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March 3, 2010

TO: CAPRC Commissioners, Staff and appointing authorities

FR: Abe Degnan, President

The Madison Area Builders Association (MABA) has been watching with great interest the recent progress and deliberations of the Capitol Area Regional Planning Commission (CARPC) regarding the Future Urban Development Area (FUDA) mapping process.

To get a clear picture about expectations regarding the FUDA process, MABA representatives have met with CARPC staff and many of the appointing authorities of the CARPC commissioners to discuss the FUDA mapping process. During the course of these discussions, several fundamental questions repeatedly arose. These questions centered on three main issues--whether the CARPC has the authority to mandate FUDA planning, whether the CARPC has the authority to impose penalties on municipalities that do not perform FUDA mapping by a certain time, and how potential FUDA plans would interact with municipal Comprehensive Plans.

MABA contacted land use attorney Tim Fenner of Axley Brynson, LLP for input on this issue. I have included a copy of Attorney Fenner's memo, which points out that the CARPC does not have the authority to mandate that municipalities participate in the FUDA process and does not have the authority to impose penalties or deny Urban Service Amendment (USA) applications based solely on the lack of a municipal FUDA map.

In addition, as Attorney Fenner notes, even if FUDA maps were legal, they would be required to take a subservient position to the Comprehensive Planning maps already adopted by municipalities. MABA and our affiliated state association, the Wisconsin Builders Association, supported the "Smart Growth" law, which mandated the Comprehensive Planning process and we are dedicated to protecting the integrity of the Smart Growth process and mapping.

While the initial few years of the CARPC's existence have been mostly free of controversy, there is now troubling talk about how the FUDA mapping process will occur. Discussions of placing moratoria on or slowing down Urban Service Amendment review and increasing taxes or fees have been floated in the political arena, all with the express purpose of getting the FUDA mapping process underway.

In contrast to those who wish to use the FUDA process as political leverage, MABA continues to be hopeful that the CARPC will, as directed by law, keep USA decisions based on sound, objective water quality science and set aside the emotional, subjective and political considerations.

MABA stands ready to work cooperatively with the appointing authorities of the CAPRC Commission, municipalities, staff and other stakeholders to foster an environment where all levels of municipal government work together. We look forward to productive discussions. MABA Government Affairs Director Kent Disch will be in contact soon, or you can reach Kent at [kdisch@maba.org](mailto:kdisch@maba.org) or 608-288-1333 ext 14.