

# Freedom Matters

A Weekly Newsletter

Dane County, Wisconsin

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We are a free people in a republic, under a constitution which limits the powers of government to those necessary to secure the unalienable rights of each person to their life, liberty and property. Yet, when a legislature is in session, no one's life, liberty or property is safe. It's the curse of a democracy. That's why we have a republic instead. *Freedom Matters* dedicates itself to the fight to restore our republic. Most of the press and courts fail to do so. They've forgotten that freedom matters.

## Green Greed, Sound Bites, and Unsound Governance

by Bob Bowman

See issues 37, 38 and 39, for how the imposition of the 2002 Springdale land use plan and its implementation via a land division ordinance **corrupts the law** separating zoning powers from land division powers or other police powers of towns and counties.

The aim of the Springdale town board's land use plan is **to suppress residential development**, which by statute can only be done **via a zoning ordinance** setting the permitted uses of land. Dane County's zoning ordinance, by statute, prevents Springdale from having its own zoning ordinance.

So, by statute and county law, the Springdale board had only one option in order to suppress residential development; i.e., they had to adopt exclusive agriculture zoning (A1-Exclusive). However, the Springdale landowners blocked such zoning in 1987 by mounting a statutory protest.

Hence, lest landowners do the same thing again, the 2002 Springdale board chose to do what the Wisconsin appellate court, in the landmark Gordie Boucher case (1993), said they cannot. They set out to limit the number of building lots by using a land division ordinance to limit the number of lots permitted.

The Springdale board is gambling that courts will overturn statutes and case law, to allow such zoning via a land division ordinance. That's high stakes gambling. Our prior three articles show how courts would have to **legislate** law, in order to do that.

Under present ordinances, Springdale residents could create over 7000 new building lots, each 2 acres or more. At \$70,000 each, that's about **half a billion dollars** of land use value. That value is held by the private landowners of the town. The 2002 Springdale board voted to confiscate 90% of that value.

Note that the above is the **potential value**. At the current rate of residential development in the **average** town, which is Springdale's rate prior to the advent of the present town board, that value represents about **600 years** of development.

Thus, the Springdale town board is exacting a terrible price, to "solve" a public problem that doesn't exist. Moreover, meritorious or not, that land use regulation is touted as for the public good, for which all of the public should bear its cost. The Springdale board has voted to put that burden, unfairly, on just those Springdale landowners who own enough acres to be able to create new lots.

That's why a lot of landowners oppose it.

Land use planning must be lawful. It must give all citizens their legal rights. Yet, the Springdale action **denies landowners their legal right to a statutory protest over zoning**. That's not land use planning. It's not the rule of law. It's greed. Green greed.

Now we come to the saddest part of it. The county board, on Nov. 21, voted 32-3 to approve the 2002 Springdale land use plan. In a real sense, that approval is a farce. Springdale already had its plan in effect, the county being powerless to stop it.

Yet, in a symbolic sense, that approval is a tragedy. The county board abdicated its obligation to vote for the rule of law.

A dire consequence was pointed out by Supervisor Hendrick during board comments, when he said that the county should emulate Springdale's land division ordinance. If the county does, the result will be to put all development in every town, those which have adopted exclusive agriculture zoning and those which have not, under the county's land division ordinance. The county will then be able to suppress all residential development in every town.

**Good bye local control**, you who think you voted for it. You left it up to the courts to save it.

**Readers' Bulletin Board.** e-mail us your comments. Include your name, for publication by *Freedom Matters*

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