

Report to the Manitowoc Plan Commission

Meeting Date: December 21, 2022

Request: PC 25-2022: Brian & Laura Stecker, Petition for Detachment of Territory from the City of Manitowoc pursuant to § 66.0227 located at 7121 Dutch Road

Existing Land Use for Subject Property: Single Family and Agricultural

Existing Zoning for Subject Property: R-1 Single Family Residential and P-1 Conservancy

Report: Brian and Laura Stecker are petitioning to detach from the City of Manitowoc and attach to the Town of Manitowoc Rapids. Detachment proceedings are governed by Section §66.0227 of the State Statutes. The statutes are below and a flow chart prepared by the Wis. Dept of Administration is attached for reference.

The property is located at 7121 Dutch Road and the existing City Limits line runs along the Stecker's west and north property lines. The parcel is approximately 31.72 acres and has approximately 2,214 feet of frontage along Dutch Road. The Stecker's residence is located on the far westerly portion of the lot. No City or Manitowoc Public Utilities serve the property.

According to the Assessor records the building permit for the residence was issued on August 10, 2017. The 2022 assessed land value is \$50,100 and total improvement value is \$808,600 with the 2022 tax bill being \$16,647.85. Of the 31.72 acres, 1 acre is classified as residential, 26.72 acres is classified as Agricultural and the remaining 4 acres is undeveloped.

The property was annexed by Don and Arlene Umnus into the City on February 2, 1999 as part of the Alverno Number 1 larger annexation area that was a total of 143.58 acres. The Umnus's annexed the property with intentions of selling the property to a developer for residential development. In 2005 a concept plan was submitted by a developer to create a residential subdivision on the annexed property but the plan was never implemented.

On September 30, 2016 the Stecker's purchased the 31.72 acres of property from the Umnus Family trust and constructed their residence in 2018.

The area is in the City's current Sewer Service Area plan (SSA). The Sewer Service Area identifies areas that are suitable for sanitary service in the next 25 years. The SSA is critical in designing sewage collection and treatment facilities to serve existing and future residents.

The area is shown on the Comprehensive Plan's Future Land Use Map as Single and Two Family Residential Urban.

Detachment petitions begin with the petitioner publishing a class 1 notice (Dec. 16, 2022 published); within 120 days the class 1 notice publication the detachment petition is filed with the City (Dec 12, 2022); within 60 days of the detachment petition being filed, the City shall act on the detachment ordinance by three-fourths majority, if the detachment ordinance is not approved by

the City the petition is stopped. See the Assistant City Attorney's opinion letter and an e-mail from the Department of Administration Boundary Review Department regarding the statute.

The petitioner may ask for a public referendum on the annexation detachment but in order for the referendum to be placed on the ballot the petitioner must submit a petition signed by a number of qualified electors equal to at least 5% of the voters cast for governor at the last gubernatorial election. The City Clerks office indicated that there were 13,075 votes cast at the last gubernatorial election, 5% of that total is 653.75. So, a petition with 654 signatures calling for a referendum would be needed.

66.0227 Detachment of territory. Subject to ss. 66.0301 (6) (d) and 66.0307 (7), territory may be detached from a city or village and attached to a city, village or town to which it is contiguous as follows:

(1) A petition signed by a majority of the owners of three-fourths of the taxable land in area within the territory to be detached or, if there is no taxable land in the territory, by all owners of land in the territory, shall be filed with the clerk of the city or village from which detachment is sought, within 120 days after the date of publication of a class 1 notice, under ch. 985, of intention to circulate a petition of detachment.

(2) An ordinance detaching the territory may be enacted within 60 days after the filing of the petition, by a vote of three-fourths of all the members of the governing body of the detaching city or village and its terms accepted within 60 days after enactment, by an ordinance enacted by a vote of three-fourths of all the members of the governing body of the city, village or town to which the territory is to be attached. The failure of a governing body to adopt the ordinance under this subsection is a rejection of the petition and all proceedings are void.

(3) The governing body of a city, village or town involved may, or if a petition conforming to the requirements of s. 8.40 signed by a number of qualified electors equal to at least 5% of the votes cast for governor in the city, village or town at the last gubernatorial election, demanding a referendum, is presented to it within 30 days after the passage of either of the ordinances under sub. (2) shall, submit the question to the electors of the city, village or town whose electors petitioned for detachment, at a referendum election called for that purpose not less than 70 days nor more than 100 days after the filing of the petition, or after the enactment of either ordinance. The petition shall be filed as provided in s. 8.37. If a number of electors cannot be determined on the basis of reported election statistics, the number shall be determined in accordance with s. 60.74 (6). The governing body of the municipality shall appoint 3 election inspectors who are resident electors to supervise the referendum. The ballots shall contain the words "For Detachment" and "Against Detachment". The inspectors shall certify the results of the election by their attached affidavits and file a copy with the clerk of each town, village or city involved, and none of the ordinances may take effect nor be in force unless a majority of the electors approve the question. The referendum election shall be conducted in accordance with chs. 6 and 7 to the extent applicable.

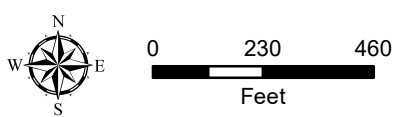
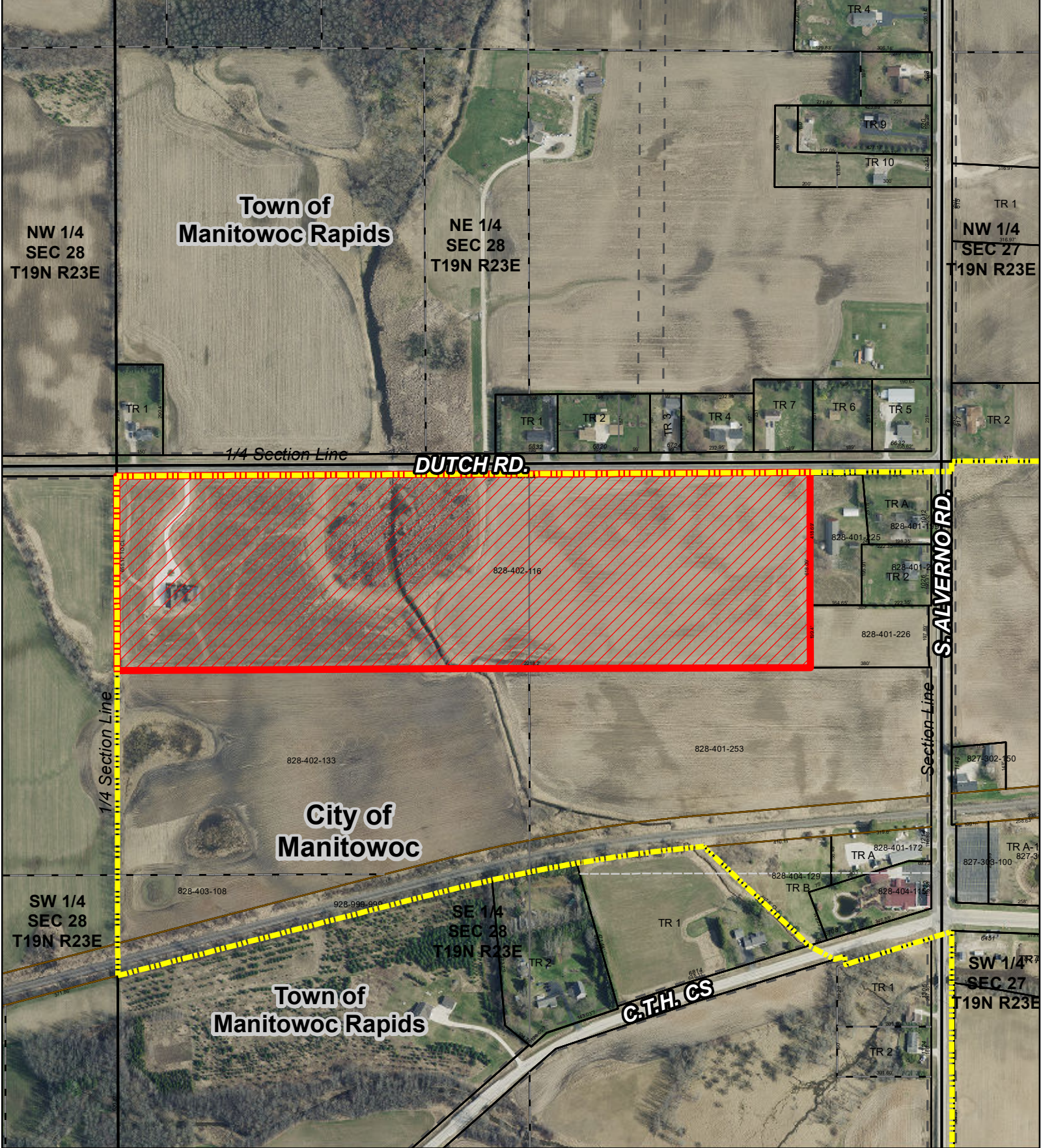
(4) If an area which has been subject to a city or village zoning ordinance is detached from one municipality and attached to another under this section, the regulations imposed by the zoning ordinance continue in effect and shall be enforced by the attaching city, village or town until changed by official action of the governing body of the municipality, except that if the detachment or attachment is contested in the courts, the zoning ordinance of the detaching municipality prevails, and the detaching city or village has jurisdiction over the zoning in the area affected until ultimate determination of the court action.

(5) The ordinance, certificate and plat shall be filed and recorded in the same manner as annexations under s. 66.0217 (9) (a). The requirements for the secretary of state are the same as in s. 66.0217 (9) (b).

(6) Because the creation of congressional, legislative, supervisory and aldermanic districts of equal population is a matter of statewide concern, any detachment action that affects a tract of land that is the subject of an ordinance enacted or resolution adopted by a city during the period from January 1, 1990, to April 1, 1991, or any later date, expressing an intent to not exercise the city's authority to annex territory before April 1, 1991, or the specified later date, taken by a municipality during the period beginning on April

1 of the year commencing after each federal decennial census of population and ending on June 30 of the year commencing after that census, is effective on July 1 of the year commencing after that census or at a later date as specified in the detachment ordinance. This subsection first applies to detachments effective after March 31, 1991.

Recommendation: Based on the history of the parcel, the area being shown as Single and Two Family Residential Urban on the future land use map, and the area being in the City's Sewer Service Area staff's recommendation to the Plan Commission is to not support the annexation detachment petition.



7121 Dutch Road - Detachment

City of Manitowoc, WI

PC 25-2022
7121 Dutch Rd.

DISCLAIMER: Maps and associated data are believed to be accurate, but are not warranted. This information is not intended for legal, survey, or other related uses. Please obtain the original recorded documents for legal or survey information.

Prepared by City of Manitowoc
Community Development Department
www.manitowoc.org
Map Plotted: 12/14/2022
O:\Planning\PC Plan Commission\PC_Annexation\2022\PC 25-2022 Stecker Detachment 7121 Dutch road\Maps\PC 25-2022 Detachment.mxd



DETACHMENT OF TERRITORY
WI. STAT. 66.0227
THE CITY OF MANITOWOC
31.72 ACRES +/-

Legend

- Official Map Street
- Corporate Limits



LAND USE APPLICATION

APPLICANT Laura: Brian Stecker PHONE 920-323-3760
 MAILING ADDRESS 7121 Dutch Rd EMAIL lbstecker@outlook.com
 PROPERTY OWNER Laura: Brian Stecker PHONE _____
 MAILING ADDRESS Same EMAIL _____

REQUEST FOR:

- | | |
|--|--|
| <input type="checkbox"/> Conditional Use Permit (CUP) \$350* | <input type="checkbox"/> Zoning District Change/Map Amendment \$350* |
| <input type="checkbox"/> Site Plan Review \$350 | <input type="checkbox"/> Request for Annexation ^{Detachment} \$350* |
| <input type="checkbox"/> Certified Survey Map (CSM) \$100 | <input type="checkbox"/> Planned Unit Development (PUD) \$350* |
| <input type="checkbox"/> Official Map Review \$350* | <input type="checkbox"/> Street/Alley Vacation \$350* |

**Publication of legal notice fees additional.*

STATUS OF APPLICANT: Owner Agent Other

PROJECT LOCATION ADDRESS _____

PARCEL ID# 052- _____ CURRENT ZONING _____

CURRENT USE OF PROPERTY _____

PROPOSED USE OF PROPERTY _____

REQUIRED: Attach a detailed written description of your proposal or request.

Include as much information as possible including planned use, maps, project renderings or drawings, etc.

The undersigned hereby certifies that the information contained in this application is true and correct.

Signed [Signature] Date 12/12/22
 (Property Owner)

For Office Use Only	
Date Received: <u>12/12/22</u>	PC #: <u>25-2022</u>
Fee Paid: <u>\$350</u>	Check#: <u>1342</u>
Plan Commission Date: <u>12/21/22</u>	

**The City of Manitowoc Plan Commission meets the fourth Wednesday of each month at 6pm.
 Deadline for submission is the Friday two weeks prior to the meeting.**

Please contact the Community Development Department at 920-686-6930 if you have any questions.

PETITION FOR DETACHMENT OF LAND FROM THE CITY OF MANITOWOC, MANITOWOC COUNTY,
WISCONSIN


PLEASE TAKE NOTICE, that the undersigned Owners of the following described Property lying and being in the City of Manitowoc, Manitowoc County, Wisconsin, do hereby petition the City of Manitowoc to detach said Property from the City of Manitowoc and it will then become a part of the Town of Manitowoc Rapids.

The undersigned verifies that this Property is owned in its entirety by Brian and Laura Stecker and contains approximately 32 acres more or less, with a current population of nine (9) persons as defined in Wis. Stats. 66.0227. A survey map reasonable showing the boundaries of said territory in relation of said territory to the municipalities involved is attached hereto as Exhibit A.

Dated this 10 day of December, 2022.

By:  _____

Brian Stecker

By:  _____

Laura Stecker

NOTICE OF INTENTION TO CIRCULATE A PETITION OF DETACHMENT

PLEASE TAKE NOTICE, that the undersigned Owner of the Property will petition the Town of Manitowoc Rapids and the City of Manitowoc for an Order to detach the following described real estate from the City of Manitowoc and it will then become a part of the Town of Manitowoc Rapids.

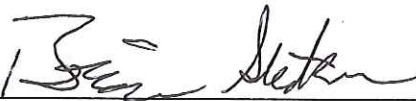
Real property in the City of Manitowoc, County of Manitowoc, State of Wisconsin, and is described as follows:

A tract of land located in the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) and the Northwest Quarter (NW ¼) of the Southeast Quarter (SE ¼) in section Twenty-eight (28), Township Nineteen (19) North, Range Twenty-three (23) East, in the City of Manitowoc and Town of Manitowoc Rapids, Manitowoc County, Wisconsin described as follows:

Commencing at the East ¼ corner of said section 28, thence S89°41'30"W along the ¼ section line 420.0 feet to the point of real beginning, thence continue S89°41'30"W along said ¼ section line 2219.64 feet to the Center of said Section 28, thence S00°08'19"E along the ¼ section line 655.17 feet, thence N89°46'01"E 2218.20 feet, thence N00°00'52"W 658.09 feet to the point of real beginning. As recorded in Volume 3035 Page 256 with the Register of Deeds.

PLEASE TAKE NOTICE that this property is owned in its entirety by Brian and Laura Stecker, and they are the only two residents.

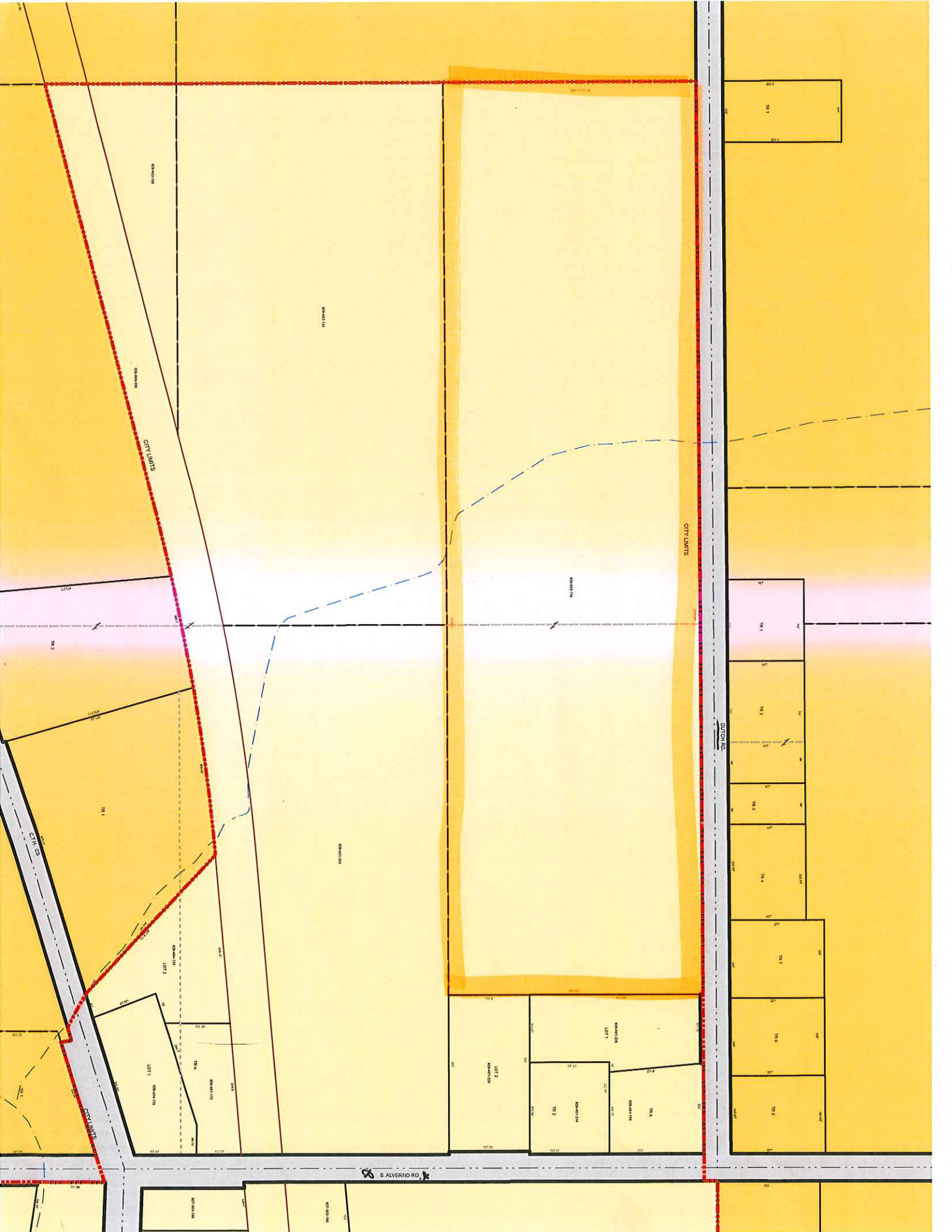
Dated this ___10___ day of December, 2022.

By: 

Brian Stecker

By: 

Laura Stecker



CITY LIMITS

CITY LIMITS

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S ALVERNO RD

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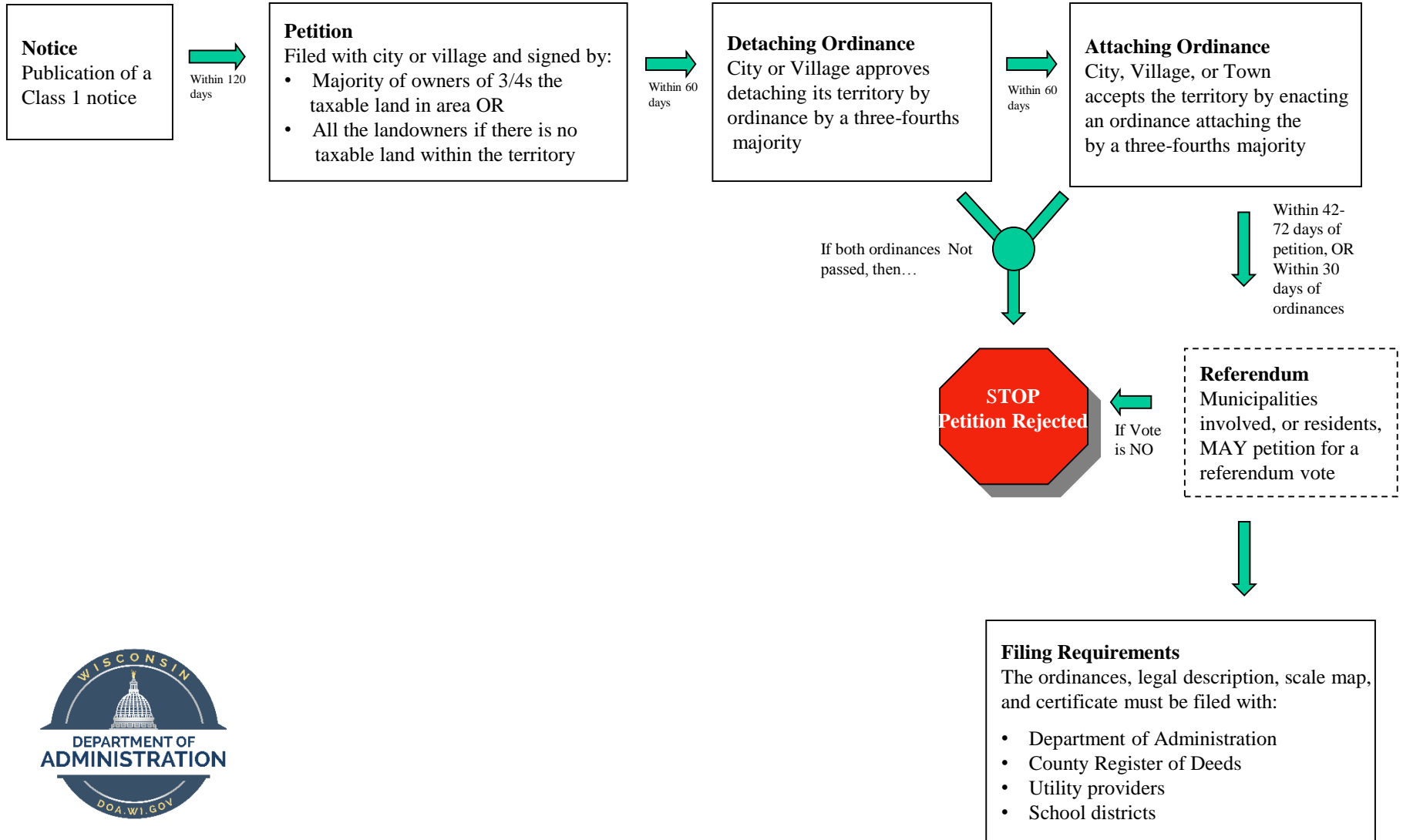
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LOT 240

DETACHMENT OF TERRITORY

[Section 66.0227 Wis. Stats.](#)



From: [Schmidtke, Erich J - DOA](#)
To: [Paul Braun](#)
Subject: External: RE: Detachment Annexation
Date: Monday, December 12, 2022 10:43:28 AM
Attachments: [image002.png](#)
[image003.png](#)

Hello Paul,
I also left you a voicemail message.

Looking more closely at the referendum option you mentioned in s. 66.0227, Wis. Stats., I think there are a couple reasons I have never seen a referendum requested.

First, the number of people required to request a referendum is set fairly high (5% of voting-age residents). Typically those requesting detachment will be a husband-wife landowner residents, or an owner of a rental property. In these situations the interests are so individually-focused that it may be difficult for the landowners to get the attention, interest and sympathy of the larger community.

Secondly, the statute requires passage of at least one ordinance before a referendum may be requested. If the landowners are able to get the first ordinance, which is the city passing its ordinance agreeing to let them go, that is typically the greatest hurdle. Typically towns will pass their ordinances agreeing to take territory back. I have only seen a few cases where towns refuse to accept territory back. So since the statute requires the city's ordinance before a referendum may be requested, and that is the most difficult step, then really the impetus for wanting a referendum is already gone. Does this make sense?

Erich



Erich Schmidtke
Municipal Boundary Review - DOA
101 East Wilson Street
PO Box 1645, Madison, WI 53701
(608) 264-6102
erich.schmidtke@wisconsin.gov
<http://doa.wi.gov/municipalboundaryreview>

From: Paul Braun <PBraun@manitowoc.org>
Sent: Monday, December 12, 2022 9:07 AM
To: Schmidtke, Erich J - DOA <Erich.Schmidtke@wisconsin.gov>
Subject: Detachment Annexation

**CAUTION: This email originated from outside the organization.
Do not click links or open attachments unless you recognize the sender and know the content is safe.**

From: [Eric Nycz](#)
To: [Paul Braun](#)
Cc: [Jane Rhode](#)
Subject: Detachment Question
Date: Friday, December 9, 2022 12:24:16 PM
Attachments: [image001.png](#)

Paul,

Thank you for your question regarding the citizen's request to detach from the City. It is a good one. You are correct regarding the procedure described pursuant to Wis. Stat. 66.0227(1) and (2). However, Wis. Stat. 66.0227(3) is a little trickier and, quite frankly, a little opaque. As you noted, after proper notice and petition filed and signed by $\frac{3}{4}$ of the owners of the taxable land in the area to be detached, the question turns to the governing bodies for the detaching city and the attaching town. Each must adopt an ordinance by $\frac{3}{4}$ vote to accept the terms of the petition. It would appear that if either ordinance is rejected, the matter is closed. With the exception of the provisions of Wis. Stat. 66.0227(3).

This subsection can be confusing to read, so allow me to abridge it for our purposes. It contains two parallel clauses. The first version reads as follows:

(3) The governing body of a city, village or town involved may, or if a petition conforming to the requirements of s. [8.40](#) signed by a number of qualified electors equal to at least 5 percent of the votes cast for governor in the city, village or town at the last gubernatorial election, demanding a referendum, is presented to it within 30 days after the passage of either of the ordinances under sub. [\(2\)](#) shall, submit the question to the electors of the city, village or town whose electors petitioned for detachment, at a referendum election called for that purpose not less than 70 days nor more than 100 days after the filing of the petition, or after the enactment of either ordinance. The petition shall be filed as provided in s. [8.37](#). If a number of electors cannot be determined on the basis of reported election statistics, the number shall be determined in accordance with s. [60.74 \(6\)](#). The governing body of the municipality shall appoint 3 election inspectors who are resident electors to supervise the referendum. The ballots shall contain the words "For Detachment" and "Against Detachment". The inspectors shall certify the results of the election by their attached affidavits and file a copy with the clerk of each town, village or city involved, and none of the ordinances may take effect nor be in force unless a majority of the electors approve the question. The referendum election shall be conducted in accordance with chs. [6](#) and [7](#) to the extent applicable.

(emphasis added)

Put plainly: **The governing body of a city involved may submit the question to the electors of the city, village or town whose electors petitioned for detachment, at a referendum election called for that purpose...**

This clause would allow the Common Council to punt the decision to the citizens of Manitowoc via referendum. They would only take this route if they did not want to vote on adopting the petition.

But also note that the governing body for the village/town (the attaching municipality) can submit the question to Manitowoc's citizens via referendum, which it may choose to do in order to override the Common Council.

The second clause reads as follows:

(3) The governing body of a city, village or town involved may, or **if a petition** conforming to the requirements of s. [8.40](#) **signed by a number of qualified electors** equal to at least 5 percent of the votes cast for governor **in the city**, village or town at the last gubernatorial election, **demanding a referendum, is presented** to it within 30 days **after the passage of either of the ordinances** under sub. [\(2\)](#) **shall, submit the question to the electors of the city**, village or town **whose electors petitioned for detachment, at a referendum election** called for that purpose not less than 70 days nor more than 100 days after the filing of the petition, or after the enactment of either ordinance. The petition shall be filed as provided in s. [8.37](#). If a number of electors cannot be determined on the basis of reported election statistics, the number shall be determined in accordance with s. [60.74 \(6\)](#). The governing body of the municipality shall appoint 3 election inspectors who are resident electors to supervise the referendum. The ballots shall contain the words "For Detachment" and "Against Detachment". The inspectors shall certify the results of the election by their attached affidavits and file a copy with the clerk of each town, village or city involved, and none of the ordinances may take effect nor be in force unless a majority of the electors approve the question. The referendum election shall be conducted in accordance with chs. [6](#) and [7](#) to the extent applicable.

(emphasis added)

Put plainly: **If a petition signed by a number of qualified electors in the city demanding a referendum is presented after the passage of either of the ordinances shall, submit the question to the electors of the city whose electors petitioned for detachment, at a referendum election.**

This clause allows the homeowners (or any other citizen) to gather signatures to present the question of detachment to Manitowoc voters via referendum. Please note that they may not put the question to the voters of the village/town. The statute simply does not have language that would allow that.

Therefore, should the Common Council fail to adopt the petition for detachment, the government body of the attaching village/town or a petition signed by the required number of voters in Manitowoc could force a referendum on the issue, but the petition and detachment would fail regardless if it does not have adoption by the attaching village/town's government body.

If you have any follow-up questions, let me know.

Eric Nycz
Assistant City Attorney
City of Manitowoc
(920) 686-6990