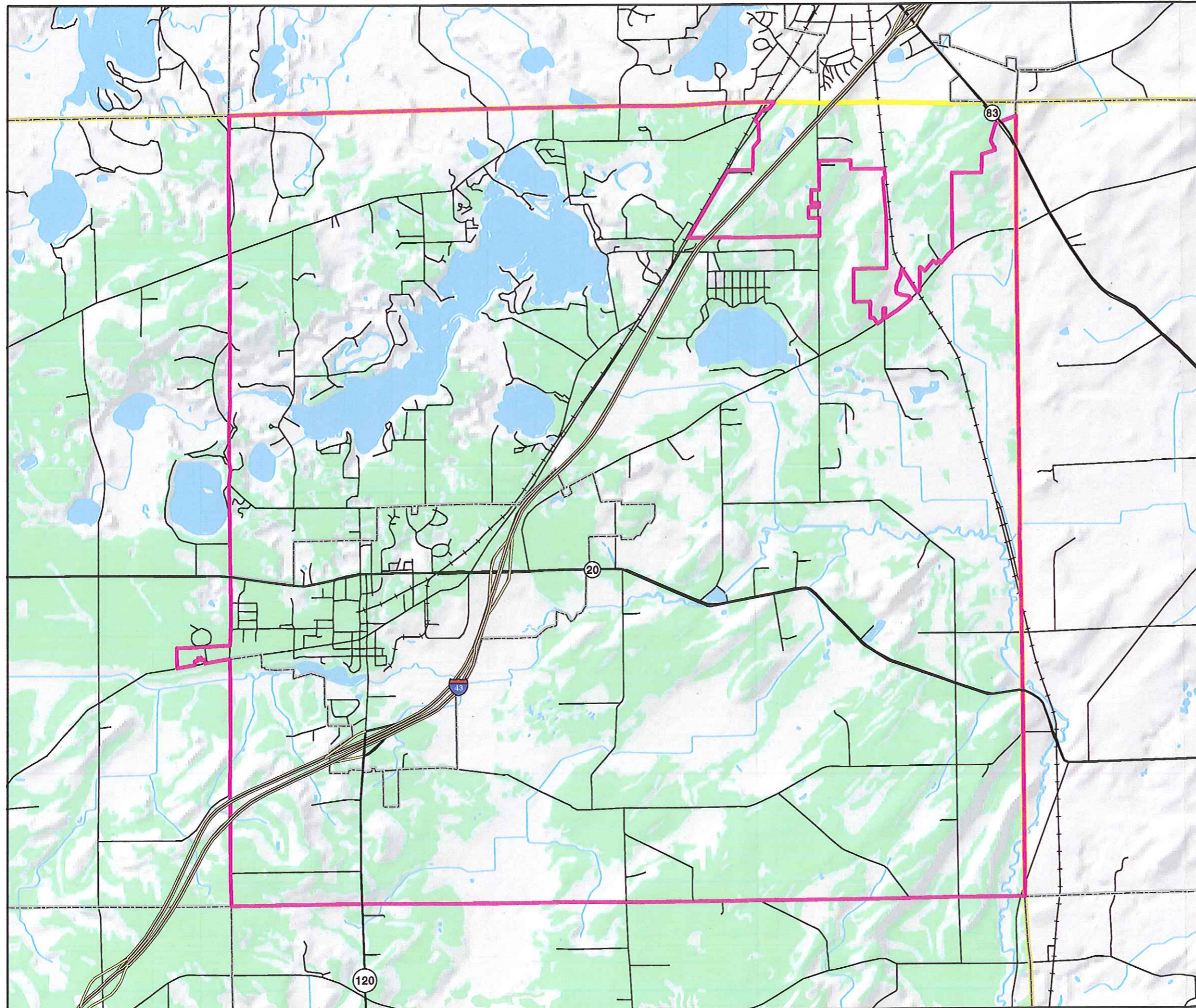












WTM 83 (91)
1:48,000

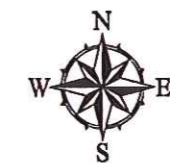


Map 6a

USDA NRCS Prime Farmland



-  Consolidation Boundary
-  Interstate Highways
-  U.S. Highways
-  State Trunk Highways
-  Local Roads
-  Railroads
-  2002 Municipalities
-  County Boundaries
-  Water Bodies
-  Prime Farmland



WTM 83 (91)
1:48,000

0 0.5 1 Miles





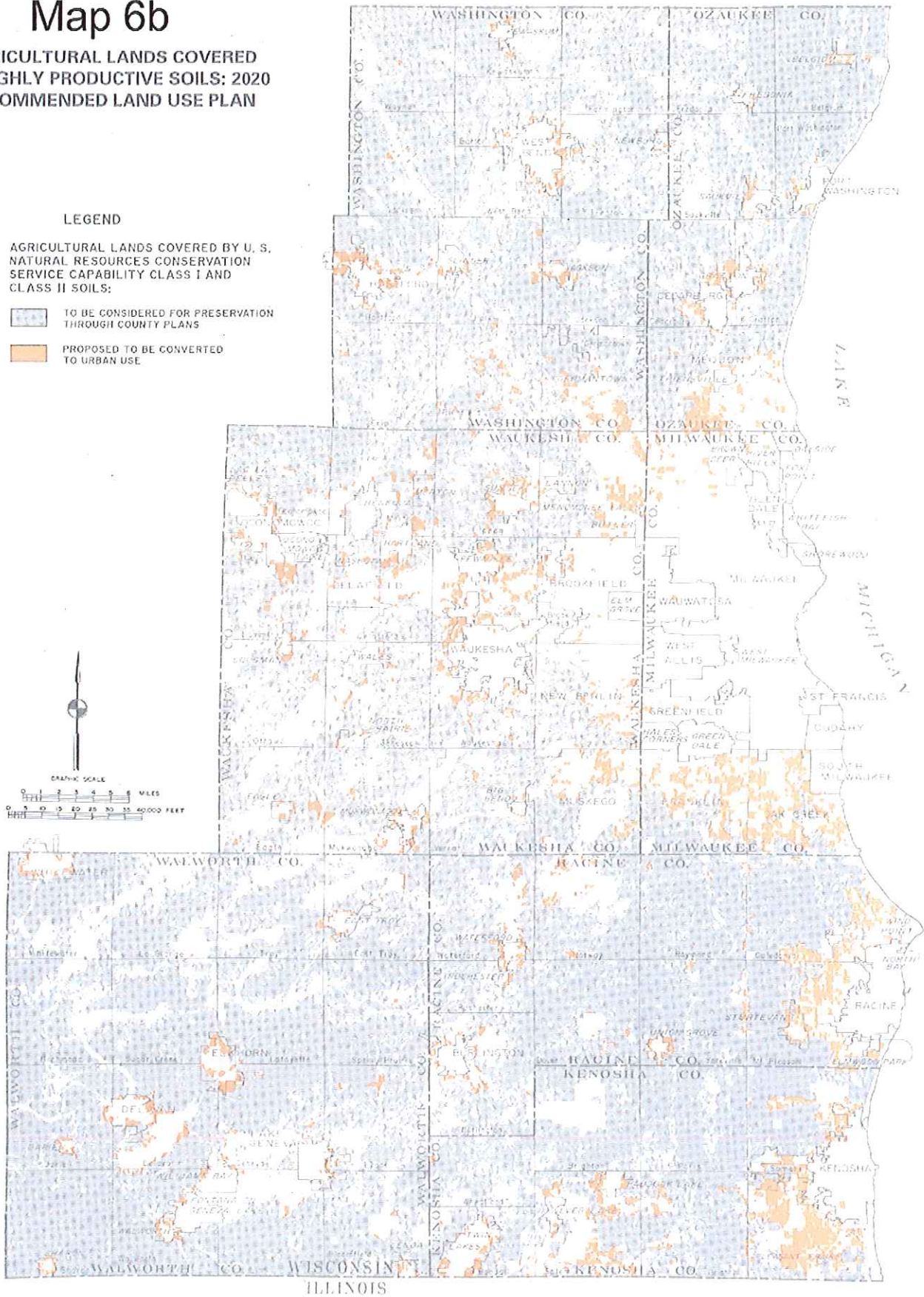
Map 6b

AGRICULTURAL LANDS COVERED BY HIGHLY PRODUCTIVE SOILS: 2020 RECOMMENDED LAND USE PLAN

LEGEND

AGRICULTURAL LANDS COVERED BY U. S. NATURAL RESOURCES CONSERVATION SERVICE CAPABILITY CLASS I AND CLASS II SOILS:

-  TO BE CONSIDERED FOR PRESERVATION THROUGH COUNTY PLANS
-  PROPOSED TO BE CONVERTED TO URBAN USE

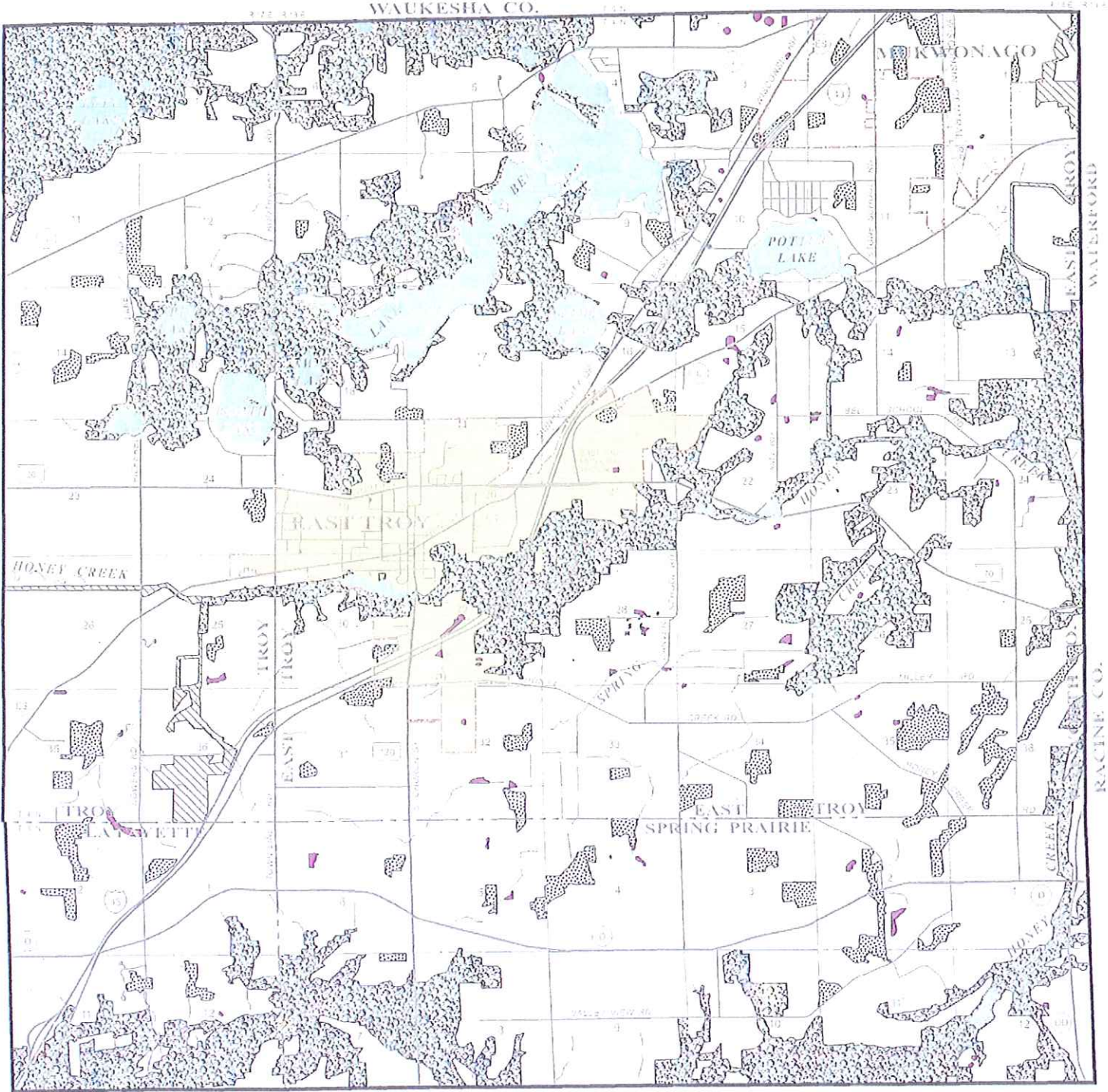


The regional land use plan seeks to preserve, insofar as practicable, the soils considered most productive for agricultural purposes—namely, U. S. Natural Resources Conservation Service capability Class I and Class II soils. Under the plan, the conversion of farmland covered by Class I and Class II soils to urban use would be limited to lands needed for the orderly expansion of existing urban service areas and lands located beyond planned urban service areas which have already been effectively committed to urban use. Under the plan, agricultural land covered by Class I and Class II soils in the Region would decrease from 1,066 square miles in 1990 to 1,019 square miles in the year 2020.

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

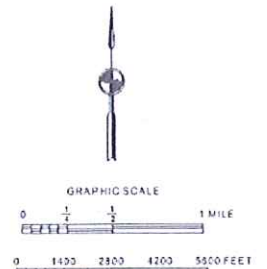
Map 7

ENVIRONMENTALLY SIGNIFICANT LANDS IN THE EAST TROY AND ENVIRONS STUDY AREA

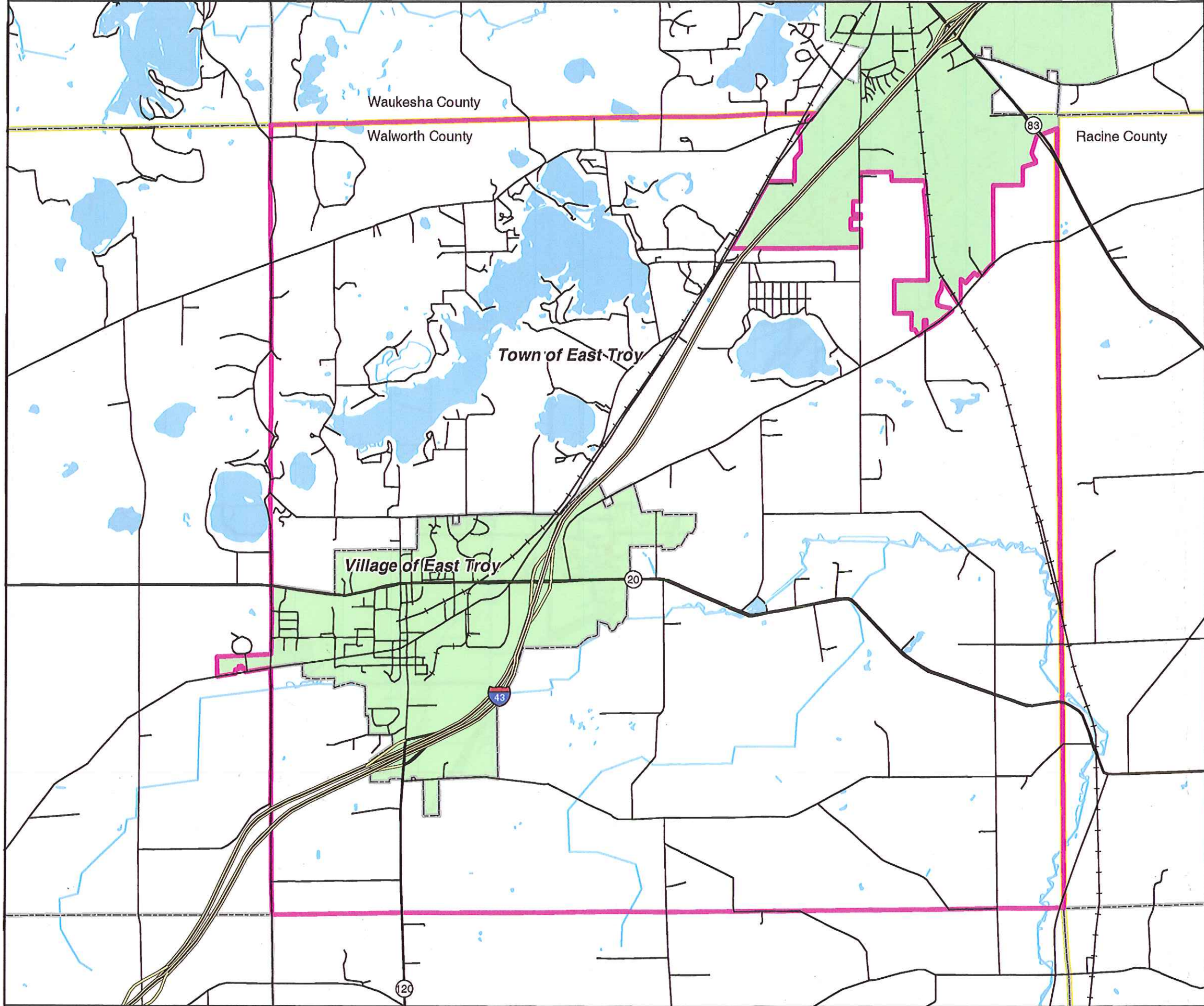


-  PRIMARY ENVIRONMENTAL CORRIDOR
-  SECONDARY ENVIRONMENTAL CORRIDOR
-  ISOLATED NATURAL RESOURCE AREA
-  WETLANDS AND SURFACE WATER AREAS LESS THAN FIVE ACRES IN SIZE
-  VILLAGE BOUNDARIES

Source: SEWRPC.





Map 8 Transportation



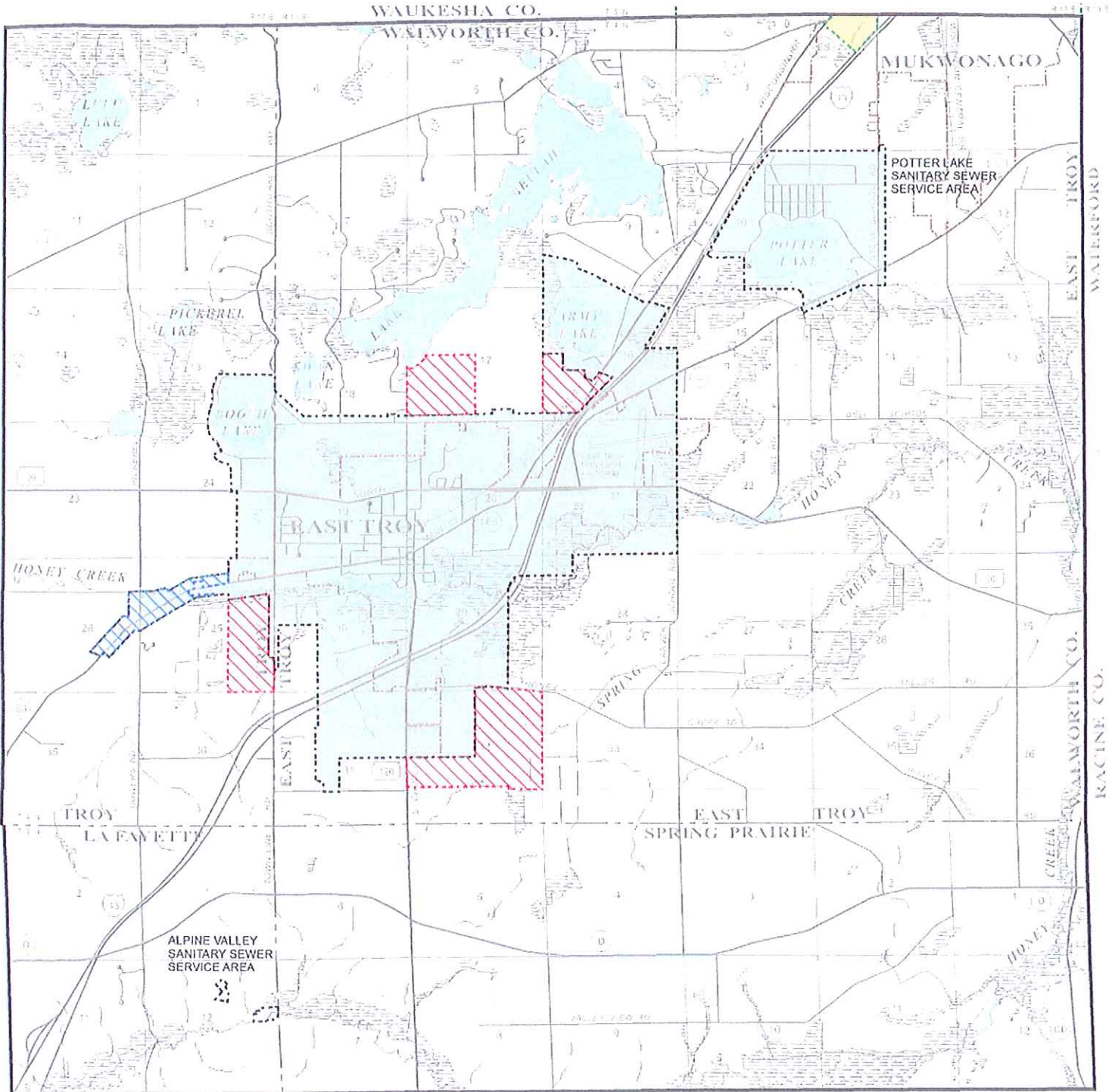
-  Consolidation Boundary
-  Interstate Highways
-  U.S. Highways
-  State Trunk Highways
-  Local Roads
-  Railroads
-  Cities
-  Villages
-  Towns
-  County Boundaries
-  Water Bodies






WTM 83 (91)
1: 48,000

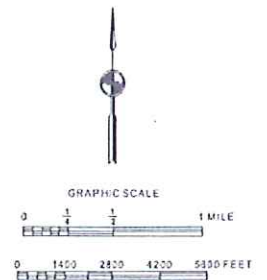

Map 10

EAST TROY AND ENVIRONS SANITARY SEWER SERVICE AREA AS DEFINED IN SEWRPC COMMUNITY ASSISTANCE PLANNING REPORT NO. 112 (2ND. EDITION), AS AMENDED, WITH PROPOSED CHANGES

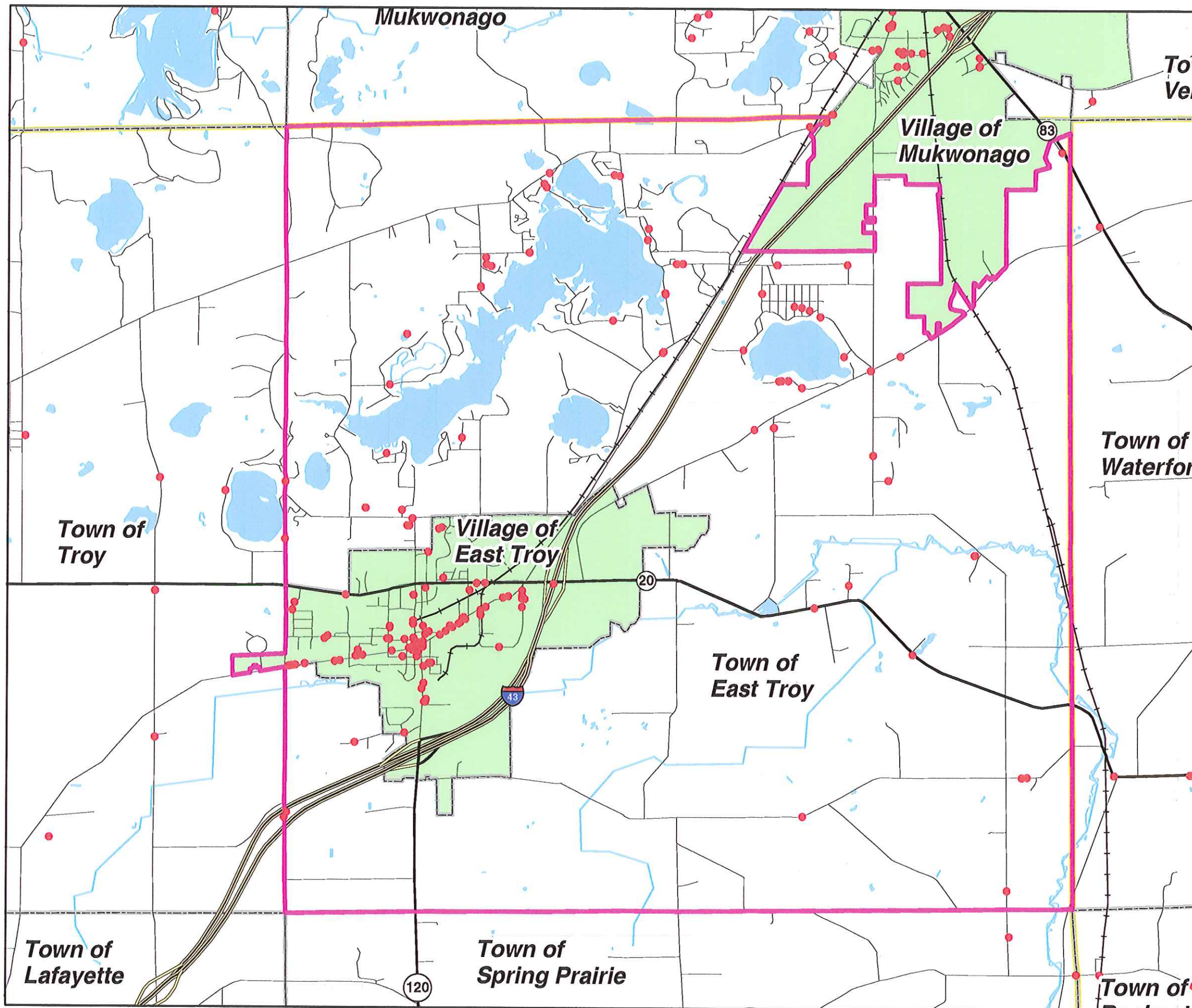














-  EAST TROY AND ENVIRONS SANITARY SEWER SERVICE AREA AS DEFINED IN SEWRPC COMMUNITY ASSISTANCE PLANNING REPORT NO. 112 (2ND. EDITION), AS AMENDED
-  AREA TO BE REMOVED FROM THE EAST TROY AND ENVIRONS SANITARY SEWER SERVICE AREA
-  AREAS TO BE ADDED TO THE EAST TROY AND ENVIRONS SANITARY SEWER SERVICE AREA
-  VILLAGE BOUNDARIES
-  MUKWONAGO SANITARY SEWER SERVICE AREA

Source: SEWRPC.

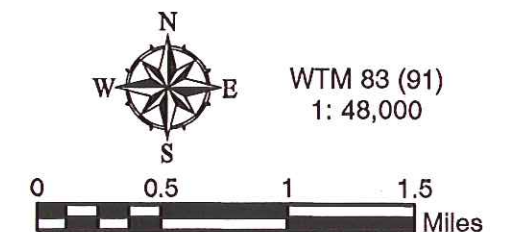


Map 11 Business Locations



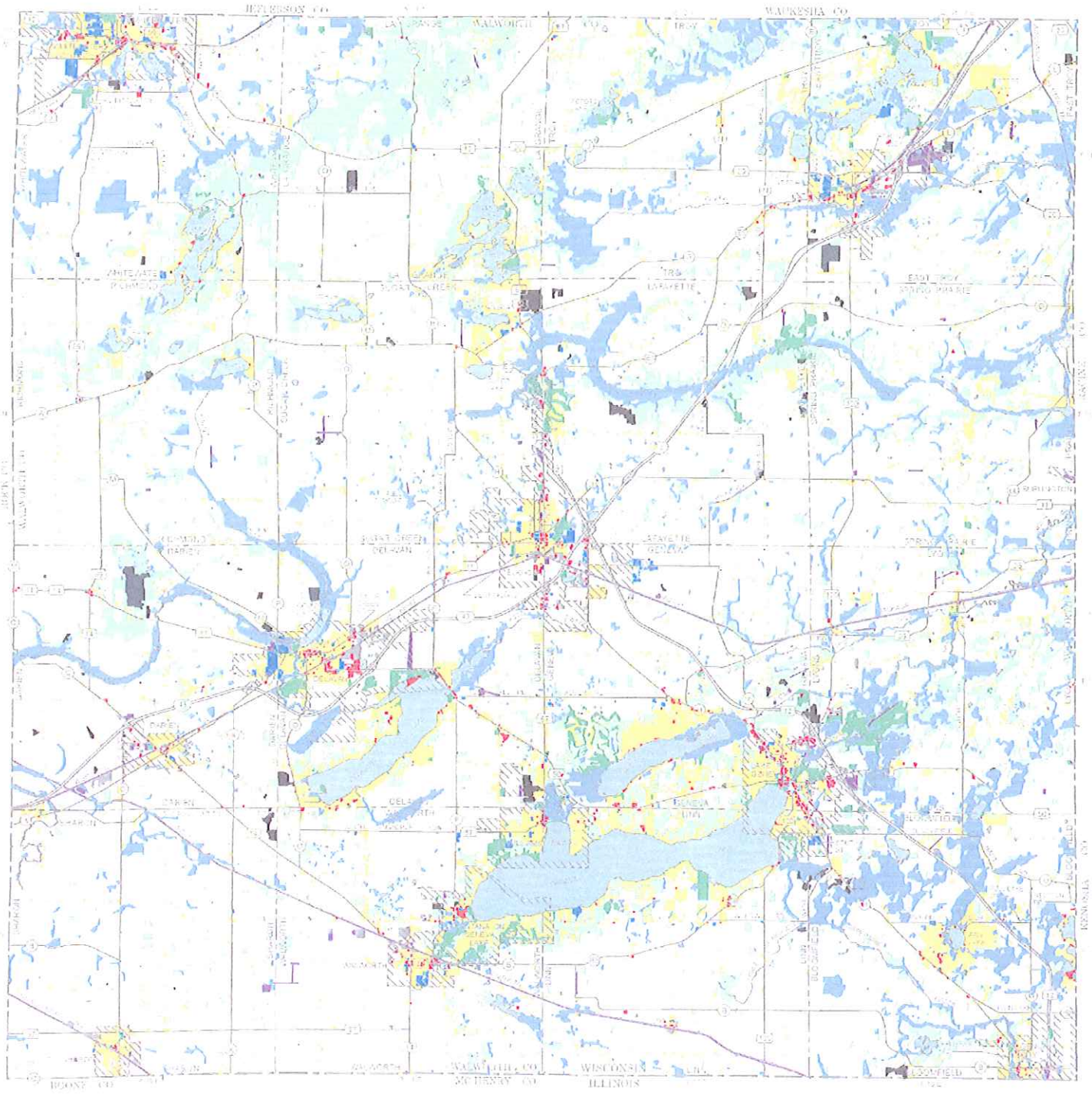
-  Consolidation Boundary
-  Business Locations
-  Interstate Highways
-  U.S. Highways
-  State Trunk Highways
-  Roads
-  Railroads
-  Cities
-  Villages
-  Towns
-  County Boundaries
-  Water Bodies












Business locations are based upon the Wisconsin Department of Workforce Development's 2001 Standard Name and Address Program (SNAP). SNAP is a database of all employers who pay unemployment insurance.



Map 12

GENERALIZED LAND USE IN WALWORTH COUNTY: 1995

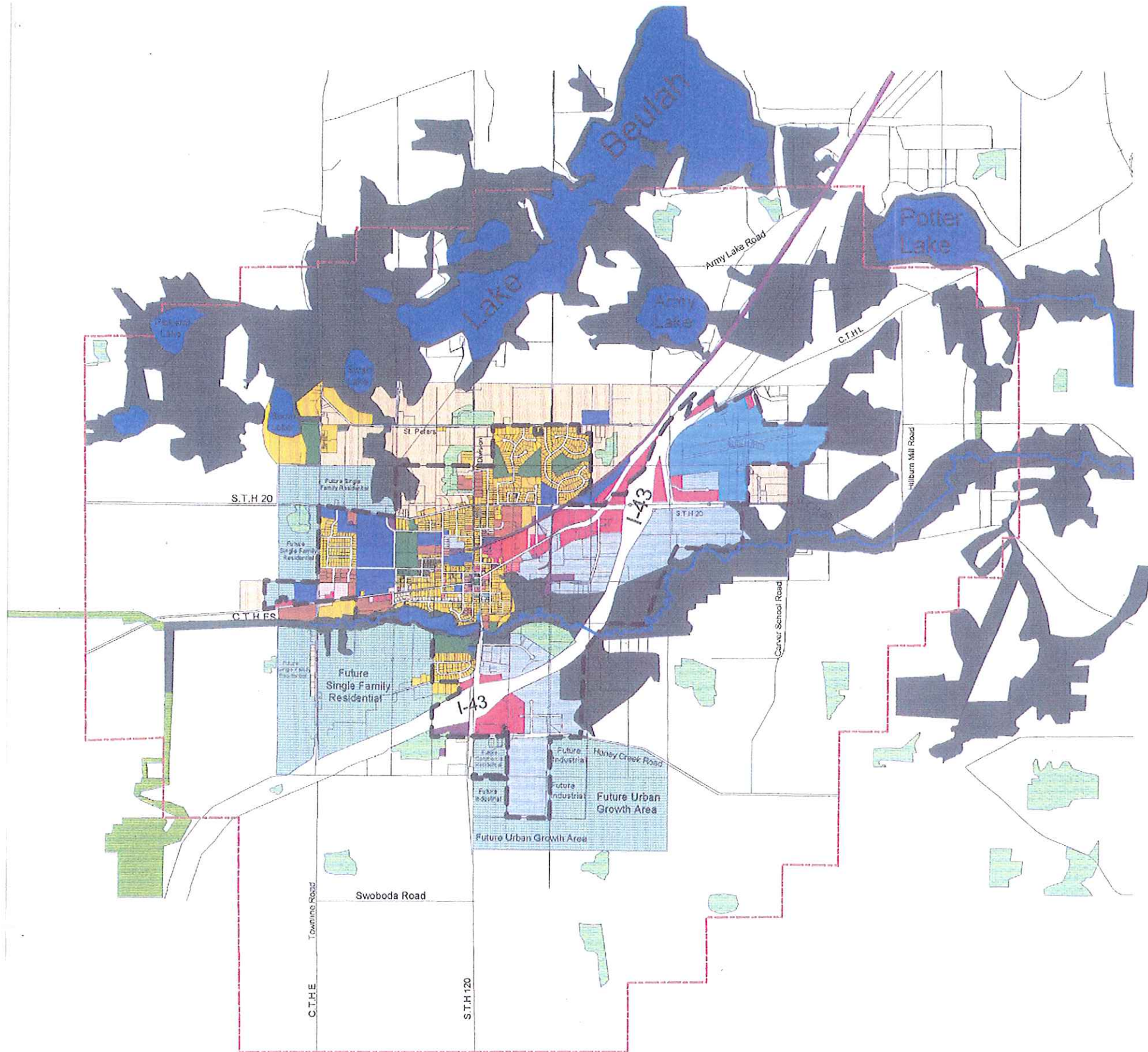
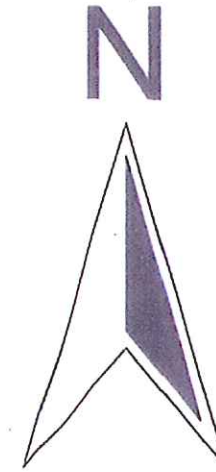


- | | |
|--|---|
|  RESIDENTIAL |  LANDFILL AND EXTRACTIVE |
|  COMMERCIAL |  WOODLANDS |
|  INDUSTRIAL |  WETLANDS |
|  GOVERNMENTAL AND INSTITUTIONAL |  AGRICULTURAL AND OTHER OPEN LANDS |
|  RECREATIONAL |  SURFACE WATER |
|  TRANSPORTATION, COMMUNICATION, AND UTILITIES | |



Source: SEWRPC.

Village of East Troy Land Use Plan



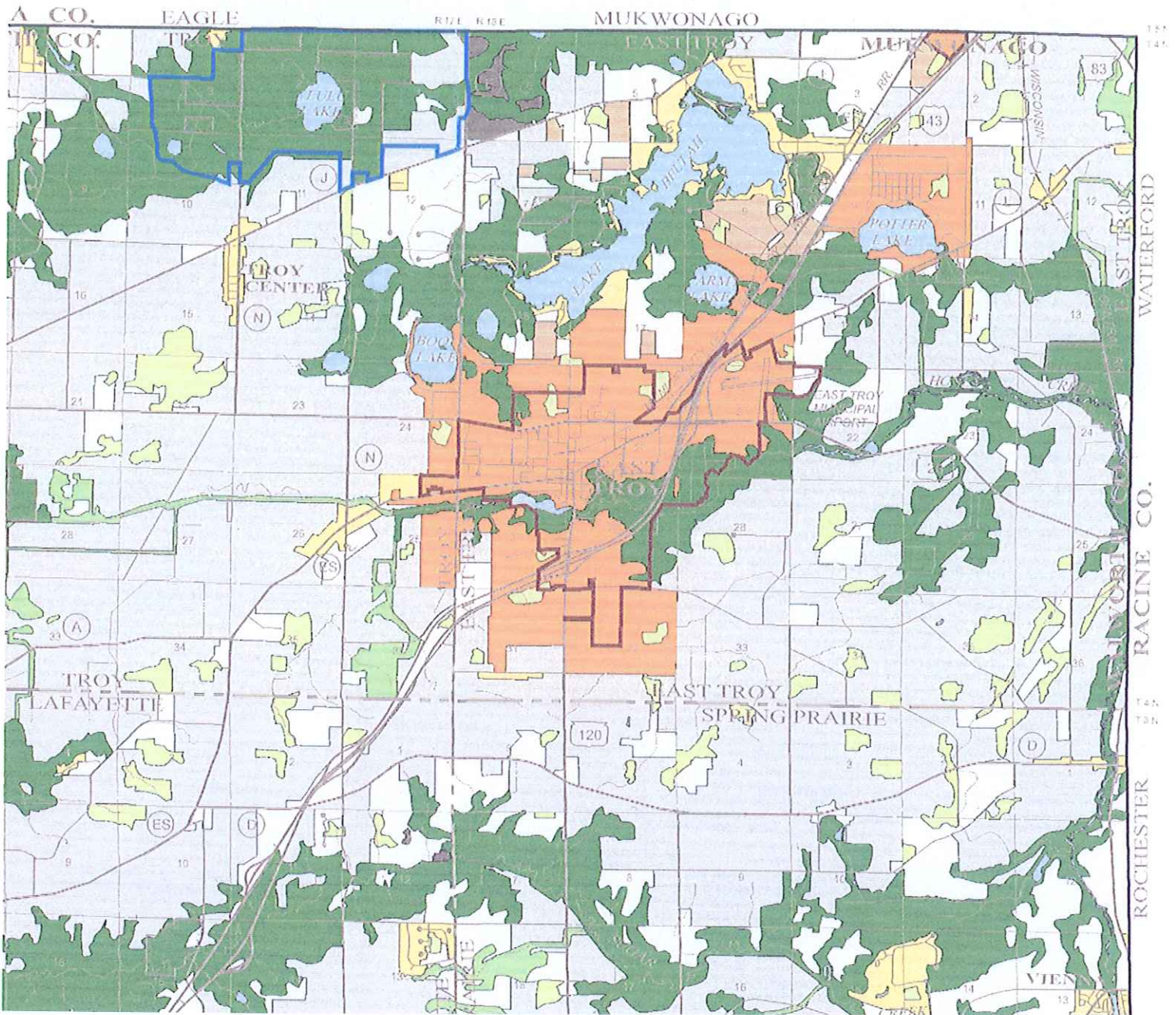
- Village Limits
- Planning Area
- Agricultural / Rural Residential
- Agricultural / Holding District
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Mobile Home Park
- Neighborhood Convenience District
- Downtown Business District
- Highway Business District
- Industrial
- Governmental
- Institutional
- Utilities
- Parks and Open Space
- Primary Environmental Corridor
- Secondary Environmental Corridor
- Isolated Natural Resource Area














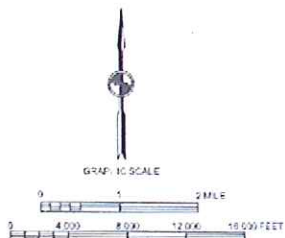
Prepared By: Independent
Inspections, Ltd.
July 21, 2000

Map 14

RECOMMENDED LAND USE PLAN FOR WALWORTH COUNTY: 2020



-  OTHER AGRICULTURAL, RURAL RESIDENTIAL, AND OTHER OPEN LAND
-  URBAN SERVICE AREA (adopted public sanitary sewer service area)
-  SPECIAL SEWER SERVICE AREA
-  OTHER URBAN LAND
-  LANDS IN THE A-3 AGRICULTURAL LAND HOLDING DISTRICT LOCATED BEYOND THE PLANNED URBAN SERVICE AREAS AND OTHER URBAN LANDS
-  PRIME AGRICULTURAL LAND
-  PRIMARY ENVIRONMENTAL CORRIDOR
-  SECONDARY ENVIRONMENTAL CORRIDOR
-  ISOLATED NATURAL RESOURCE AREA
-  SURFACE WATER
-  WISCONSIN DEPARTMENT OF NATURAL RESOURCES PROJECT BOUNDARY



Source: SEWRPC.