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January 28, 2022

Via email to Town Attorney

Town of Washburn Town Board
30015 County Hwy C
Washburn, WI 54891

RE: South Maple Hill Road Improvements

Dear Chair Raspotnik and Town Board Members:

This letter is sent on behalf of several concerned residents of the Town of Washburn, all of whom own property adjacent to South Maple Hill Road in the section between Paulson Road and Church Corner Road (this letter will refer to these individuals as the "Maple Hill Residents"). The main concern is that the Town is acting hastily and without regard for the potential legal and practical impacts of its decisions regarding the proposed improvements to Maple Hill Road. Prior to the Town taking any further action on this project or authorizing the cutting of additional trees, the Maple Hill Residents request that the Town address the following issues:

1. The main concern is that the decision to immediately clear trees for this project is rushed and premature. The discussions at the last Town Board meeting made clear that the Town has not yet secured funding for the entirety of this project. It would be a waste of taxpayer money, and cause unnecessary ecological harm, if these trees were harvested and the road construction project ultimately did not proceed due to a lack of funding. We are asking that any of the tree harvesting be postponed until the Town has a firm commitment that the funding for this project can be secured. In addition to being the financially and environmentally responsible decision, delaying the tree harvesting will allow the Town time to address the additional substantive concerns listed below.
2. Currently, the trees marked for cutting in the Right of Way ("ROW") have been identified from measurements stemming from a center line of Maple Hill Road that was approximated by the township crew and the contracted engineer. We are asking the town to hire a licensed surveyor to determine the accuracy of the flagged 66' ROW. Further, an accurate survey is necessary to protect the integrity of septic mound systems that abut the ROW and prevent any possible damage thereto. Pursuant to Wis. Stats. §§ 26.05 & 26.09, the cutting of any trees outside of the ROW without the owner's consent will lead to significant liability to the Town and any individual who harvests those trees.
3. Residents were sent a letter from the Board Chairperson offering options as to how they would like cut trees to be handled, being the trees are the property of the residents. At a recent town board meeting, the board decided that one of the options chosen by some residents could not work due to the expense to the town. Consequently, there is not a method or system in place that addresses tree cutting and removal. We have not heard

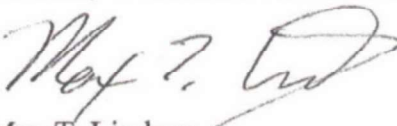
any updates, nor have residents received a new list of options. We ask that tree cutting not happen until residents see and understand their choices.

4. The proposed road project indicates a substantial amount of soil will be removed from the ROW and used for repair of the Town Landfill Site. Any soil and fill inside and exterior to the ROW that is within a resident's property boundary is the property of the landowner. The soil can be disturbed and moved about in its immediate location and for use within the roadway, but cannot be transported to another site and for another use without financial compensation to the landowners. This portion of the road redevelopment plan cannot proceed without first providing landowners with a detailed explanation of this element of the construction is going to be handled, and allowing landowners the opportunity to have an input into how their property is used and/or disposed of.

Joined by the following residents and property owners on South Maple Hill Road:

- Dennis Weibel and Lynne Krueger, 28605 S. Maple Hill Rd.
- Lorraine and Phil Norrgard, 28505 S. Maple Hill Rd.
- Tom and Connie Cogger, 28745 S. Maple Hill Rd.
- Jay and Cindy Glase, 28345 S. Maple Hill Rd.
- Susan Jones, 28235 S. Maple Hill Rd.
- Jon Wheeler, 28210 S. Maple Hill Rd.

Yours truly,
ANICH, WICKMAN & LINDSEY, S.C.



Max T. Lindsey

Sandy,

Its really hard to see this as anything more than an attempt to hold up the tree cutting.

1. Obviously, the Town Board is responsible for the decision to proceed with the project or not. The Town Board is also the decisionmaker with respect to funding and phasing of the project.

2. The term "approximated" is used to define the methods for establishing the centerline of the road. It was more than an "approximation". The existing road centerline was "established" in order to locate the 66' ROW. For the most part we are not even using the full right of way and there is generally several feet inside of the 66' ROW we established.

With respect to the question on septic systems there is only one such system anywhere near the ROW. This is at a location where "NO" excavation work is taking place and the system is clearly outside of the right of way by 10 or more feet. There is no integrity issues with a system, that far outside of the project disturbance area.

Since the Town is satisfied with the work that has been completed to locate and stake the existing ROW and there is no reason to believe that anything improper has taken place, the Town is not going to incur the cost of hiring a Surveyor to utilize the same methods already employed to establish the centerline and mark the ROW. If the landowners have any particular location of concern we would appreciate to be

contacted by the landowner in question and will review the location in question.

3. The tree cutting issue is very clear. The landowners expressing a desire to have the trees must be given the trees. The Town will drop trees being cut on the property owners land for their use.

4. The Town does not agree with the statement all soil within the ROW is "property of the landowner". There is an assumption that the disposition of soil must be decided by the road maintaining authority (TOWN), because in highway construction, road base, drainage and clear zones require manipulation of soil to construct the roadway. That being said the Town will work with the property owners, which want excess soil. The landowner must provide a stockpile site or allow the Town to push material onto the landowners land. The landowner shall be responsible for handling such soil material, stumps, roots , etc once dropped on their property.

Just some ideas.

Emmer