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VIA E-MAIL ONLY

Burnett County Land Services Department  
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FOR DISTRIBUTION TO LAND USE AND INFORMATION COMMITTEE  
("COMMITTEE") MEMBERS IN ADVANCE OF THE JANUARY 5, 2021 MEETING

Dear Committee Members:

I am submitting the following comments in opposition to the application of Steve Austin, made on behalf of North Camp Properties, LLC, for a Conditional Use Permit to construct a 180-unit campground, allow one storage shed and deck for each camping unit, and split off the house and barn as a 10-acre parcel for a restaurant/bar/event center in the Town of Swiss. My wife Anne and I own property at the above address, where we are currently residing. We request that the Land Use and Information Committee ("Committee") deny the application, for the reasons expressed below.

### **Conditional Use Permit**

We oppose the grant of a conditional use permit to allow for construction of a large campground, bar/restaurant and event center. There is substantial evidence to support a vote to reject all aspects of this application.

According to the revised statute dealing with conditional use applications, "substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion. Wis. Stat. §59.69(5e). We note that this section of the statutes requires both that the applicant submit substantial evidence demonstrating that the application and all requirements and conditions relating to the conditional use are or shall be satisfied and that the local zoning board's decision to approve or deny the permit must also be supported by substantial evidence. In other words, it is a two-way street. If the applicant cannot meet the substantial evidence standard, the statute preserves the discretion of the local zoning board to deny a permit application upon a finding that the applicant cannot meet or agree to meet the standards imposed by the ordinance.

Wis. Stat. § 59.69(5e) does not invalidate consideration of broad and general public welfare standards for the grant or denial of a conditional use permit. It simply requires the application of facts and information by both the applicant and the decisional body. So in addition to the specific facts and information that will be pertinent to the Committee's decision, the Committee is free to consider the broad standards included in the Code, such as, for instance, those found in Code § 30-633, which contains the general provisions applicable to conditional use permits and states, in relevant part, as follows:

*(b) There are certain uses that may be entirely appropriate and not necessarily incompatible with the basic uses permitted in any district, but not at every or any location therein or without restrictions or conditions being imposed by reason of unique problems the use of its particular location presents from a zoning standpoint, including the impact of those uses upon neighboring land or public facilities, and the public need for the particular uses at a particular location. Such uses may be necessary or desirable to be allowed in a particular district provided that due consideration is given to their location, development, and operation. Such uses are hereby classified as conditional uses and are subject to the provisions specified herein (emphasis added).*

*(2) Basis of approval. The county land use and information committee shall consider the effect of such grant on the health, general welfare, safety and economic prosperity of the county and of the immediate area in which such use would be located considering Wis. Stats. § 59.69(5e).*

Therefore, in addition to a need on the part of the applicant to present substantial evidence to support its application, local government is free to consider its own broad general public welfare expressions in determining if the purpose of the zoning standards would be served by granting the application. We submit that those standards would not be served by granting this particular application. The health, general welfare, safety and economic prosperity of the county and the immediate area would not be well served by granting approval for a disproportionately large campground development in a county where many other camping opportunities exist, and in an area surrounded by farmland and other very low-density development.

Public comment that provides reasonable facts and information related to the conditions of the permit may be accepted as evidence under the statutes. We submit that the following objective facts and information support rejection of the application:

- The campground would be incompatible with surrounding uses. The manner in which the surrounding land is being used is factual, and the manner in which the applicant proposes to use the subject land is also factual.
- There is no rational factual argument in support of a contention that there is a need for another campground in Burnett County.
- A greater degree of noise, air, water and light pollution is inevitable when a population that may at times reach the size of Webster (pop. 671) or exceed the current population of the Town of Swiss is on a site of less than 200 acres.

- A restaurant/bar and event center are not allowable conditional uses in the A-2 district. Therefore, the site could not be developed as intended even with approval of a CUP for the campground (see additional comments in the zoning section that follows).
- An objective examination of other sites within the county where campsites are found, including others with which Mr. Austin is apparently involved, provides a reasonable basis for determining the conditions to expect, except that this campground would be much larger.
- How will water be supplied for the 180 campsites? Will each site have a private sand-point well or does the applicant propose to drill a deep well to provide the water demands of the trailer camp users? Either case would be a serious drain on the local groundwater table. There appears to be no mention of wells in the application, yet water supply is a significant issue in which there is a clear public interest.
- How will sewage be handled? Will each RV campsite have a septic system? There appears to be no mention of septic in the application. Septic handling for a site of this size is also a significant public interest issue.
- The number of proposed campsites on the available acreage most closely resembles a high density planned unit development, which is an incompatible and unreasonable escalation in density as compared to the surrounding area.
- Our available public safety, fire and ambulance coverage is finite and capable of being quantified. To our knowledge, present planning does not provide for an influx of the number of people that would be present on site on a busy weekend. The facilities would present an unreasonable burden on local government.
- Increased pressure on our local trails, roads, lakes and rivers is not speculative given the proposed density.
- There clearly are inadequate public facilities to serve a development of this size. Any increase to the tax base would be minimal and greatly outweighed by the disproportionate drain on public resources.
- The level of activity associated with 180 campsites, in close proximity to agricultural property in the area, creates significant potential for conflict with those legitimate agricultural uses as well as the productivity of those uses.
- There is no need to locate a densely populated campground and associated facilities in an agricultural area. There are plenty of other areas closer to existing commercial districts that would be more appropriate.
- Land use decisions are partially about cost/benefit analysis. On balance, the cost of this proposed development in terms of all of the above greatly outweighs any potential benefit.

The above summary is based upon facts or information, not preferences or speculation. A reasonable person would not approve this application (which is part of the evaluation standard). Accordingly, we urge the Committee to reject the application.

### **Zoning.**

The four parcels at issue are zoned A-2. The A-2 District “is intended to primarily provide for the continuation of general farming and related activities in areas currently being used for such

development and to additionally provide for limited residential development. Burnett County Code of Ordinances (hereinafter “Code”) § 30-170. The application for a CUP includes a request to split off a 10-acre parcel for a restaurant, bar and event center. Restaurants, bars and event centers are not permitted uses in an A-2 District. They are also not allowed conditional uses unless associated with a winery, which is not part of the proposed plan. See Code § 30-172 (11). Restaurants, bars and event centers are not of the same character as a campground nor can they reasonably be characterized as a recreational or tourism-oriented use. See Code § 30-172 (10). Therefore, in order to proceed with the proposal as described, the applicant would have to apply for rezoning. The application does not request rezoning, but rather, only requests a conditional use permit. Therefore, it appears to be incomplete on its face and that reason alone is sufficient to justify rejection of the application.

As an aside, on the topic of rezoning, we note that if rezoning to allow a restaurant, bar and event center had in fact been requested, the new (as of 2017) statutory standard for deciding applications for conditional use permits found in Wis. Stat. § 59.69(5e), which we referred to in the Conditional Use section above, is specifically not the decisional standard for rezoning applications as the 2017 revisions to the statute specifically refer only to conditional uses. The Committee would be free to exercise its reasonable discretion in interpreting the standards and in approving or rejecting a rezoning application.

### **The Comprehensive Plans.**

The Comprehensive Plans of the Town of Swiss and Burnett County appear to have similar objectives. Preservation of the unique rural character of the Township and an objective of avoiding high density developments in rural areas are key elements of the Town of Swiss Comprehensive Plan. A high-density development with no transition zones between surrounding agricultural and recreational land is decidedly out of character with these goals. Similarly, the Burnett County Comprehensive Plan seeks compatibility with surrounding uses and the avoidance of harm to nearby property owners, which again, would not be achieved by granting approval of this high-density campground.

A campground of the size that is proposed is undeniably a commercial endeavor. One goal of the Town of Swiss Comprehensive Plan is that new commercial development should be close to existing commercial development in the Village of Danbury, which is two to three miles south of the subject property. Locating commercial property next to other commercial property furthers reasonable land use goals that are part of the Comprehensive Plans. Plopping a high-density commercial use in the middle of agricultural and recreational land does not further these goals.

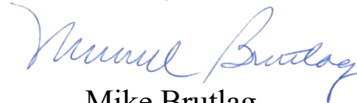
### **Farmland Preservation District.**

We understand that a certified farmland preservation zoning ordinance has been adopted and that it affects this land. If this is accurate, Wis. Stat. § 91.48, which pertains to rezoning of land out of a farmland preservation zoning district, would be applicable as the statute provides that a political subdivision may rezone land out of a farmland preservation zoning district without having the rezoning certified if it finds, after a public hearing, that (a) *the land is better suited for a use not allowed in the farmland preservation zoning district*, (b) *the rezoning is consistent with any*

*applicable comprehensive plan and that (c) the rezoning is substantially consistent with the county certified farmland preservation plan and (d) the rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.* Assuming that the land in question is in fact in the farmland preservation zoning district, we believe there are objective reasons for concluding that the land is not better suited for a disallowed use, that the rezoning would be inconsistent with the farmland preservation plan and that the rezoning would impair or limit current or future agricultural use of surrounding parcels of land. These factors provide additional support for rejecting the application.

As you know, the Swiss Town Board rejected the application for a conditional use permit. We believe that this was a proper exercise of its discretion and that the Committee should similarly reject the application for a conditional use permit. Thank you for considering our viewpoint.

Very truly yours,



Mike Brutlag