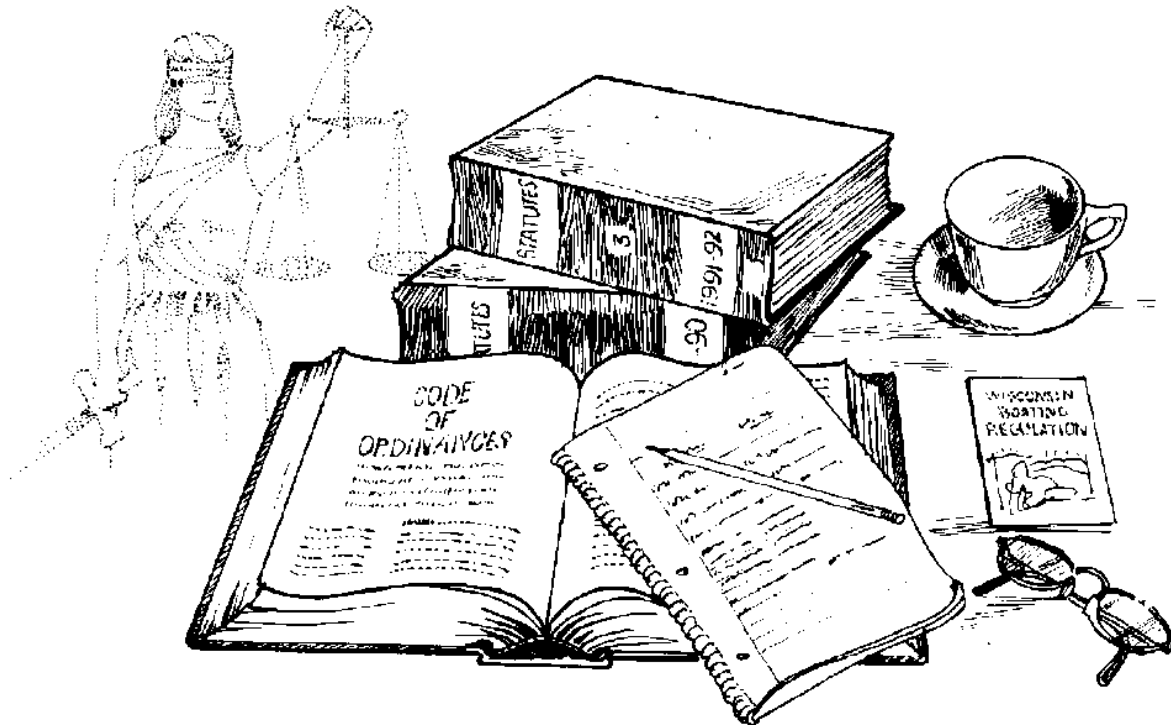


# Zoning Fundamentals

Workshop for Local Planning and Zoning Officials



October 7, 2019  
Ashland, WI

Rebecca Roberts  
Center for Land  
Use Education



Center for Land Use Education  
College of Natural Resources  
University of Wisconsin - Stevens Point



Extension  
UNIVERSITY OF WISCONSIN-MADISON

# Zoning Fundamentals

- Purpose and functions of zoning
- Types of zoning decisions
- Providing effective input on zoning
- New statewide standards and procedures for conditional uses
- Zoning ordinance amendments and rezones
- Using your comprehensive plan to guide zoning



Planning efforts and resources  
available from NWRPC

## Legal & Procedural Responsibilities

- **Open meetings and public comments**
- **Findings of fact and recording decisions**
- **Fair and impartial decision-makers**
- **A checklist for legally defensible decisions**

The background features several thin, light gray curved lines, some solid and some dashed, creating a sense of motion or flow. A prominent blue callout box with a downward-pointing arrow is centered on the page. Inside this box, the text "Purpose and Functions" is written in a white, serif font.

# Purpose and Functions



# Land Use Toolbox



**Comprehensive Plan** describes the future vision of the community and how to achieve that vision.

**Zoning Ordinance** regulates land use, density, and dimensions of lots and structures.

**Land / Subdivision Ordinance** regulates the division of land, street and lot layout, and improvements.

# Guiding Document



**Comprehensive Plan**

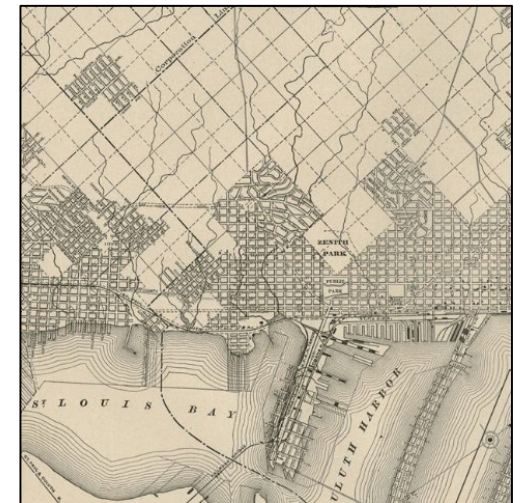
## Regulatory Tools to Implement the Plan



**Zoning Ordinance**



**Subdivision Ordinance**



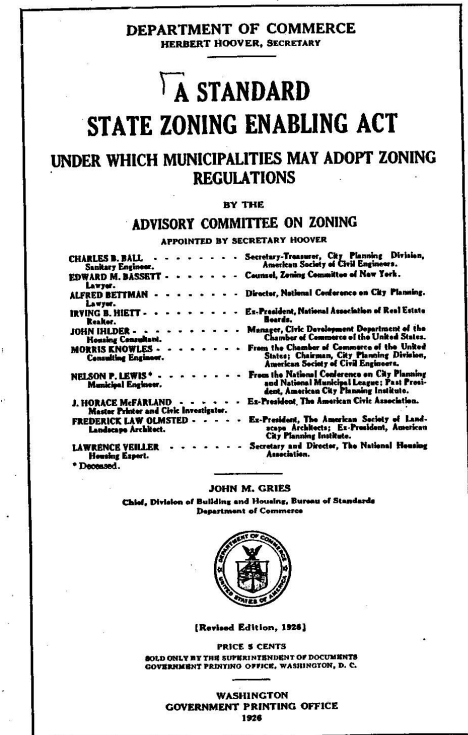
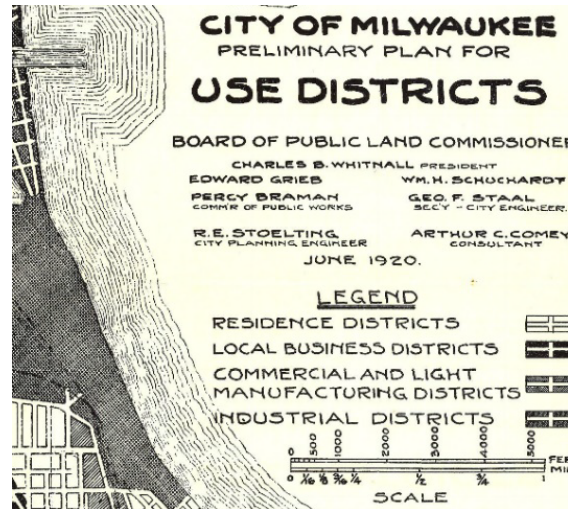
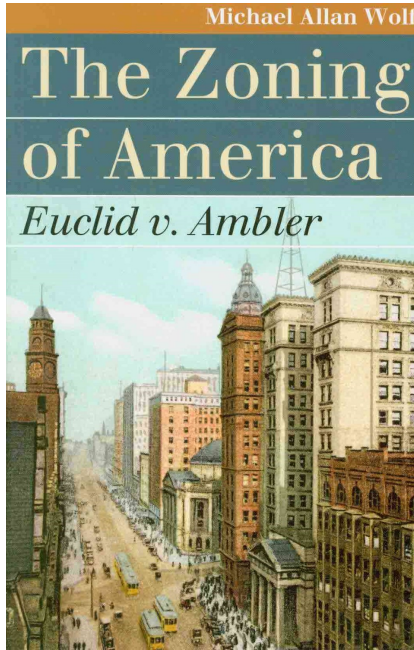
**Official Map**

The background features several sets of concentric, curved lines in shades of gray, some solid and some dashed, creating a sense of motion and depth. A dark blue speech bubble is positioned on the left side of the slide.

Why do  
we have  
zoning?



# Urban Origins



1916 – NYC adopts first Zoning Ordinance

1920 – Milwaukee creates first zoning ordinance in WI

1923 – Wisconsin Supreme Court upholds zoning

1924 – Standard State Zoning Enabling Act

1926 – U.S. Supreme Court upholds zoning as valid exercise of police power

1927 – Standard City Planning Enabling Act

# Rural Zoning

## County Zoning for Agriculture, Forestry, and Recreation in Wisconsin

By W. A. ROWLANDS

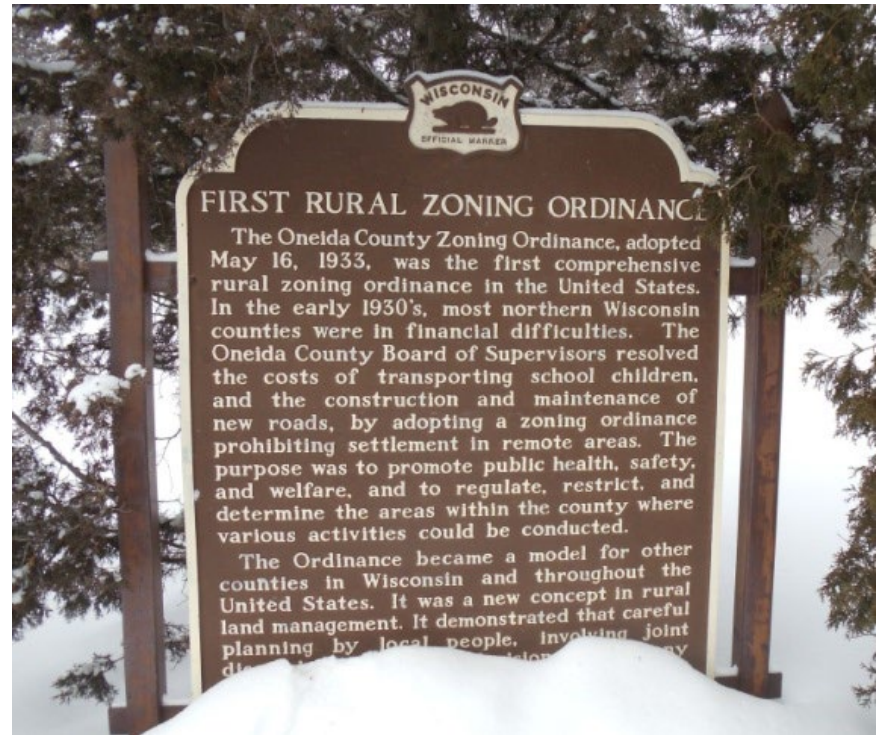
**Z**ONING in cities is a well established method of controlling the use of privately owned land in the public interest. But, such zoning regulations were confined in their application to the land within the political jurisdiction of the city. Areas adjacent to a municipality which for all purposes, except political, are parts of the city could violate every principle of orderly land use with impunity. Various devices have been tried to regulate land uses not in cities, and one of these is county zoning. In 1923 a law was passed in Wisconsin giving county boards the necessary authority to zone land outside of incorporated cities. This law was designed especially to control industrial land uses as the opening sentence indicates:

had an important effect in guiding the future development of the county and in adding a certain amount of stability to land values.<sup>2</sup>

However, the law as it stood was designed particularly to aid cities to control urban land uses in future urban territory. California has a similar law; in fact, Los Angeles County zoned non-urban land before Milwaukee did, but under a special charter. In California zoning has included the regions about cities, the protection of scenic areas, and the regulation of roadside land uses, but no attempt has been made to apply zoning to agricultural or other land uses.<sup>3</sup>

*Conditions in Northern Wisconsin Prompting County Zoning*

In Northern Wisconsin the need for controlling land uses grew out of an

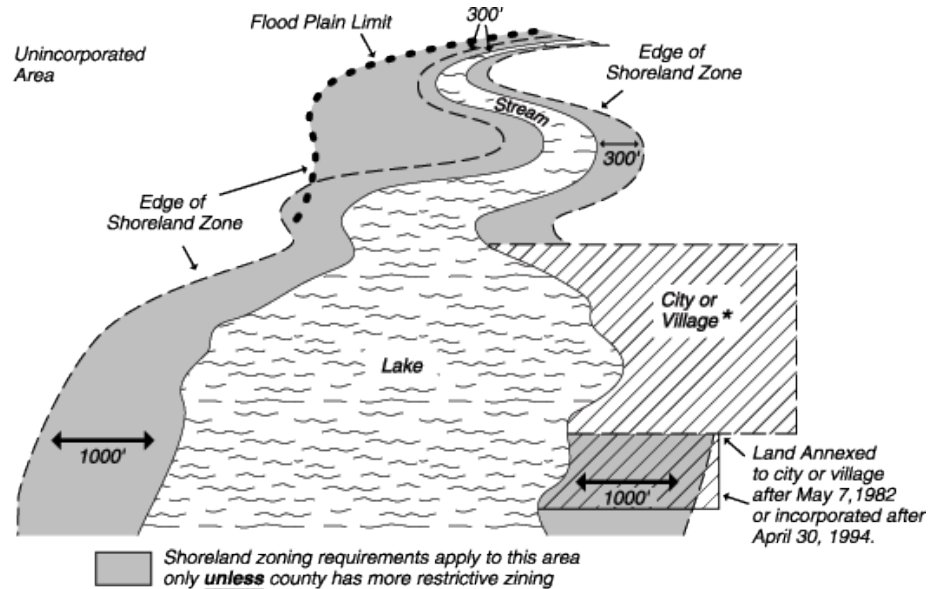


1929 – Wisconsin Legislature authorizes zoning to regulate uses in rural areas

1933 – Oneida County adopts first comprehensive rural zoning ordinance in U.S.

1950's and beyond – Development pressure increases on lakes, forests, farmland

# Shoreland and Floodplain Zoning

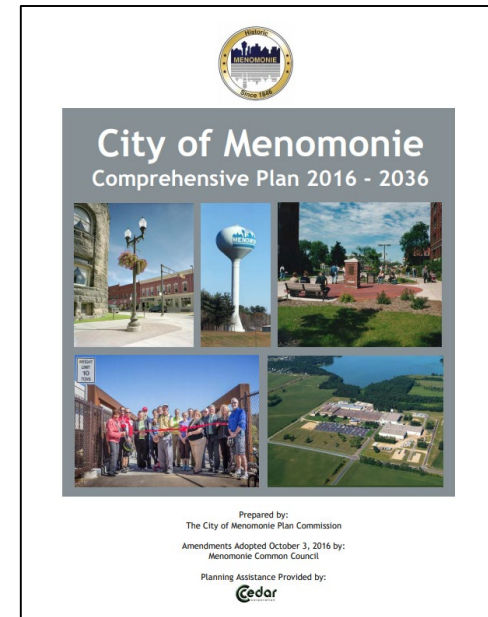
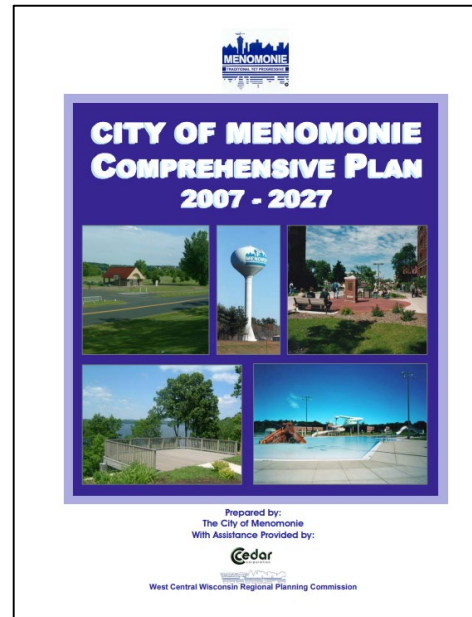
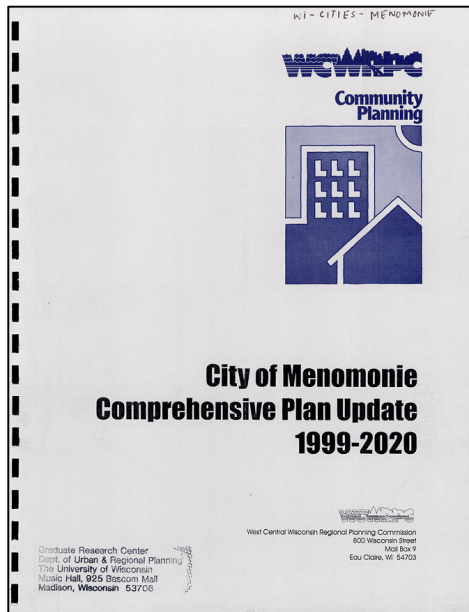


\*Cities and villages are required to zone **wetlands** within the shoreland. Contact your zoning administrator.

1968 – Wisconsin local governments required to administer minimum shoreland / floodplain zoning regulations



# Comprehensive Planning



1998 – Less than one-third of local governments have a land use plan

1999 – Wisconsin adopts Comprehensive Planning Law and grant program

2010 – Zoning must be “consistent” with a comprehensive plan

# Zoning

## Counties

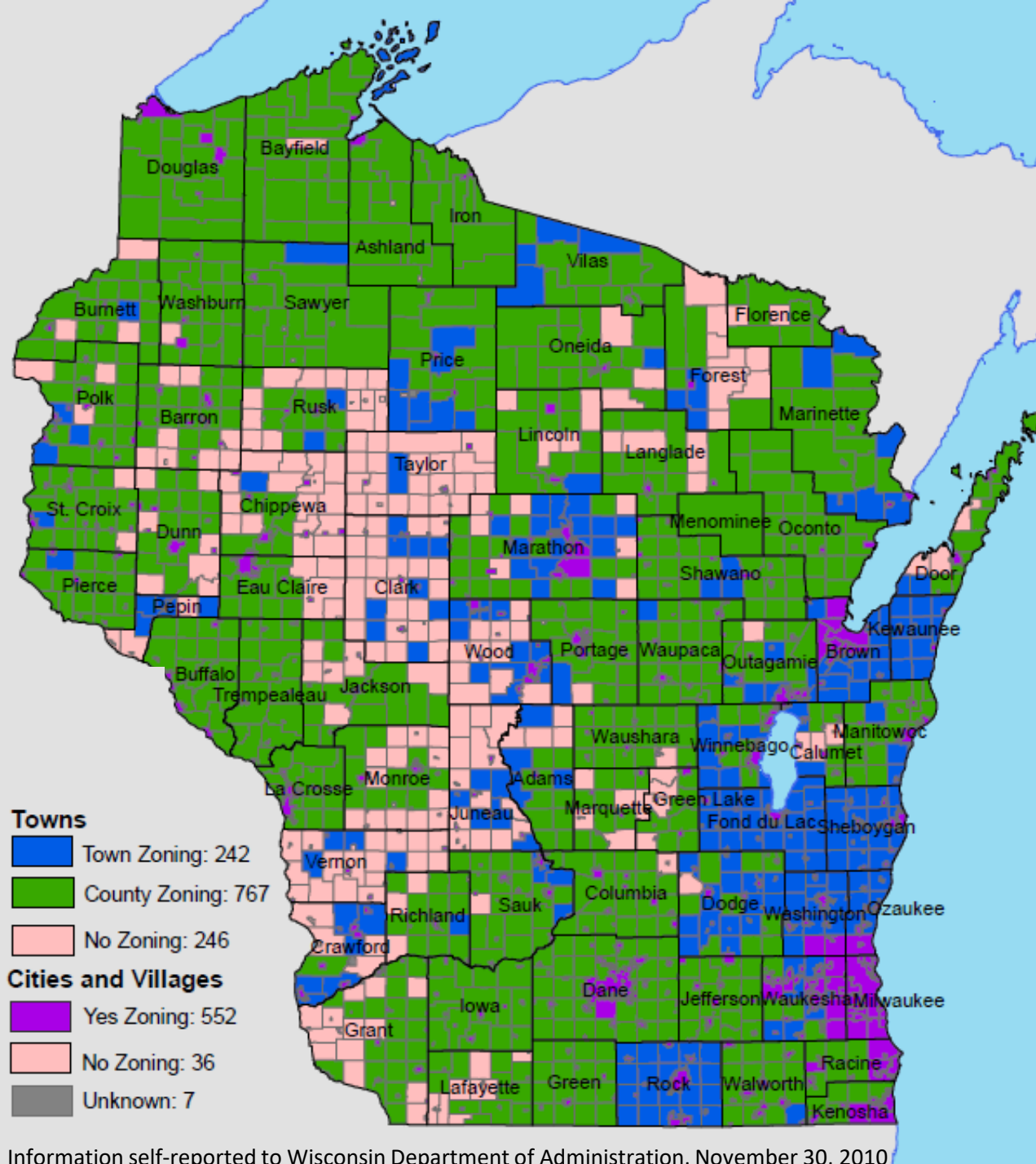
- Required to administer shoreland/wetland zoning
- May adopt general zoning in unincorporated areas

## Towns

- May adopt general zoning following adoption of village powers or if no county zoning

## Cities/Villages

- May adopt general zoning
- May adopt extra-territorial zoning extending 1.5-3 miles beyond boundaries
- May have shoreland or floodplain zoning - required in some circumstances

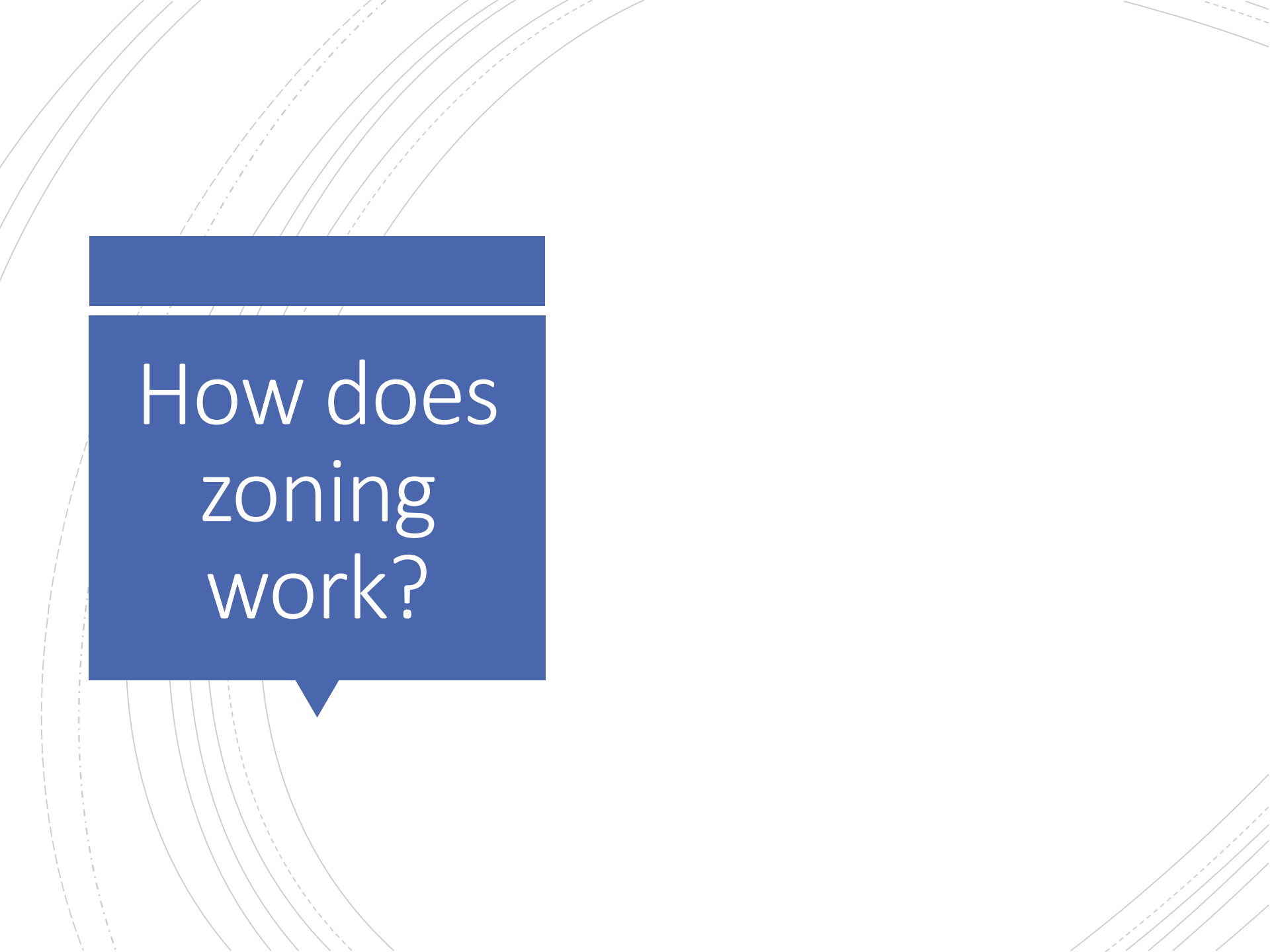






# Key Takeaways

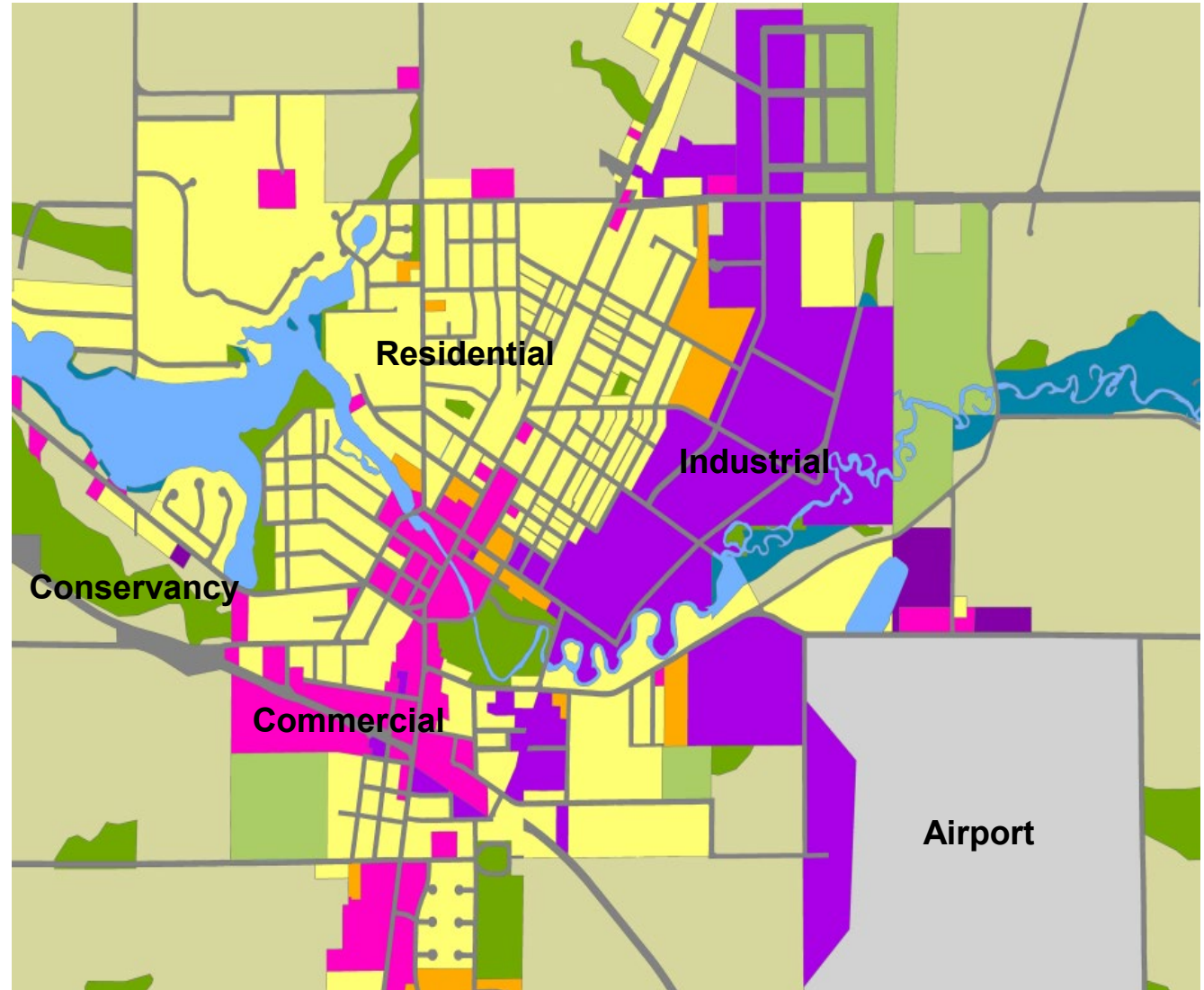
- Zoning was born out of need to isolate incompatible uses in the urban environment
- Purpose to protect health, safety and welfare
- Widely adopted by American communities
- Zoning continues to evolve to meet our needs with innovations and control through local ordinances, court cases, and legislation

The background features several sets of concentric, curved lines in shades of gray, some solid and some dashed, creating a sense of motion and depth. A dark blue speech bubble is positioned on the left side of the slide.

How does  
zoning  
work?

# A zoning ordinance contains two parts:

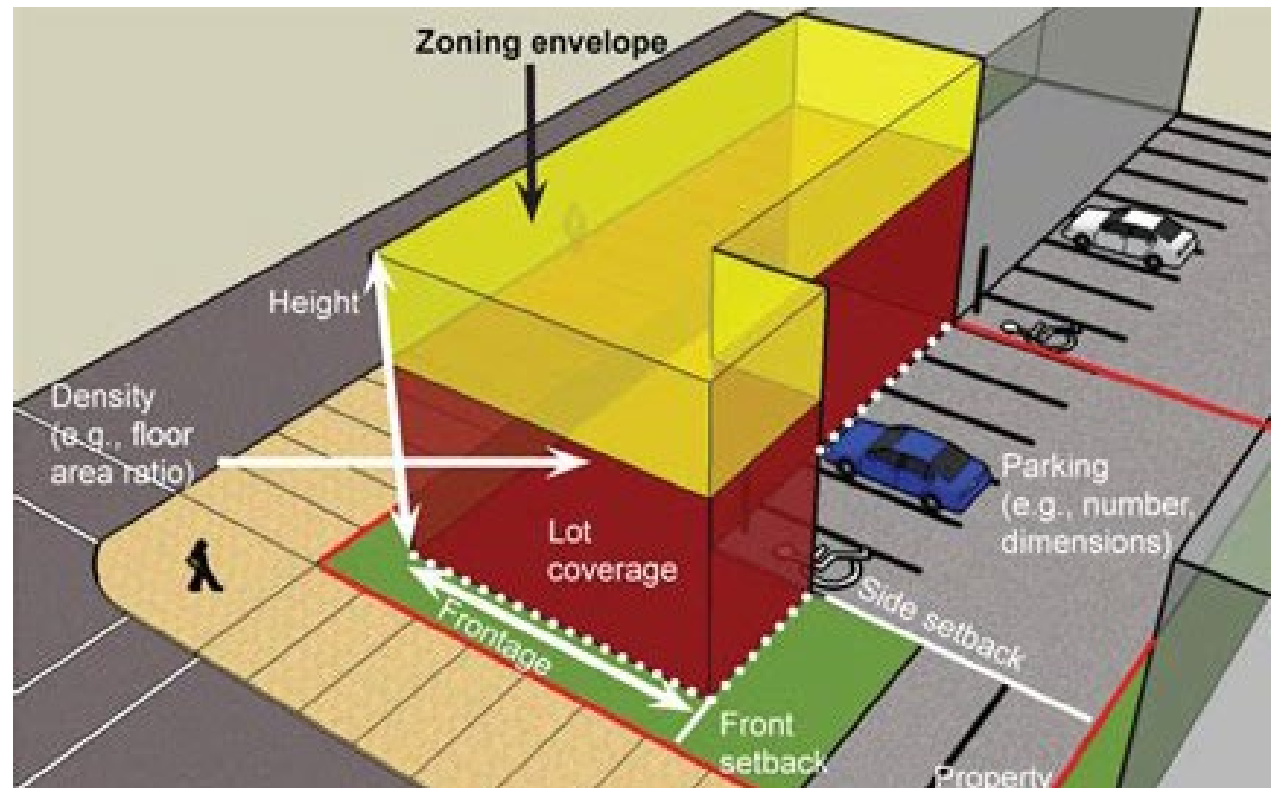
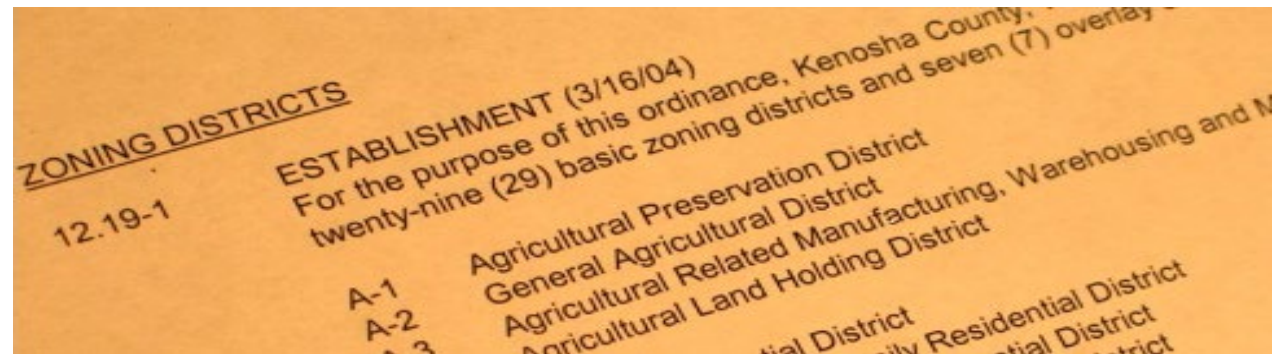
Zoning Map  
divides the  
community  
into districts



# A zoning ordinance contains two parts:

## Zoning Text

- purpose
- uses allowed in each district
- dimensional standards i.e. lot size, density, setbacks, etc.
- requirements related to parking, signage, landscaping, etc.
- authority and procedures



# Uses for each district:

## Permitted Use

Use is listed and allowed by right in all parts of the zoning district

Granted by zoning administrator

## Conditional Use

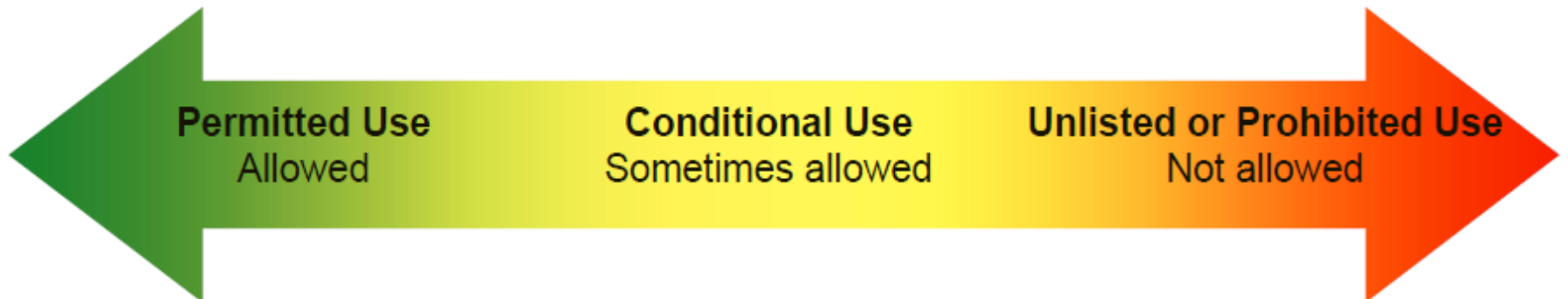
Use is listed for the district and may be allowed if suited to the location

Decided by zoning board, plan commission, or governing body

## Prohibited Use

Use is not listed for the district or is expressly prohibited

May apply for rezone or use variance, if allowed





# Ex. Residential District

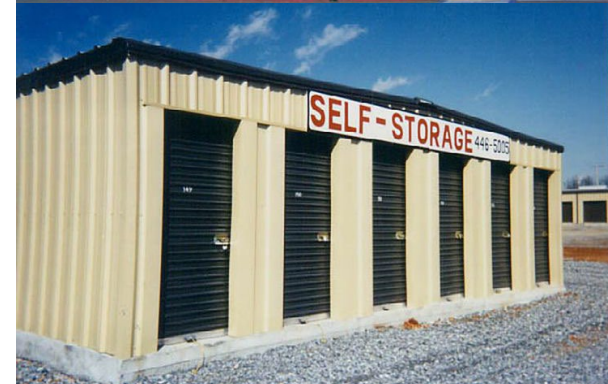
## Permitted Uses



## Conditional Uses



## Prohibited Uses



# Sample Use Table

P Permitted
 C Conditional
 - Prohibited

Zoning District	A1 Intense Agriculture	A2 Light Agriculture	RR Rural Residential	R1 Single Family	R2 Multi Family	C1 Commercial
Livestock facility	P	C	-	-	-	-
Residential poultry and beekeeping	P	P	P	C	C	-
Agricultural tourism	C	C	C	-	-	C
Agriculture-related business	P	P	C	-	-	C
Roadside stand	P	P	P	-	-	C

# Zoning – Relief Mechanisms

1. **Variance** – allowed “violation” of an ordinance standard (decided by zoning board of adjustment/appeals)
2. **Appeal** – contested decision or interpretation of the zoning ordinance (decided by zoning board or circuit court)
3. **Zoning Amendment** – change to the zoning ordinance map or text (adopted by governing body with advisory recommendation from plan commission)



# Types of Decisions



## Legislative

Exercise broad discretion in making policy.

Example:

- Plans
- Ordinances
- Amendments
- Rezones

Responsibility of governing body, with recommendation of plan commission.



## Quasi-Judicial

Exercise limited discretion in evaluating proposals and applying policy.

Example:

- Conditional Use
- Variance
- Administrative Appeal

Assigned to governing body, plan commission, or zoning board.



## Administrative

Apply clear and objective standards while handling routine ministerial duties.

Example:

- Permitted Use

Handled by the zoning administrator or staff.

# Who Does What?

- Legislative
- Quasi-judicial
- Administrative

Governing Body



Ordinance adoption or amendment

Conditional uses

Plan Commission



Policy recommendations

Conditional uses

Planning and Zoning Staff



Technical support

Permitted uses

Zoning Board of Adjustment / Appeals



Administrative appeals

Conditional uses

Variations

The background features several thin, light gray curved lines that sweep across the frame. A prominent blue callout box with a downward-pointing arrow is centered on the page. Inside this box, the text 'Conditional Uses' is written in a white, sans-serif font.

# Conditional Uses

# Conditional Uses

- Ordinance must list specific uses allowed in each district and decision criteria
- May be granted or denied based on specific proposal and ability to meet ordinance standards
- Conditions may be attached



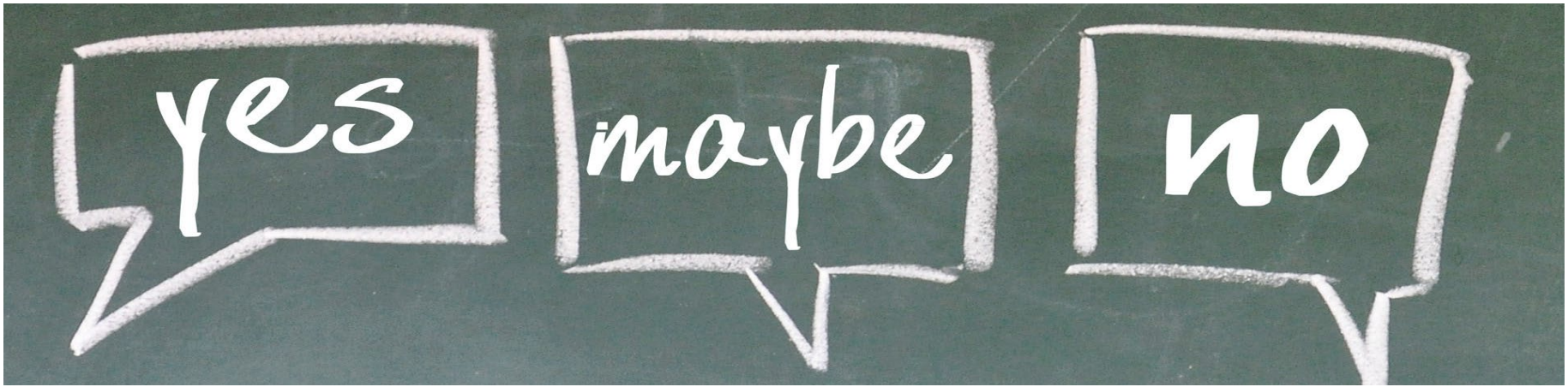


Recent  
court  
case

## *AllEnergy v. Trempealeau County* 2017 WI 52

- County identified 37 conditions for silica sand mine, then voted to deny permit based on public health, safety and aesthetic concerns.
- Wisconsin Supreme Court supported decision to deny.
- Dissenting opinion argued for less discretion for local governments.





Inclusion of a conditional use in the ordinance is a legislative determination that the use is suitable for the district.

- CUP must be granted, except in extreme circumstances.
- Zoning board focuses on what conditions to impose to mitigate negative impacts.

The zoning board has discretion to determine if a proposed use is appropriate for the given site.

- CUP may be granted or denied.
- Zoning board determines if the use is capable of meeting the ordinance standards and what conditions to impose.

# Conditional Uses

New law!  
2017 Wis  
Act 67

2017 Wisconsin Act 67 created new rules for conditional use permits

- Counties Wis. Stat. 59.69(5e)
- Towns Wis. Stat. 60.61(4e), 60.62(4e)
- Cities and Villages Wis. Stat. 62.23(7)(de)

# Conditional Uses

New law!  
2017 Wis  
Act 67

## Definition

“Conditional Use” means a use allowed under a conditional use permit, special exception, or other special zoning permission, but does not include a variance.



# Conditional Uses

New law!  
2017 Wis  
Act 67

## Process

- Class 2 notice, public hearing
- Decision by zoning board
- Appeal to circuit court

Ordinance may specify alternate route, typically:

plan commission → appeal to zoning board  
governing body → appeal to circuit court

(See Wis. Stat. 59.69(2)(bm), 59.694(1), 62.23(7)(e)1)

# Conditional Uses

New law!  
2017 Wis  
Act 67

## Local government responsibilities:

- Ordinance requirements and conditions must be reasonable, and to the extent practicable, measurable
- Must support decision to approve or deny the permit, and to attach conditions, with substantial evidence
- Conditions must relate to the ordinance purpose
- Conditions may limit permit duration, transfer, or renewal

# Conditional Uses

New law!  
2017 Wis  
Act 67

## Definition

“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.

# Conditional Uses

New law!  
2017 Wis  
Act 67

## Applicant responsibilities

- Must demonstrate that the application and all requirements and conditions established by the local government relating to the conditional use are or shall be satisfied
- Must provide “substantial evidence” supporting the application and demonstrating that the requirements and conditions will be met

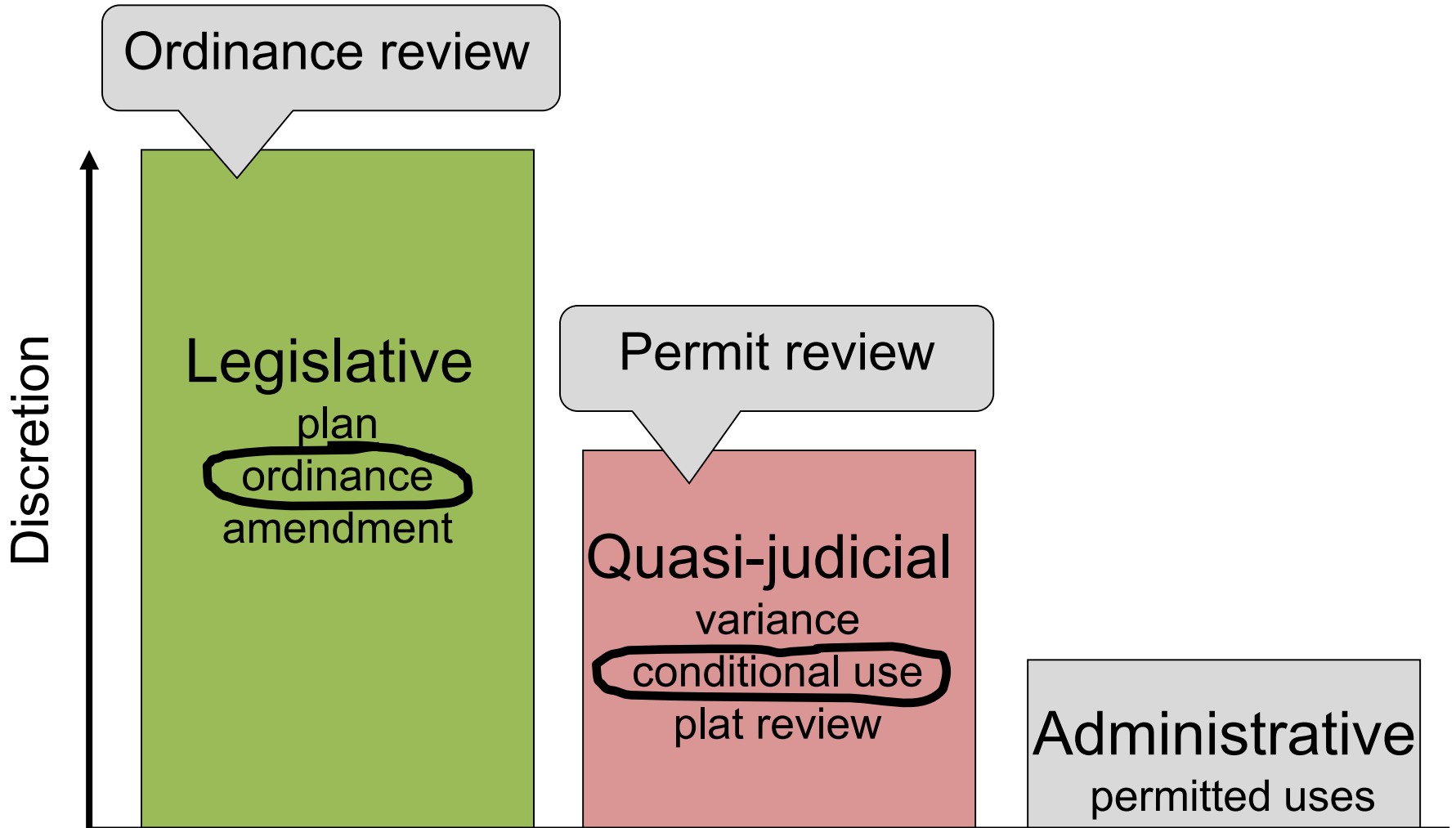
# Conditional Uses

New law!  
2017 Wis  
Act 67

## Permit decision

- If an applicant for a conditional use permit meets or agrees to meet all requirements and conditions specified in the ordinance or imposed by the zoning board, the local government shall grant the conditional use permit

# Discretion Varies with Decision



# Ordinance Review



Review conditional uses listed in ordinance



Review purpose statements to make sure they support conditions you are likely to attach



Review standards, requirements and conditions listed in ordinance



Consider if you want to add requirement that conditional use must be consistent with the comprehensive plan



Consider general standards and those specific to a use

# List of Conditional Uses

## Title 2: Zoning Districts and Uses

Key: USE	P Permitted Use				C Conditional Use			(Blank) Use Not Permitted					
	Residential Districts				Agricultural Districts			Nonresidential Districts					Development Standards
	U-R	L-D-R	R-R	R-E	F-P	G-A	C-V/R-C	N-C	C	B-R	L-I	H-I	
<b>COMMERCIAL, OFFICE, and SERVICE USES</b>													
Adult Entertainment									C				<a href="#">Section 17.204.35</a>
Bank or Financial Institution								P	P	P			
Bar, Tavern, or Micro-Brewery								P	P	P			
Bed and Breakfast				C	C			C					<a href="#">Section 17.204.36</a>
Business Service Establishment								P	P	P			
Car Wash								C	C	C			<a href="#">Section 17.204.37</a>
Drive-Through Facility (accessory to a principle use)								P	P				<a href="#">Section 17.204.38</a>
Gas Station								C	C				<a href="#">Section 17.204.39</a>
Motel or Hotel								C	C	C			
Office, Research, Professional Services								P	P	P	P	P	
Personal Service Establishment								C	P	P	P		
Gun Ranges								C	C	C			<a href="#">Section 17.204.40</a>
Archery Range								P	P	P			<a href="#">Section 17.204.41</a>
Place of Assembly								C		P	P		<a href="#">Section 17.204.49</a>
Public or Self-Storage								C					<a href="#">Section 17.204.42</a>
Recreation, Private Indoor				C	C	C		C	C	P	P		<a href="#">Section 17.204.43</a>

Review conditional uses listed for each district and determine if you want to keep, eliminate, or allow that use through a different process.



# General Standards

## Section 17.803.03 BASIS OF DETERMINATION

- A. **Conformance with Requirements.** The applicant shall be required to establish by clear and convincing evidence that the applicable standards of this Chapter, the specific standards pertinent to each conditional use, including site plan review criteria set forth for applicable site development standards for specific uses set forth elsewhere in this Chapter (refer to Chapter [17.204](#), Development Standards for Specific Uses) have been met.
- B. **General Standards.** The Board of Adjustment shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards:
1. **Compatibility with Adjacent Uses.** The proposed conditional use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
    - a. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
    - b. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
    - c. The hours of operation of the proposed use. Approval of a conditional use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
    - d. The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
  2. **Comprehensive Plan.** The proposed conditional use will be harmonious with and in accordance with the general objectives or with any specific objective of the town and county comprehensive plan.

Describe general standards that apply to all conditional uses. Reference the comprehensive plan if you want to consider it in decision-making.

# Standards for Specific Uses

## Section 17.204.36 BED AND BREAKFAST

- A. **Bed and breakfast**, may be located in an, R-R, R-E, G-A, and N-C Districts with the following conditions, and any other specific conditions imposed by the Board of Adjustment:
1. Owner Occupied. The owner must reside at the site and provide proof of residency annually to the Zoning Administrator.
  2. Guests. A maximum of three guest units shall be permitted.
  3. Safety Items. Each facility shall have the following safety items:
    - a. Smoke alarms in each unit;
    - b. Two fire extinguishers, which shall be "abc" rating and one shall be located in the kitchen and one shall be located at main entrance/exit;
    - c. First-aid kit;
    - d. Emergency lighting and/or other safety devices as recommended by the fire chief.
  4. Food Licensing. Food licensing shall be mandated by Marathon County Health Department.
  5. Health and Safety. Home occupancy must meet state health and safety requirements.
  6. Signs. Signage shall be subject to Title 7, Signs.
  7. Limitation on Stay. The same guest or group of registrants shall not stay at the facility for a period of more than seven consecutive days or more than 14 total days within a given calendar year.
  8. Cause for Repeal of Permit. Failure to comply with these conditions and subject to Chapter 254.61 Wisconsin Statutes or other such agencies shall be cause for repeal of the conditional use permit.
  9. Trash. Shall provide central facilities for collection and disposal of trash.
  10. Facility must be ADA compliant.

Consider adding detailed standards for specific uses. Legislatively enacted standards may be easier to defend than conditions attached during permit review. Over time, you may be able to convert some CUPs to permitted uses.

# Purpose Statements

## Chapter 17.803

## Conditional Use Permits

### Section 17.803.01 PURPOSE

- A. **Purpose.** Certain uses are of such a nature or their effects are as dependent upon specific circumstances as to make impractical the determination in advance of where and when and under what conditions they should be permitted. Provision has been made in this chapter for the determination of such uses as conditional uses. Conditional uses are land uses listed as such in [Table 3](#) Uses Permitted by District. They may be established in such district only upon approval by the Board of Adjustment.

The procedures and standards in this Chapter are intended to provide a consistent and uniform method for review of conditional use permit proposals. These review procedures and standards are intended to accomplish the following purposes:

1. Ensure full compliance with the standards contained in this ordinance and other applicable local ordinances, and state and federal laws.
2. Achieve efficient use of the land.
3. Prevent adverse impact on adjoining or nearby properties.
4. Protect natural resources.
5. Facilitate development in accordance with the County's land use objectives per the Comprehensive Plan.



Analyze statements describing the purpose of the zoning ordinance, the purpose of specific zoning districts, and the purpose of specific regulations. They should provide support for conditions you are likely to attach.

# Permit Review



Review proposal against ordinance criteria



Make sure conditions are reasonable, measurable and evidence-based



Determine credibility of information presented



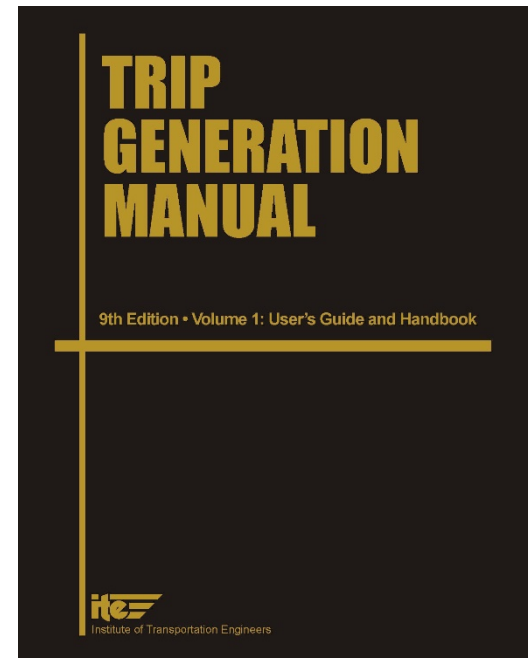
Create an adequate record of your decision



Determine if you will grant or deny based on substantial evidence

# Is this Reasonable, Measurable, Evidence-based?

Local government requires traffic impact analysis with projections based on ITE trip generation rates.





# Is this Reasonable, Measurable, Evidence-based?

Local government requires that 100% of stormwater must be retained on site.



## 2017 WI Act 243

Construction site erosion control and stormwater management ordinances –

May not require more than 90% of predevelopment runoff to be retained on site.



# Is this Reasonable, Measurable, Evidence-based?

Certified wetland delineator verifies location of wetland on the property.





# Reasonable, Measurable, Evidence-based?

Local government requires building or landscaping to be harmonious with surrounding properties.



Aesthetics are a recognized public concern, but more powerful when tied to a public purpose such health, safety, or economics.

Create standards that are measurable and enforceable.

# Reasonable, Measurable, Evidence-based?

Neighbor appears in opposition at public hearing citing decreased property values.



Property values are a legitimate public purpose, but are not guaranteed by zoning.

How do you measure?  
Is the loss speculative?  
Is it a taking?  
Can you craft conditions to minimize impacts?



# Limits on Exactions

1. Essential Nexus – address expected harmful project impacts
2. Rough Proportionality – conditions proportional to impact



(U.S. Supreme Court in Nollan/Dolan)



# Reasonable, Measurable, Evidence-based?

368 people speak on record at the public hearing. Most oppose. Can you deny the permit based on opposition?



- Not a popularity contest.
- Weigh the credibility of information presented.
- Provide substantial evidence (facts and information) supporting your decision to grant or deny the permit.
- Cite specific standards and evidence you relied upon.
- Postpone if more time or information is needed.

Recent  
court  
case

## *Eco-Site LLC v. Town Cedarburg 2019 WI Court Appeals*

- Town denied CUP for cell tower based on failure to meet 3 of 6 ordinance standards
- Court supported town, stating there is no presumption a conditional use is consistent with the public interest or a use by right
- Town's decision was supported by substantial evidence, and not based solely on aesthetic concerns (66.0404(4)(g))



# Application and Decision Forms

## Decision

(See Handout)

If an applicant for a conditional use permit meets, or agrees to meet, all of the requirements found in the zoning ordinance and all conditions imposed on the permit, the local government is required to grant the permit.

Based on the above findings of fact, conclusions of law, and the record in this matter, the permit is:

- Approved, with the conditions stated above.
- Denied, for the following reasons:

---

---

---

---

Signature of local government

Date

# Options for Developing Conditions

1. Standard conditions specific to each use are listed in the ordinance
2. Zoning staff recommends conditions specific to permit request as part of staff report
3. Local officials develop conditions specific to permit following public hearing

Usually some combination of the above

# Ensuring Long-Term Compliance

- Record conditions on deed for property
- Require compliance reporting by owner as condition of permit (periodically or upon sale of property)
- Consider cash or surety bond for projects involving significant capital expenditures
- Set up monitoring and enforcement program through zoning office



A blue speech bubble with a white outline and a small tail pointing downwards, containing the text "Questions?". The background features several sets of concentric, curved lines in light gray and white, some solid and some dashed, creating a sense of motion or a circular path.

Questions?

The background features several thin, light gray curved lines, some solid and some dashed, creating a sense of motion and depth. A prominent dark blue callout box is centered on the page, containing the main title in white text.

# Ordinance Amendments and Rezones

# Zoning Amendments

Map amendment – change to district boundaries

Text amendment – change to district regulations (i.e. allowed uses, setback, etc.)

## Legislative decision

- Must be reasonable and constitutional
- Consistent with comprehensive plan
- Other standards found in zoning ordinance

# Sample Rezoning Standards

- ✓ The amendment is consistent with the comprehensive plan.
- ✓ The amendment will not be detrimental to property in the immediate vicinity or to the community as a whole.
- ✓ The amendment will not have a significant adverse impact on the ability to provide adequate public facilities or services
- ✓ The amendment will not have a significant adverse impact on the natural environment (i.e. air, water, noise, stormwater management, soils, wildlife, vegetation, etc.)  
or the impact could be mitigated by improvements on the site or in the immediate vicinity.

# Consistency Requirement

- Beginning Jan. 1, 2010, **new or amended** zoning, land division and official mapping **ordinances** must be consistent with an adopted comprehensive plan
- **Consistent means** “furthers or does not contradict the objectives, goals and policies contained in the comprehensive plan”

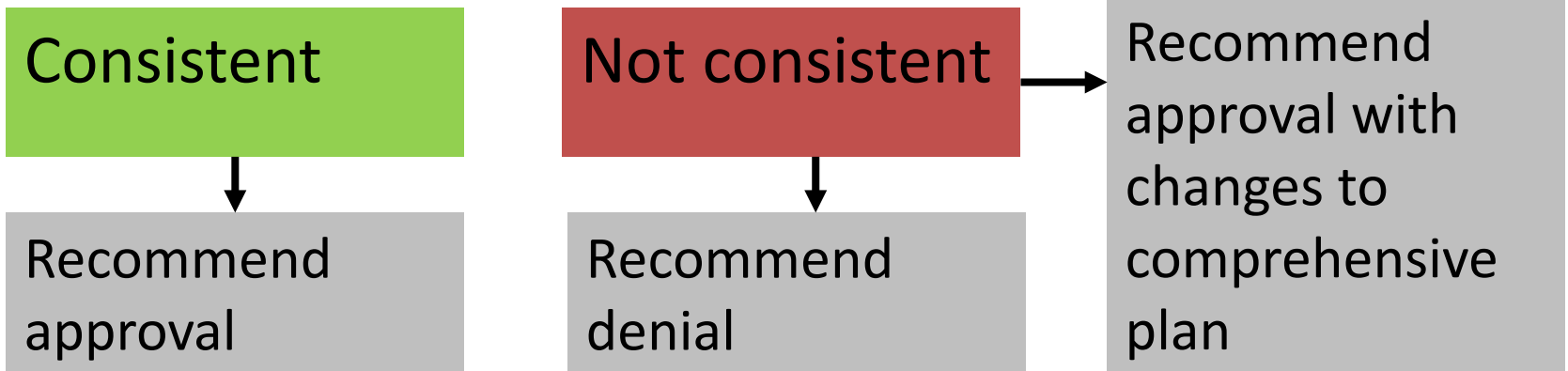
*(2009 Wisconsin Act 372)*



# Determining Consistency

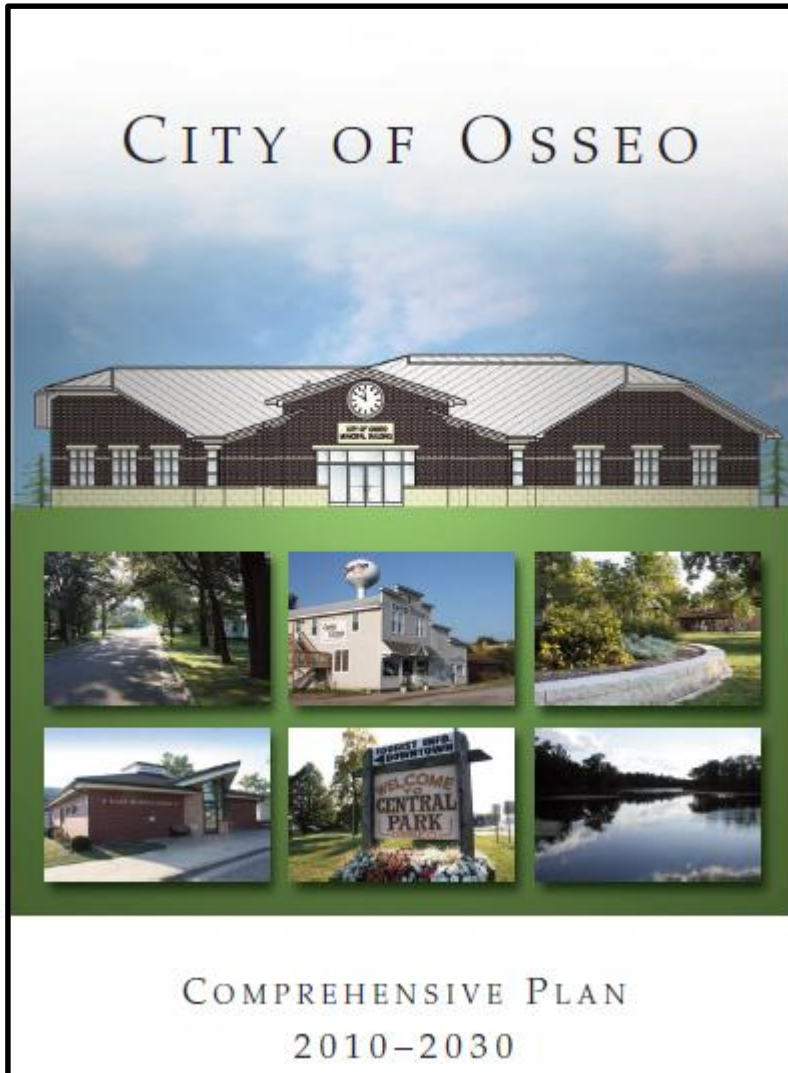
## Rezone Example:

1. Look to future land use map
2. Look to text of comprehensive plan
3. Determine if plan generally supports change to zoning

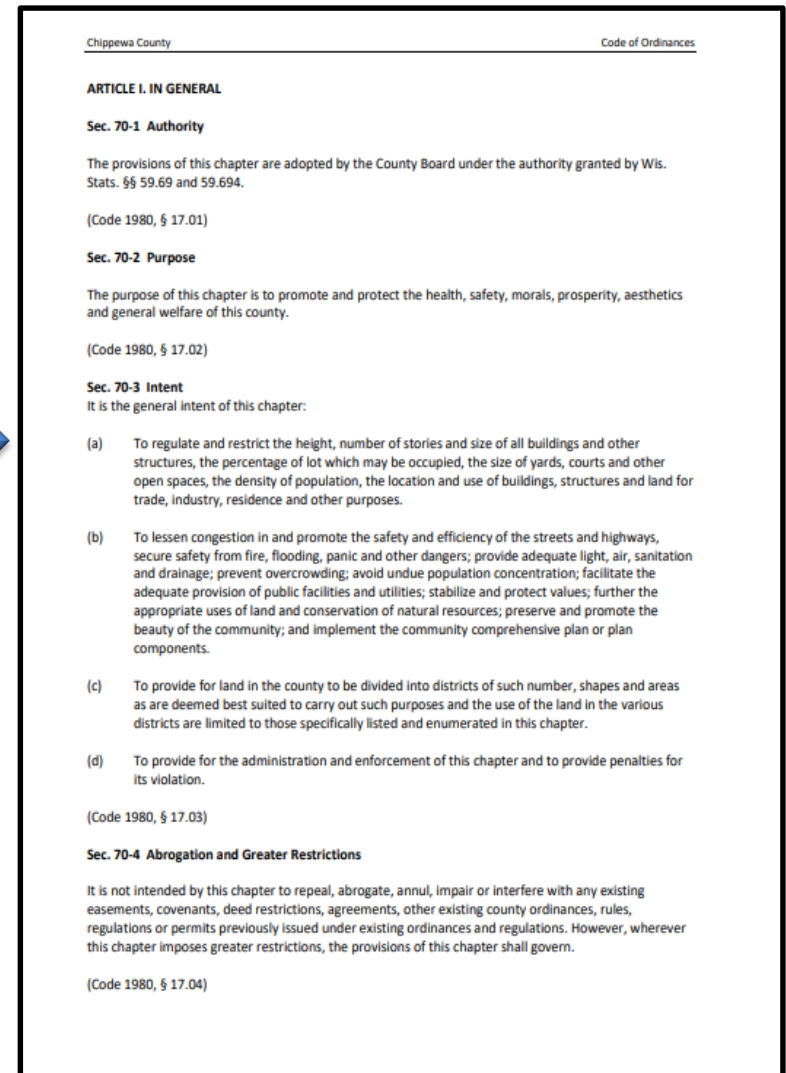


# Plan does not translate directly to ordinance

## Comprehensive Plan



## Zoning Ordinance



# Plan does not translate directly to ordinance

## Comprehensive Plan

Visionary/Guiding

Future-oriented

Inventory of existing  
resources

Goals, objectives,  
policies, tools



## Zoning Ordinance

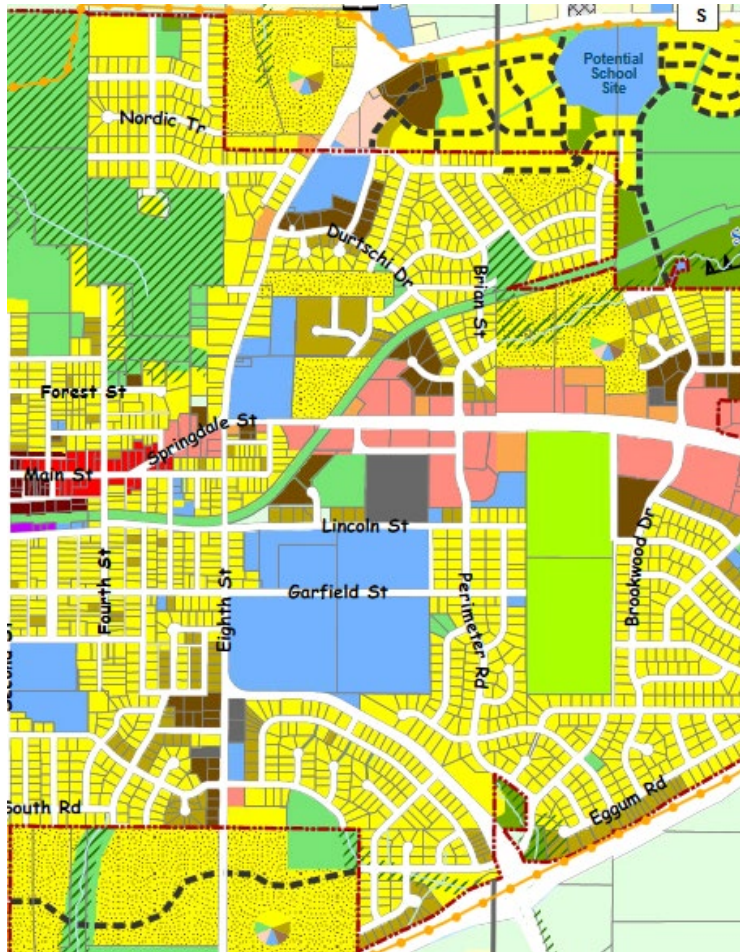
Regulatory

Force of law  
applies today

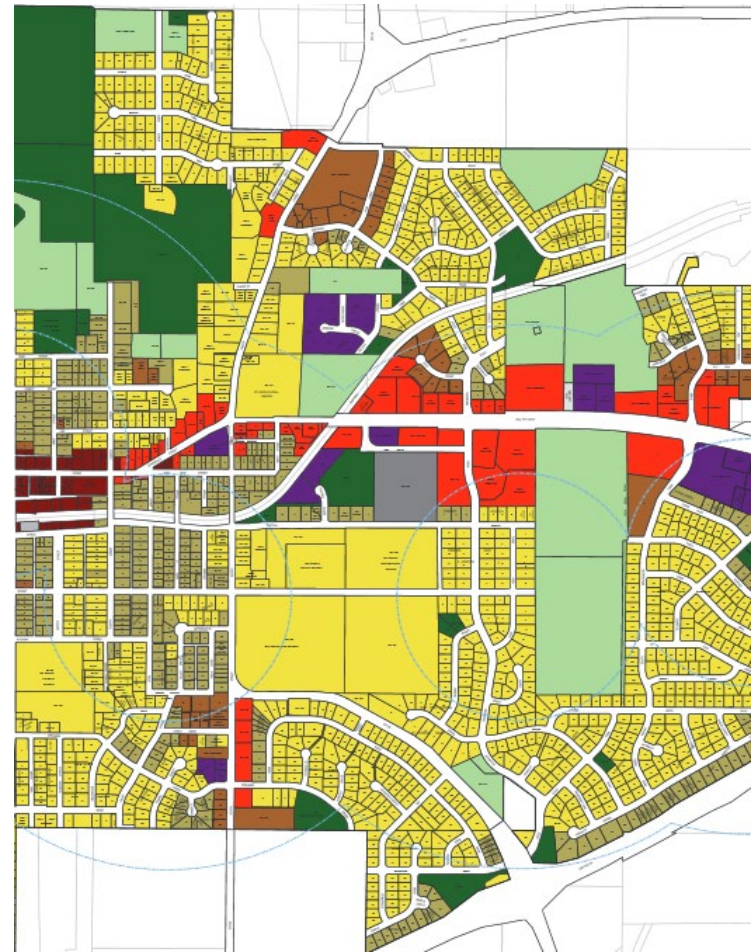
Detailed regulations  
control location,  
density, use, etc.

# Plan does not translate directly to ordinance

Future land use map



Zoning map



Plan provides roadmap for tomorrow.

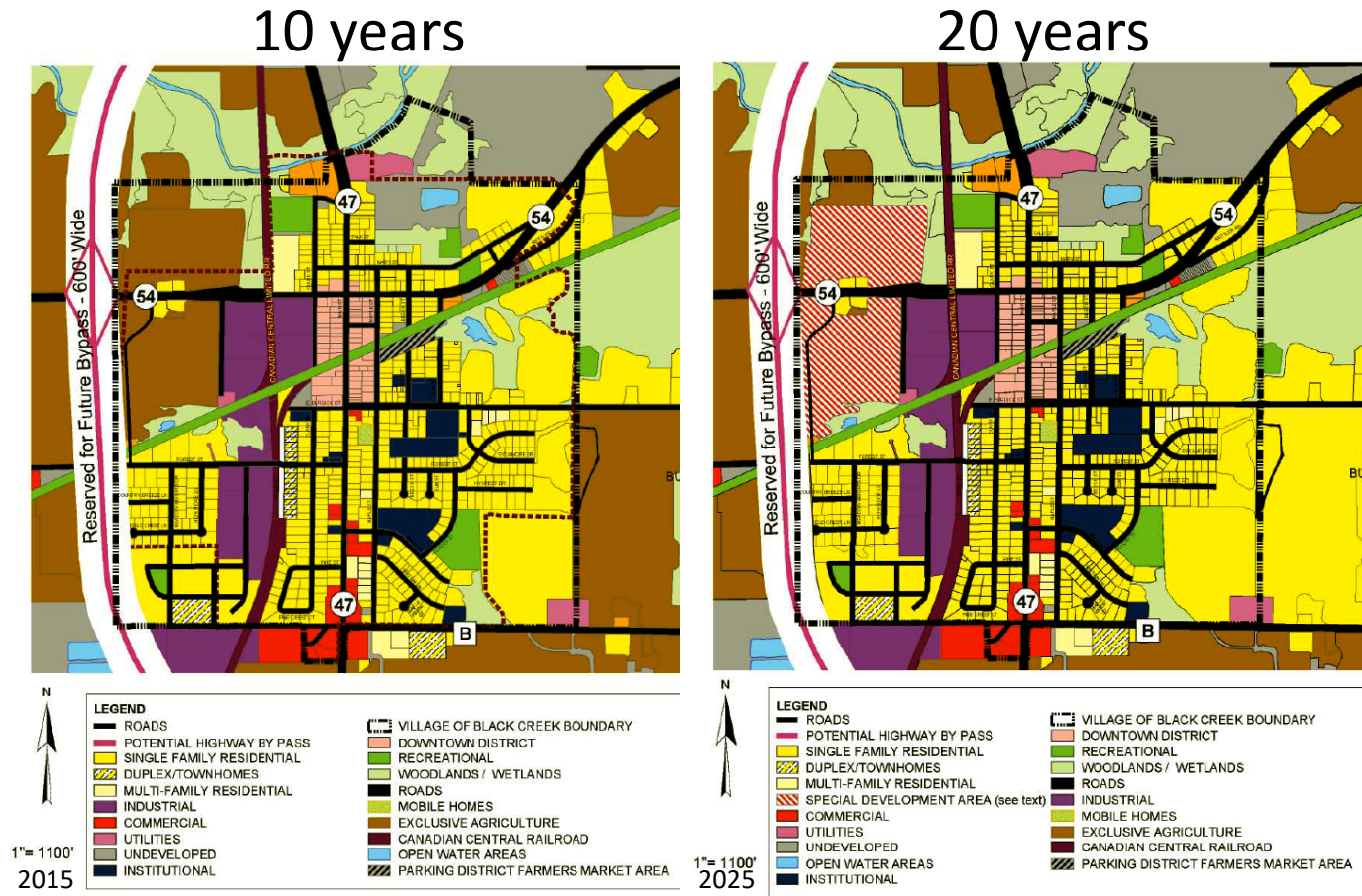
Ordinance regulates landscape today.



# Consistency Examples

## Village of Black Creek – Future Land Use Maps

10 and 20 year future land use maps show location, intensity and timing of development



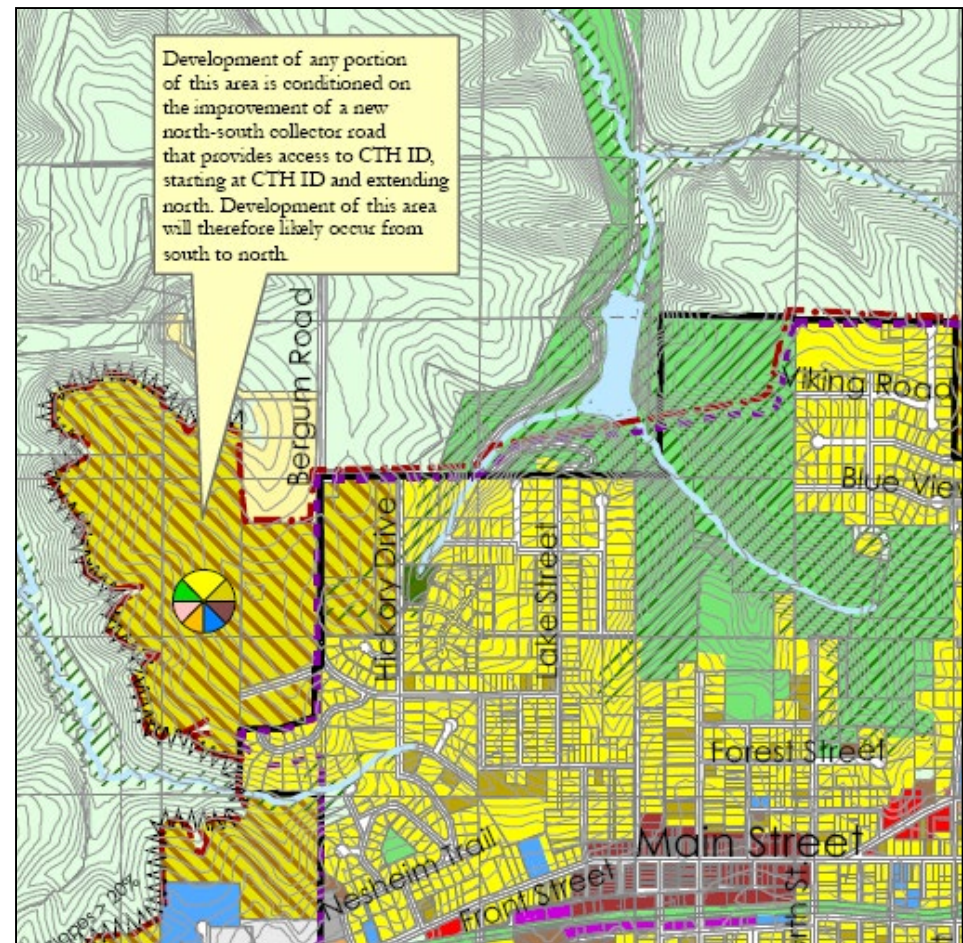


# Consistency Examples

- Village of Mount Horeb – Future Land Use Map

Plan specifies conditions under which growth may occur:

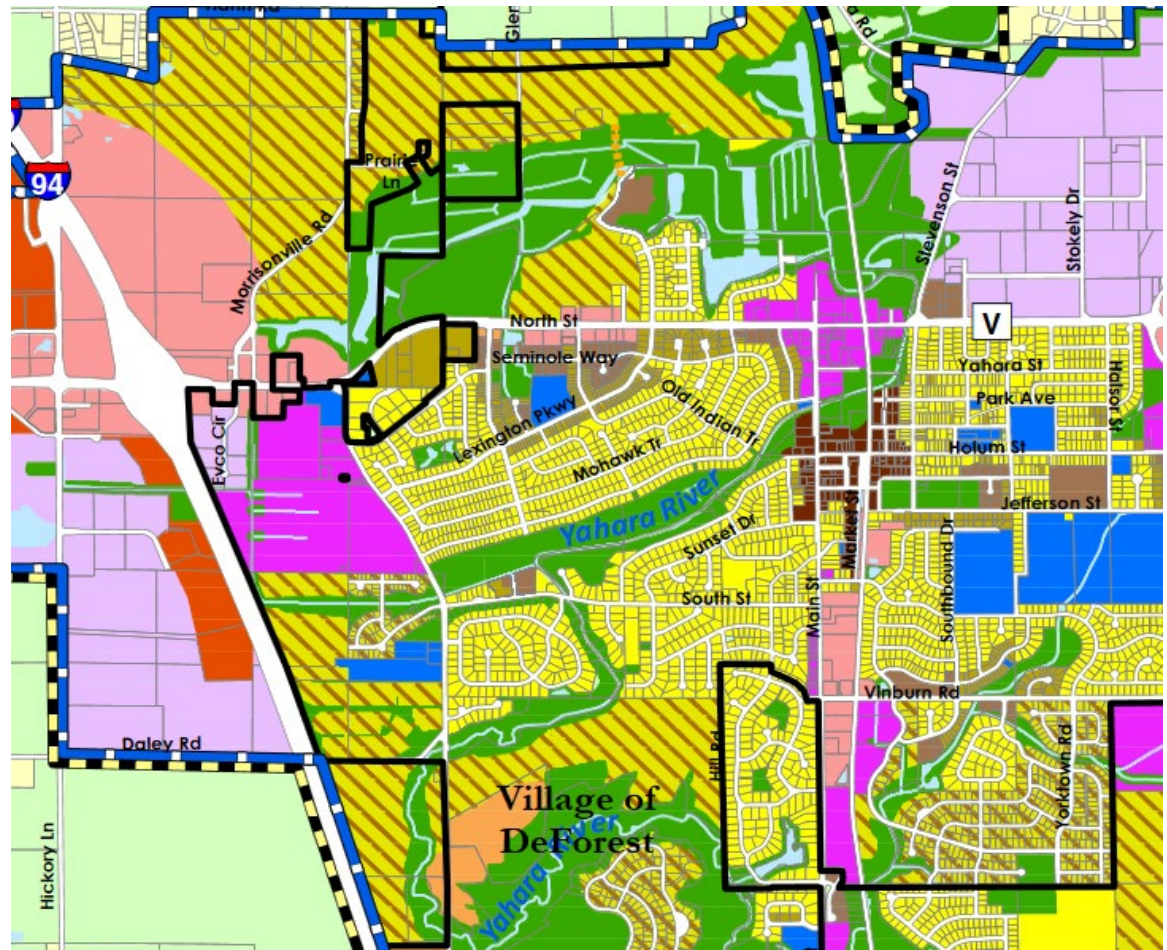
*“development of this area is conditioned on the improvement of a new north-south collector road”*



# Consistency Examples

## Village of DeForest – Future Land Use Map (2016)

Cooperative boundary lines and growth phasing reflected on future land use map.



- Agricultural Preservation Area
- Single Family Residential - Unsewered
- Single Family Residential - Sewered
- Two-Family/Townhouse Residential
- Multiple Family Residential
- Planned Neighborhood
- Commercial
- Office/Research
- Industrial/Business Park
- Commercial or Industrial
- Government/Institutional
- Mixed Use
- Parks & Public Recreation/Environmental Corridor
- Surface Water
- Municipal Boundaries (2014)
- Future Urban Development Area (FUDA)



# Consistency Examples

## Village of DeForest

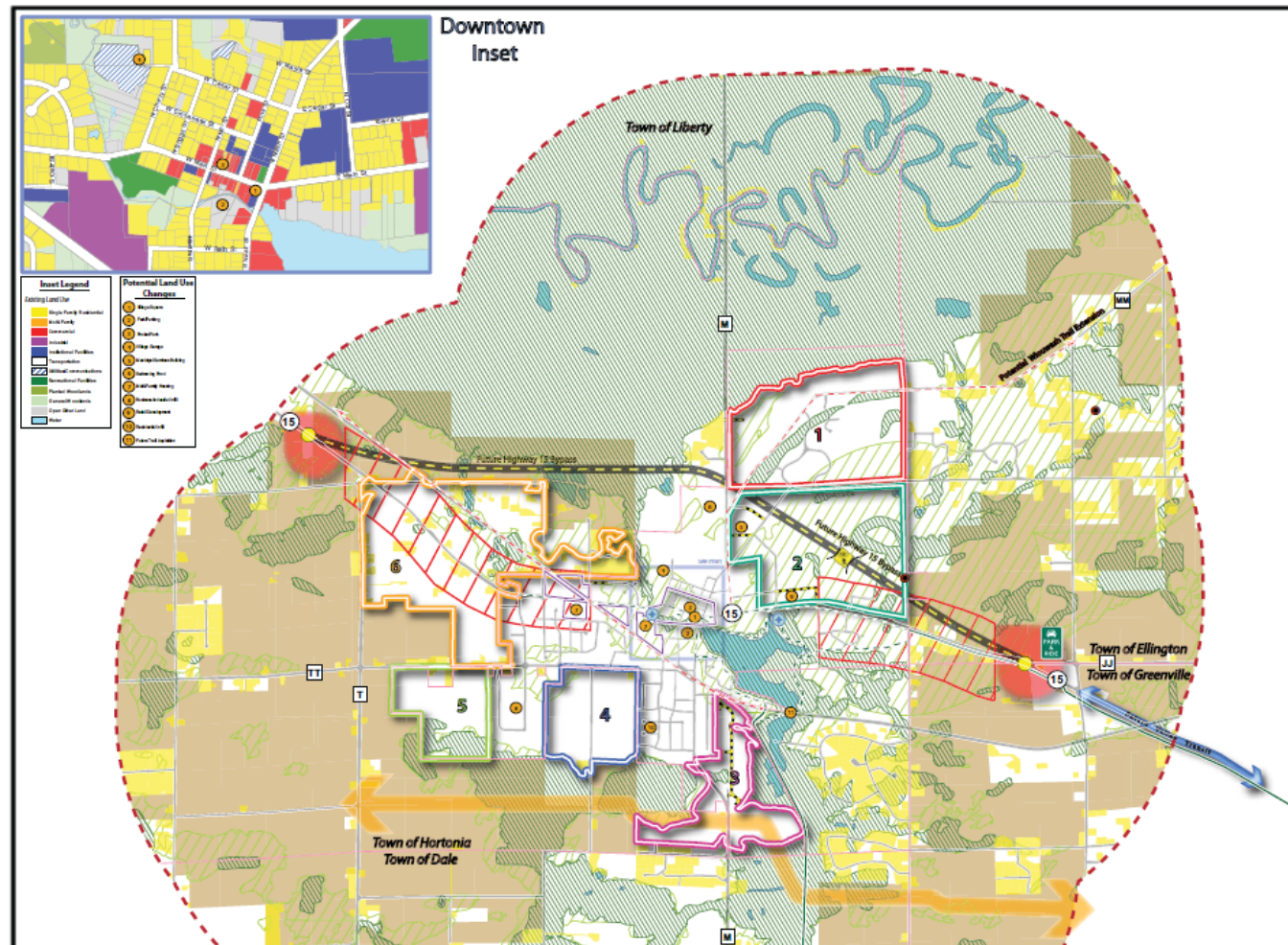
Text provides guidance for zoning.

Future Land Use Category (shown on Map 6-1)	General Description of Land Uses Allowed	Typical Implementing Zoning Districts	Lot Size and/or Density Range	Development Policies (see also Village zoning, subdivision, stormwater management, official map, and other ordinances)
Commercial	High-quality indoor retail, commercial service, office, health care, and institutional buildings on sites with generous landscaping and modest lighting and signage; served by a public sewer system (except for A-B district)	B-2 General Business (preferred) B-3 Highway Business PUD Planned Unit Development A-B Agricultural Business (in ETZ and other rural settings)	Per associated zoning district requirements	<ol style="list-style-type: none"> <li>1. In addition to zoning requirements, meet commercial design policy in the Economic Development chapter</li> <li>2. Time rezoning to when public sanitary sewer and water services available and a specific development proposal is offered.</li> <li>3. Assure that development provides access and an attractive rear yard appearance and existing and future development behind these sites.</li> <li>4. Require developments to address off-site traffic, environmental, and neighborhood impacts.</li> </ol>
Downtown	Mix of specialty retail, restaurants, service, office, institutional, and mainly upper-story residential uses, in a pedestrian-oriented environment and mixed use buildings, with on-street parking, minimal setbacks, and buildings compatible with a downtown setting	B-1 Central Business District (preferred) PUD Planned Unit Development	See Chapter 3: Downtown for density and other site utilization recommendations for the Downtown and specific sites within it Also see B-1 requirements	<ol style="list-style-type: none"> <li>1. Encourage uses most appropriate for the Village downtown area to develop or remain there.</li> <li>2. Pay special attention to design and scale when considering approvals in the Downtown.</li> <li>3. Preserve the architectural and historic character of the core downtown historic buildings.</li> <li>4. See the Downtown chapter for more specific land use, redevelopment, and revitalization recommendations.</li> </ol>
Office/Research	High-quality indoor professional office, research, development, and testing uses, health care facilities	O-R Office and Research District (preferred)	Per associated zoning district requirements	<ol style="list-style-type: none"> <li>1. Design and approve developments within Office/Research areas to result in higher-end "office park" or "office/research campus" setting.</li> </ol>

# Consistency Examples

- Village of Hortonville – Future Land Use Map

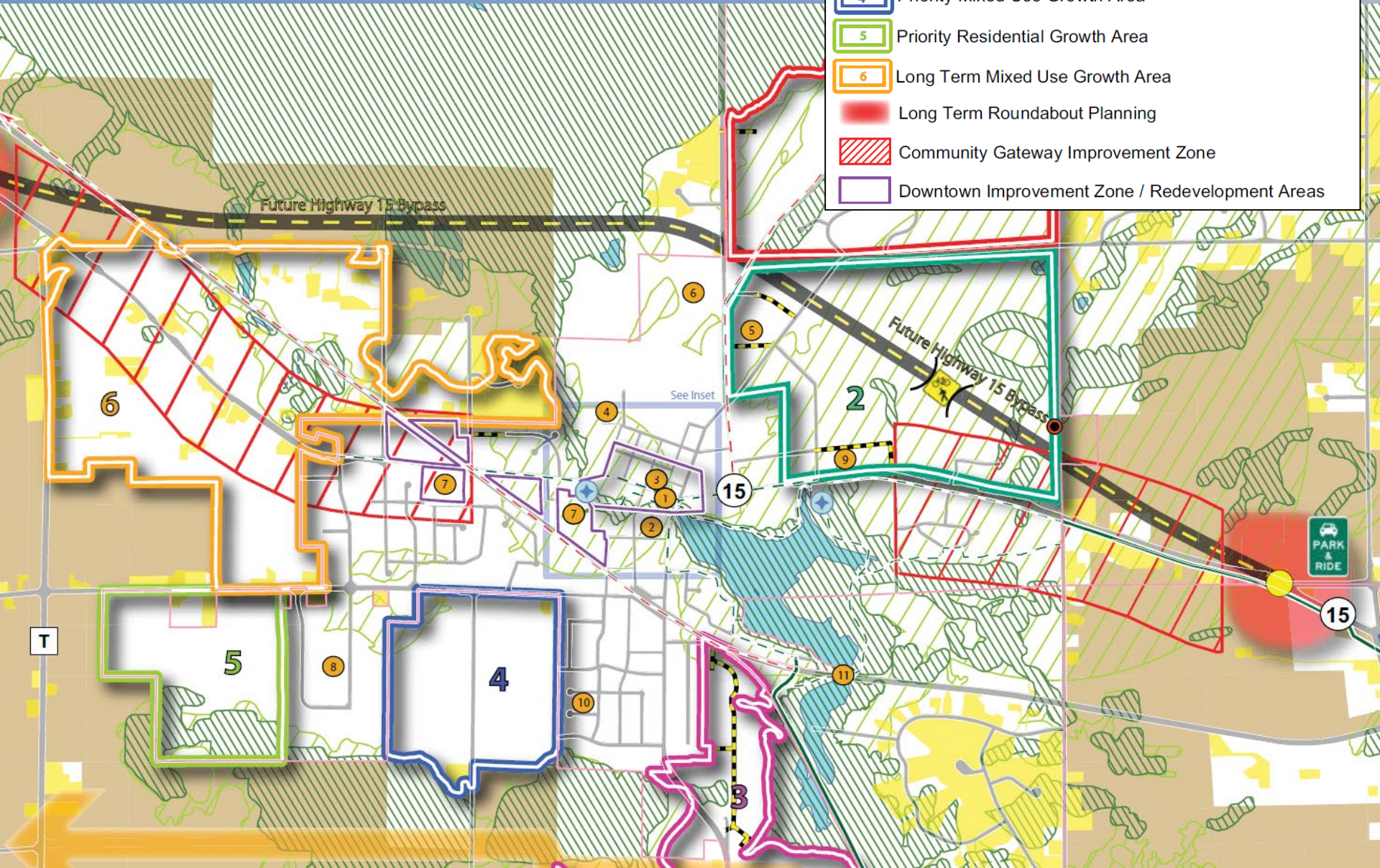
Map drawn in “bubble” fashion showing priority areas for future development within village and extraterritorial jurisdiction





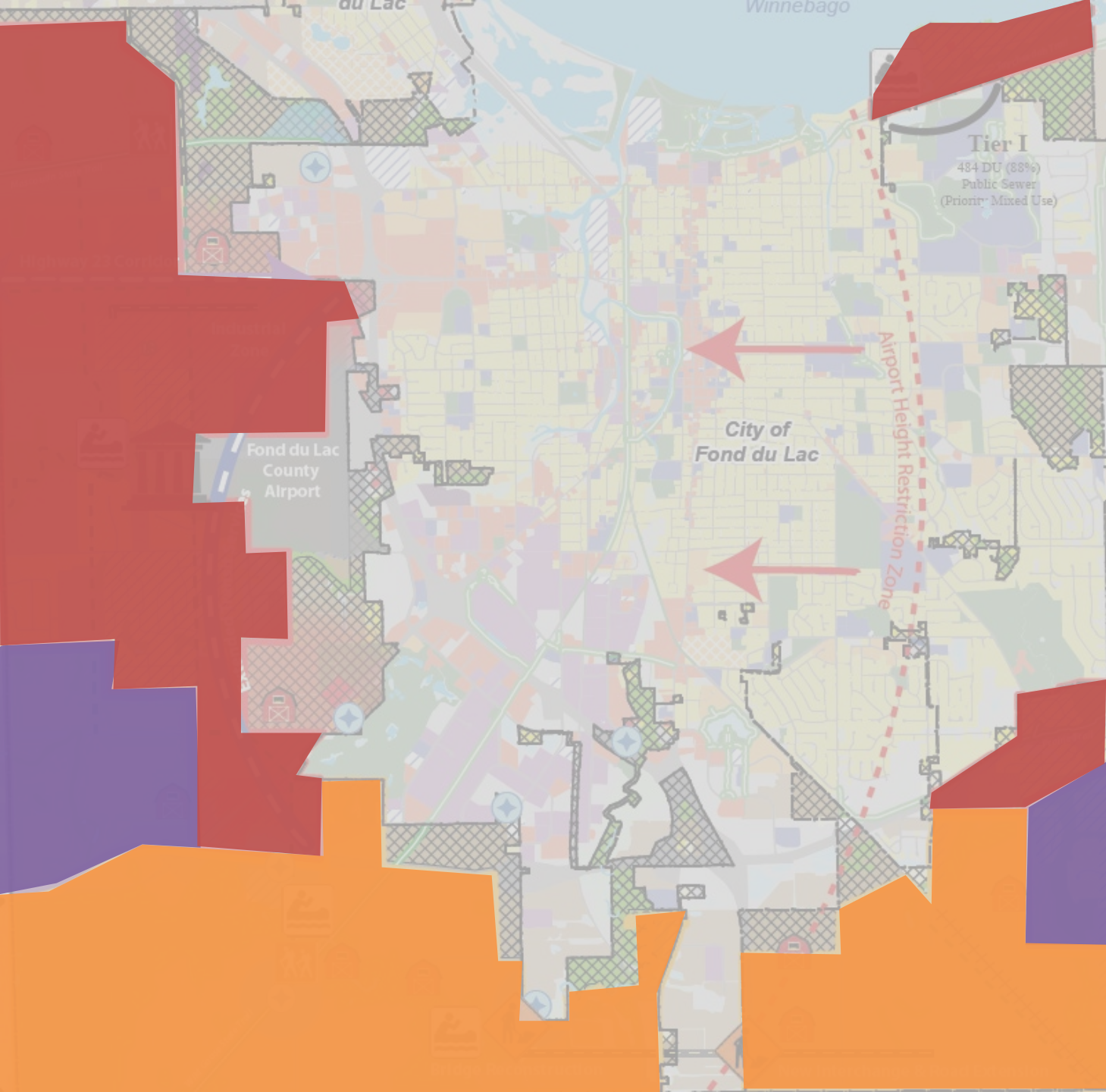
# Village of Hortonville

- 1 Long Term Residential Growth and Service Extension Area
- 2 Priority Mixed Use Growth Area
- 3 Priority Residential Growth Area
- 4 Priority Mixed Use Growth Area
- 5 Priority Residential Growth Area
- 6 Long Term Mixed Use Growth Area
- Long Term Roundabout Planning
- Community Gateway Improvement Zone
- Downtown Improvement Zone / Redevelopment Areas





# T. Fond du Lac Future Land Use 2040



**Priority Mixed Use**  
(88% growth)  
Single-family  
Multi-family  
Commercial  
Industrial  
Sewer/Water

**Rural Residential**  
(8% growth)  
Single-family  
Well/Septic

**Farmland Preservation**  
(4% growth)  
Limited residential  
Large lots

 Growth Agreement Areas

# Rezone Process

Petition for ordinance amendment

Notice of public hearing & notice to affected towns

Public hearing on map and/or text amendment

Zoning committee recommendation to county board

Governing body vote to modify, adopt or deny

Amendment goes into effect and is published

Towns under county zoning:

## Recommended:

Towns provide recommendation to county prior to public hearing.

## Within 10 days of public hearing:

Towns may **object** to changes outside shoreland/floodplain areas. If town disapproves, zoning committee must revise proposal or recommend denial.

## Within 40 days of county vote:

If majority of affected towns **disapprove**, amendment does not take effect.

## From Marathon County and Town Comprehensive Plans:

Each local jurisdiction must make land use decisions that are consistent with their own comprehensive plan. The decision to approve a zoning change must be based on the adopted comprehensive plan, and specifically, the future land use map.

If the requested zoning is consistent with the land use designation on the property it should be approved, unless unique circumstances indicate the rezoning would negatively impact surrounding properties or the community.

If the requested zoning is not consistent, the community should consider denying the request. If the community believes the requested zoning is appropriate in the specific location and would benefit the community, the change can be approved, but the land use map should be amended to establish land use and zoning consistency.

# Recommendations

**PIERCE COUNTY WISCONSIN**  
**DEPARTMENT OF LAND MANAGEMENT & RECORDS**  
Zoning: 715/273-6747 Planning: 715/273-6746 Fax: 715/273-6864

Pierce County Courthouse  
414 W. Main Street P.O. BOX 647  
Ellsworth, Wisconsin 54011

## Town Recommendation Form

**Request:** \_\_\_\_\_ Conditional Use Permit \_\_\_\_\_ Plat Approval – Concept, Preliminary, Final (Circle One)  
\_\_\_\_\_ Map Amendment - (Rezone) \_\_\_\_\_ Other- \_\_\_\_\_

### Applicant/Agent:

Name \_\_\_\_\_

Site Address (if applicable) \_\_\_\_\_

**Property Description:** \_\_\_\_\_ ¼ of the \_\_\_\_\_ ¼, Section \_\_\_\_\_, T \_\_\_\_\_ N, R \_\_\_\_\_ W, Lot \_\_\_\_\_, Block \_\_\_\_\_,

Subdivision \_\_\_\_\_ Town of \_\_\_\_\_

Computer # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Parcel # \_\_\_\_\_


Zoning District \_\_\_\_\_ Acreage \_\_\_\_\_

A town recommendation is required as part of the application for a rezone (map amendment) or a conditional use permit. This recommendation is necessary whether a town has adopted a comprehensive plan or has not. Pierce County will seek to further each Town's planning goals when considering the establishment of conditionally permitted uses and when considering approval of a request for a rezone or map amendment.



# Ordinance Updates



The background features several sets of concentric, curved lines in shades of gray, some solid and some dashed, creating a sense of motion and depth. A dark blue speech bubble is positioned on the left side of the page.

How are you  
updating your  
plans and  
ordinance?

# Plan Implementation

- Refer to **implementation element** for a list of programs, policies, tools, actions and other recommendations to implement the plan

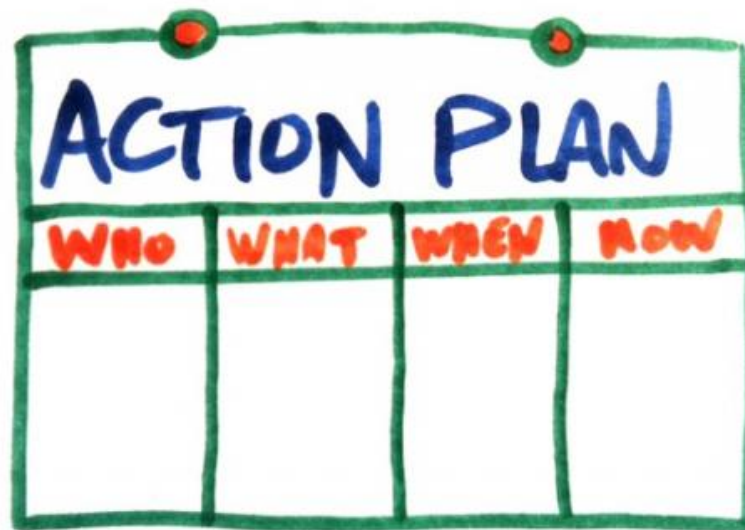


# Example: Dane County Plan Update, 2013

Implementation Summary Table <i>Chapter 8: Land Use</i>	2013 5-yr Update				
	Status 2013	Keep?	Modify?	Done?	Notes
<b>Overall Land Use</b>		X	X		
1. Maintain and enhance the existing regional planning framework in Dane County.	Ongoing	X			
2. Continue to consider a permanent, countywide Transfer of Development Rights (TDR) program.	Complete		X		Modify to "continue to expand and implement TDR in interested communities."
3. Continue to develop a permanent, countywide Purchase of Development Rights (PDR) program.	Partially complete	X			
<b>Code Implementation, Administration And Enforcement</b>		X	X		
1. Examine zoning process, existing and proposed local codes, administration and procedural requirements to minimize negative impacts on agriculture.	Ongoing	X			
2. Conduct countywide meetings to discuss existing and proposed ordinances, regulations and legislation affecting land use.	Ongoing	X			
3. Work with the county zoning agency to develop an expedited permitting process for new developments that are sited on existing transportation arterials and that satisfy the objectives identified in community/county plans	Not addressed		X		Consider rewriting to "encourage zoning in advance of development projects."
<b>Community and Neighborhood Design</b>		X			
1. Develop an integrated set of community and neighborhood design principles to help new development and redevelopment meet the goals and objectives of the <i>Dane County Comprehensive Plan</i> .	Not addressed	X			
<b>Fees</b>		X		X	
1. Property owners rezoning land from A-1(ex) should pay fees sufficient to cover the full costs of the rezone process and administration.	Ongoing	X			
2. Explore creation of service impact fees for new development.	Ongoing	X			
3. Establish a sanitary code fee structure sufficient to add dedicated staff to conduct, monitoring, inspection and enforcement related to septage landspreading operations.	Complete			X	
<b>Ordinance Amendments</b>		X	X	X	
1. Amend the Dane County Zoning Ordinance (Chapter 10, Dane County Code).	Partially complete	X			
Require that rezones and conditional use permit applications be reviewed for consistency with town and county comprehensive plans.	Complete		X		Modify to "Continue to require that..."
Establish maximum lot sizes, with exceptions where necessary due to local land conditions, for all land rezoned out of exclusive agriculture.	Not addressed		X		Modify to "Work with town governments to include maximum lot sizes in town"

# Prioritize and Assign Resources

- For each item identify:
  - Timeline for implementation
  - Resources required
  - Party responsible for implementing each item
  - Indicators or measures of success

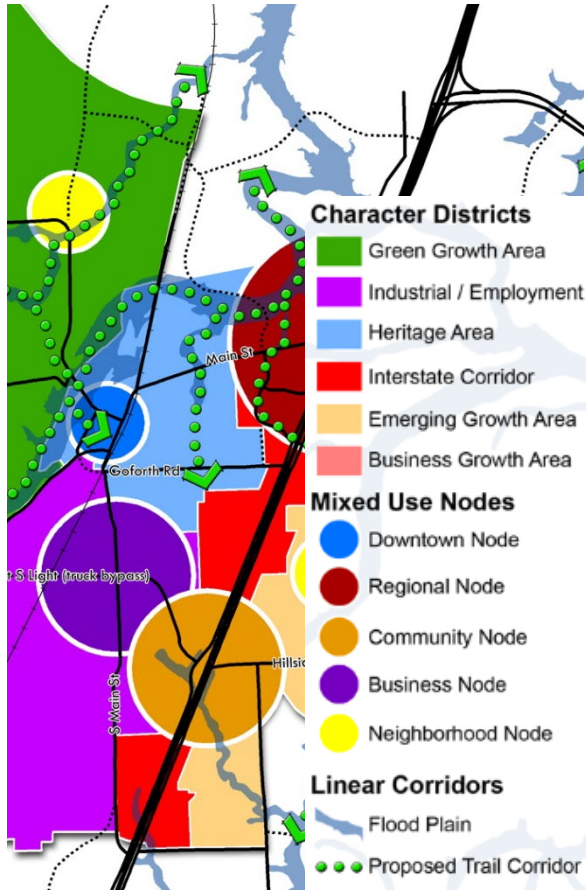


A hand-drawn diagram of an action plan table. The title 'ACTION PLAN' is written in blue capital letters at the top. Below the title is a table with four columns labeled 'WHO', 'WHAT', 'WHEN', and 'HOW' in red capital letters. The table has a green border and two red dots at the top corners, suggesting it's a sticky note. The table is currently empty.

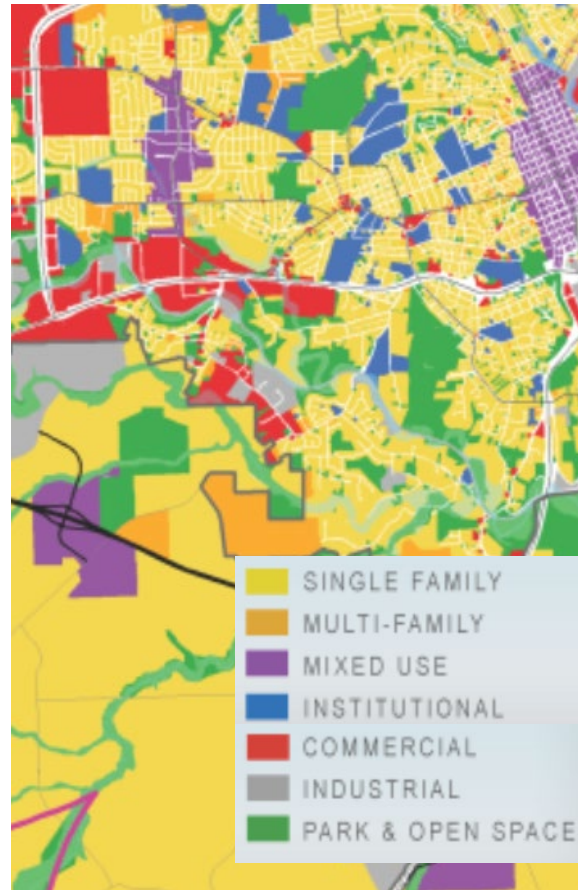
ACTION PLAN			
WHO	WHAT	WHEN	HOW



# Mapping and Scenario Building



Development Concepts



Future Land Use



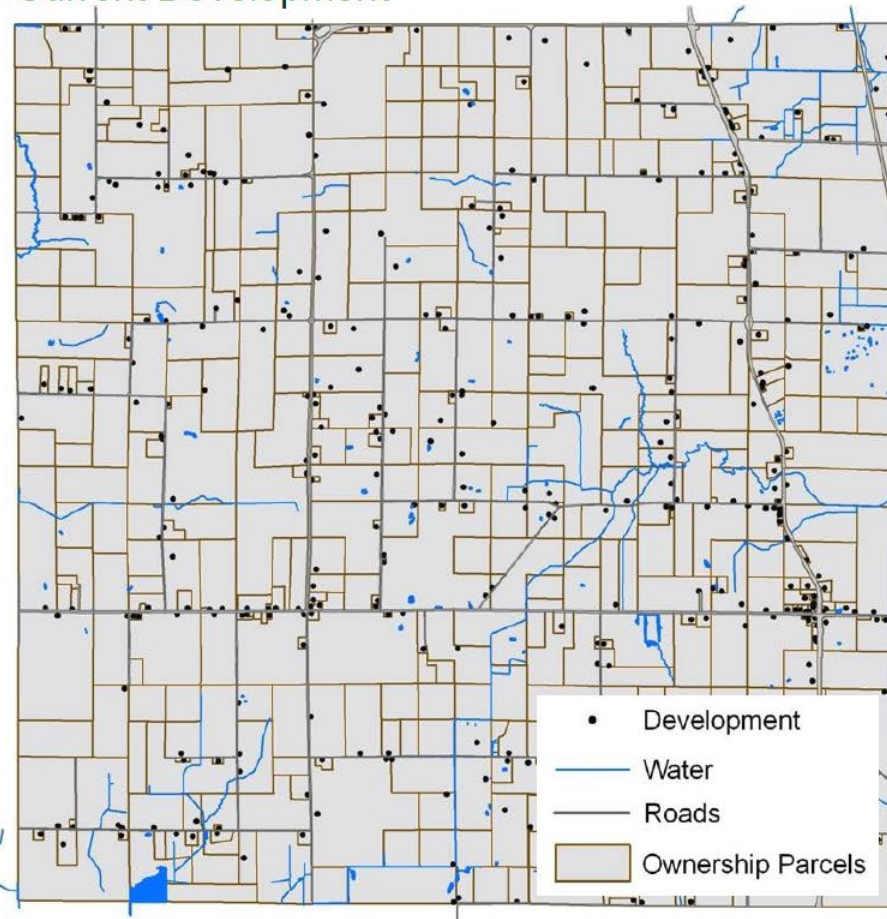
Growth Illustrations



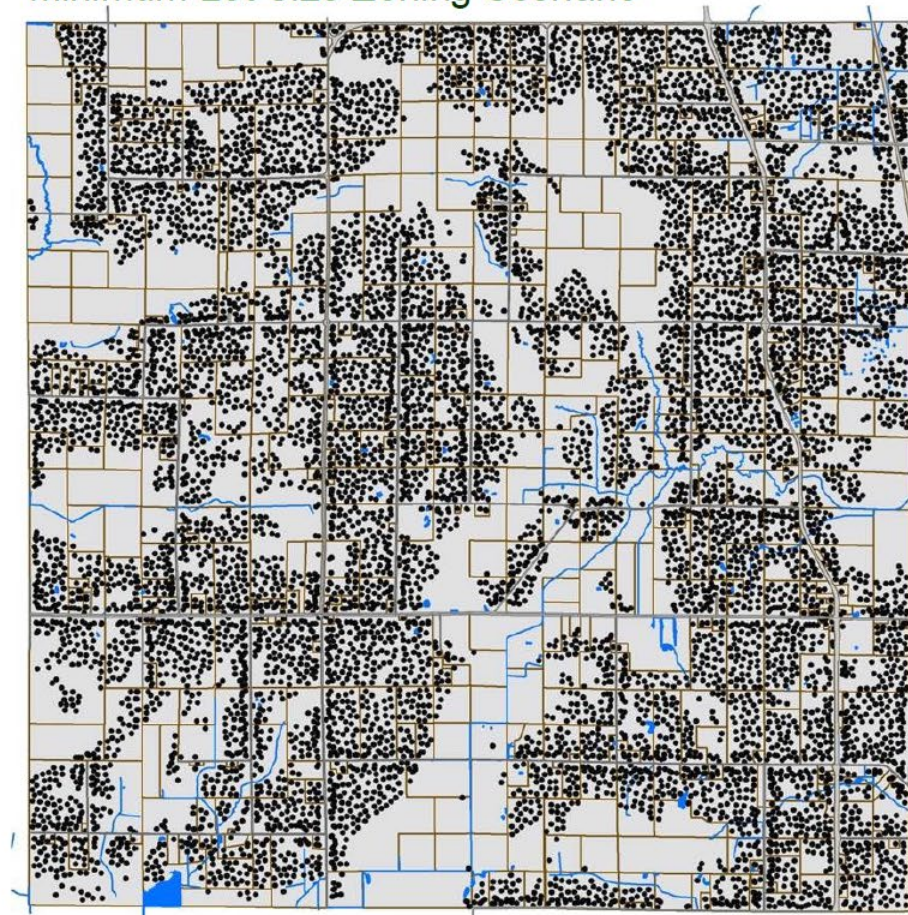
# Build-Out Analysis

Example: Build-Out Analysis, Bear Creek, WI

Current Development



Minimum Lot Size Zoning Scenario



*Potential for 9,151 building units*



# Participatory Mapping

Share | Print | Measure

Legend

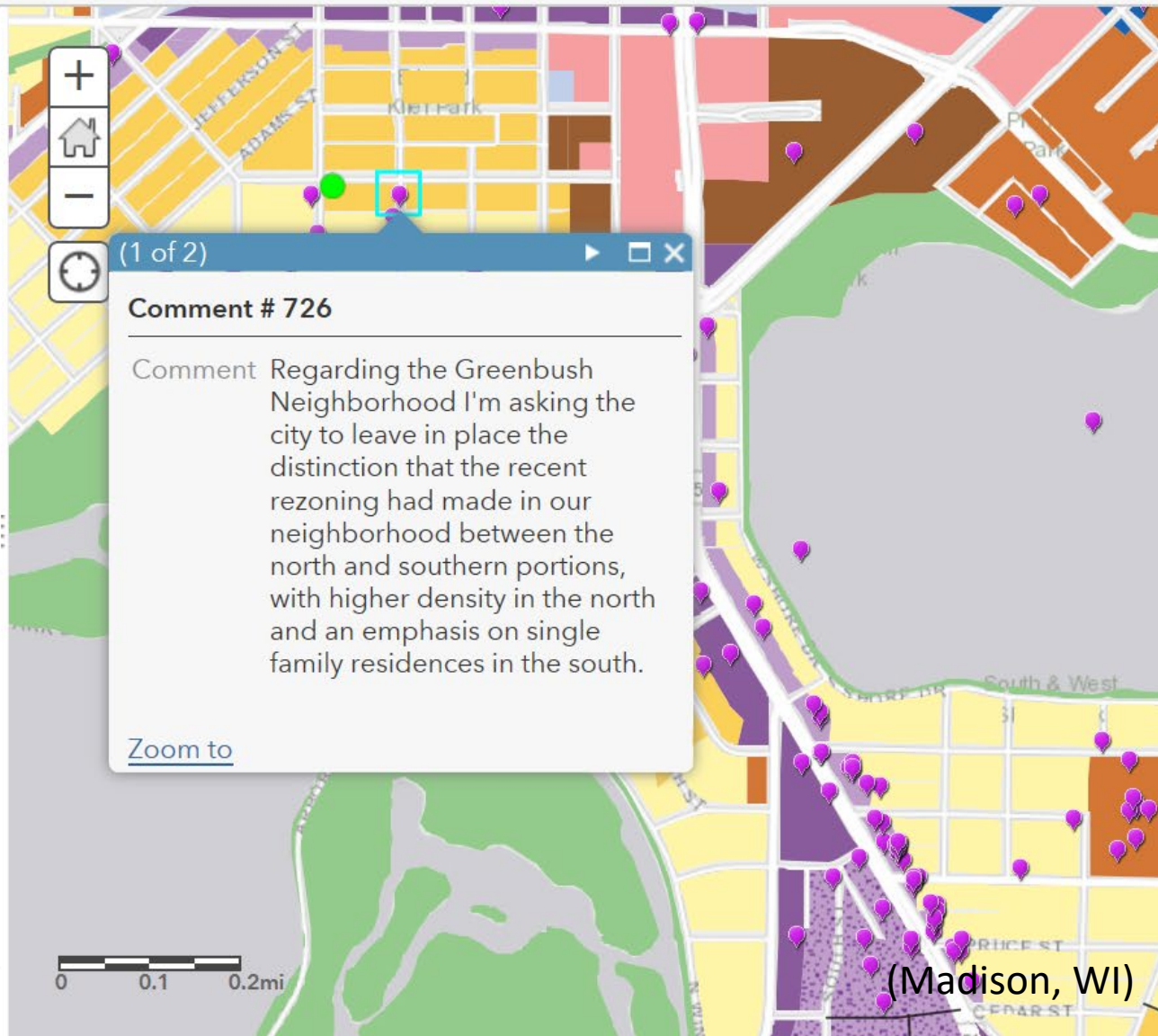
Proposed Centerlines

Community Meeting Comments

Map Notes 2017

GLFU 2017

- Low Residential (LR)
- Low-Medium Residential (LMR)
- Medium Residential (MR)
- High Residential (HR)
- Neighborhood Mixed Use (NMU)



(1 of 2)

**Comment # 726**

Comment Regarding the Greenbush Neighborhood I'm asking the city to leave in place the distinction that the recent rezoning had made in our neighborhood between the north and southern portions, with higher density in the north and an emphasis on single family residences in the south.

[Zoom to](#)

(Madison, WI)

# CHARACTER AREAS

- Character Areas Map serves as the City's future land use map
- Either a character areas map or future land use map is required by the state's Local Planning Requirements

This is all concrete - stuff could disappear in 10 years

identifies geographical areas with unique characteristics and functions

## ACTIONS

- Character areas provide policy guidance for new zoning districts
- Will be implemented by specific zoning standards developed for each zoning district

DRAFT FOR REVIEW

Need to establish % of single family to multi-family housing & TDR

PRESERVE TREE CANOPY

### LEGEND

- CITY BOUNDARY
- COMMERCIAL / MIXED USE
- MIXED USE
- CITY SPRINGS DISTRICT
- PERIMETER CENTER
- MEDICAL CENTER
- MARTA TRANSIT-ORIENTED DEVELOPMENT
- POWERS FERRY
- POWERS FERRY VILLAGE
- URBAN NEIGHBORHOOD
- PROTECTED NEIGHBORHOOD
- CONSERVATION AREAS / PARKS
- PRIORITY REDEVELOPMENT AREA
- MARTA STATIONS
- MARTA RAIL
- ROADS

- Lower use a very strong pattern of protected areas - urban area covered by agriculture and a few more 1/4 acre lots in areas

What's happening with Agricultural Zoning?

A transition of single-family residential may be required where SF meets MF...

What's happening with Agricultural Zoning?

to zoning ↑ may be replaced with a single-family district

PROTECTION CAN STILL MEAN UDD HOMES IN/IN THE MAIN CORRIDOR SEE NEW ESTABLISH

## CHARACTER AREA MAP



No apartments allowed in future

if you can't see the character area, it's not a character area

sample of this area, the neighborhood was added to list of urban areas - please consider this to the study's future products based on this

Roswell Road 15/Was/Stub Always be Commercial

This map is outdated. Window Parkway has been rezone. Please update.

are you looking at future in protected area? Can't change it if it's across the ridge

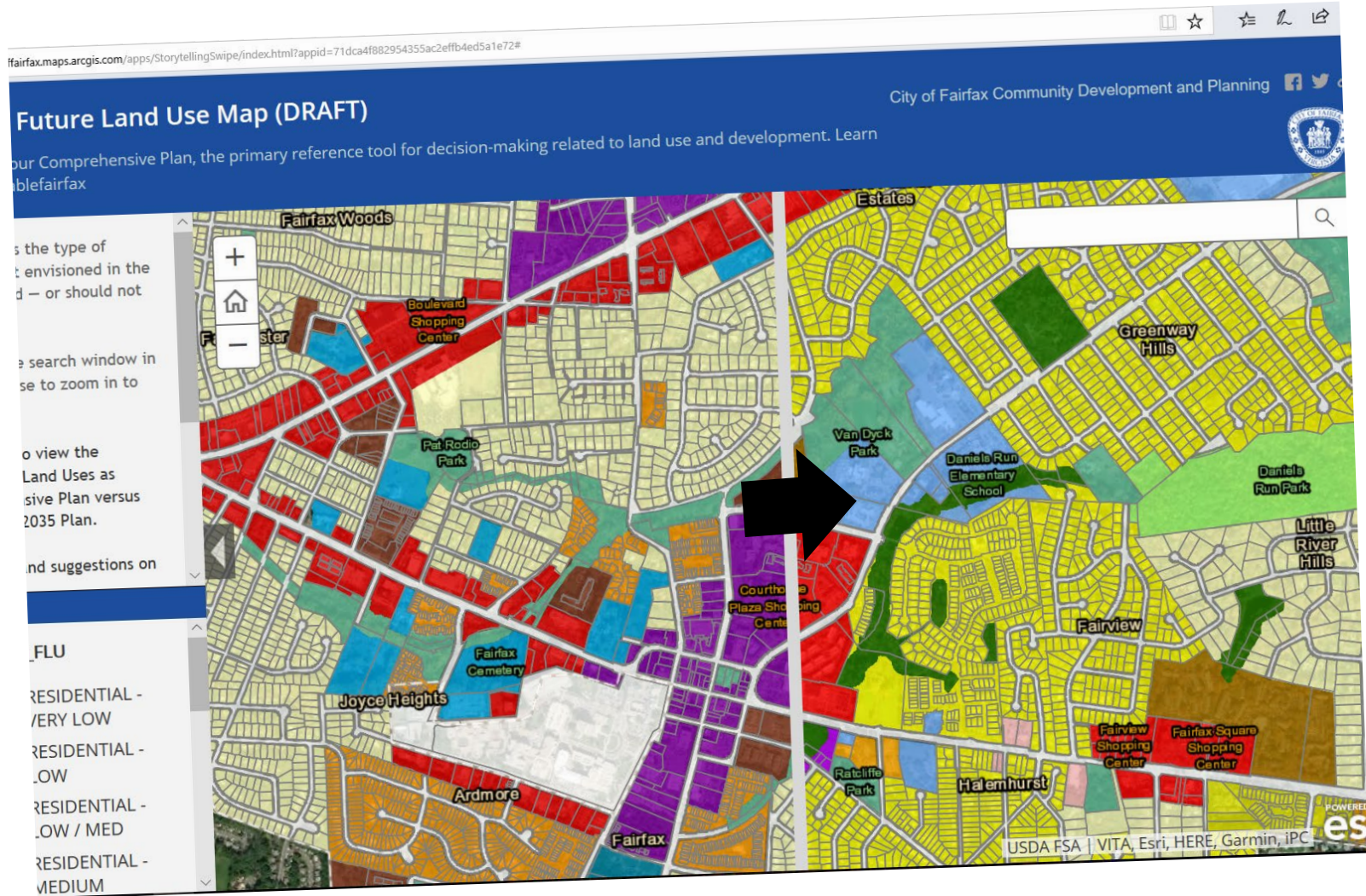
What's happening with Agricultural Zoning?

Are there stations at Perimeter & Window Parks - we're looking at stations at Perimeter & Window Parks

W'HOOD CAN BE REDEVELOPED TO SLIGHTLY HIGHER DENSITY (EXAMPLE: 30-40)



# Simplifying the Future Land Use Map



<https://www.fairfaxva.gov/government/community-development-planning/planning/2035-comprehensive-plan/news-updates/future-land-use-map>



# Simplifying the Future Land Use Map

## 2012 Future Land Use

### RESIDENTIAL

- RESIDENTIAL - VERY LOW
- RESIDENTIAL - LOW
- RESIDENTIAL - LOW / MED
- RESIDENTIAL - MEDIUM
- RESIDENTIAL - HIGH

### BUSINESS

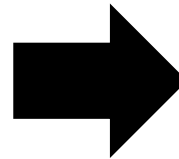
- BUSINESS - COMMERCIAL
- BUSINESS - OFFICE TRANSITION
- BUSINESS - INDUSTRIAL

### OPEN SPACE

- OPEN SPACE - PRESERVATION
- OPEN SPACE - RECREATION
- OPEN SPACE - CONSERVATION

### OTHER

- TRANSITIONAL
- INSTITUTIONAL
- MIXED USE



## 2035 Place Types

- SINGLE FAMILY DETACHED NEIGHBORHOOD
- TOWNHOUSE/SINGLE FAMILY ATTACHED NEIGHBORHOOD
- MULTIFAMILY NEIGHBORHOOD
- COMMERCIAL CORRIDOR
- TOWN CENTER
- LOCAL ACTIVITY CENTER
- GREEN NETWORK
- SOCIAL AND CIVIC NETWORK

(City of Fairfax, VA)

# Simplifying the Future Land Use Map

## 2012 Future Land Use

### RESIDENTIAL

- RESIDENTIAL - VERY LOW
- RESIDENTIAL - LOW
- RESIDENTIAL - LOW / MED
- RESIDENTIAL - MEDIUM
- RESIDENTIAL - HIGH

### BUSINESS

- BUSINESS - COMMERCIAL
- BUSINESS - OFFICE TRANSITION
- BUSINESS - INDUSTRIAL

### OPEN SPACE

- OPEN SPACE - PRESERVATION
- OPEN SPACE - RECREATION
- OPEN SPACE - CONSERVATION

### OTHER

- TRANSITIONAL
- INSTITUTIONAL
- MIXED USE

Categorized residential uses by type rather than density

Consolidated commercial and light industrial uses

Consolidated open space

Identified two types of mixed use centers

## 2035 Place Types

- SINGLE FAMILY DETACHED NEIGHBORHOOD
- TOWNHOUSE/SINGLE FAMILY ATTACHED NEIGHBORHOOD
- MULTIFAMILY NEIGHBORHOOD
- COMMERCIAL CORRIDOR
- TOWN CENTER
- LOCAL ACTIVITY CENTER
- GREEN NETWORK
- SOCIAL AND CIVIC NETWORK

# SINGLE FAMILY DETACHED NEIGHBORHOOD



## DEFINITION

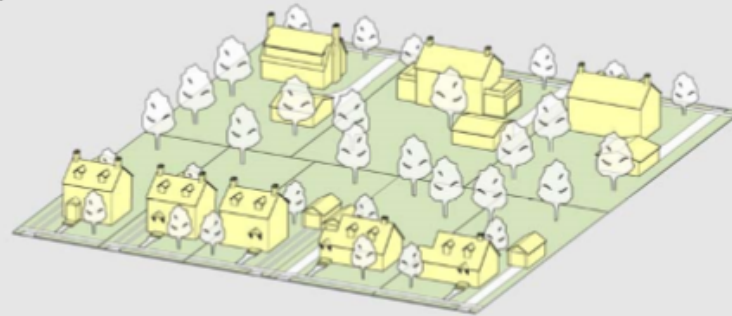
The Single-Family Detached Neighborhood Place Type, identified in yellow on the Future Land Use Map, applies to neighborhoods that are primarily developed with single-family detached homes. Accessory uses associated with these neighborhoods are permitted, such as home-based businesses and accessory dwelling units.

## PHYSICAL CHARACTERISTICS

- Reflect the character of the neighborhood with similar lot widths, building setbacks and buildings scale.
- Narrower lot widths and building setbacks may be considered
- Lots fronting on existing residential streets should have front facing structures onto those streets even if vehicular access is provided from a new street

## DEVELOPMENT DENSITY

- Predicated on the underlying zoning district
- Up to 7 dwelling units per acre
  - Maximum height of 3 stories or 35 feet



## ZONING DISTRICTS

- RL, Residential Low
- RM, Residential Medium
- RH, Residential High
- PD-R, Planned Development Residential

## LINK + PLACE STREET TYPES

- Limited Connection Residential
- Neighborhood Circulators

(City of Fairfax, VA)

# Integrate Graphics in Ordinance

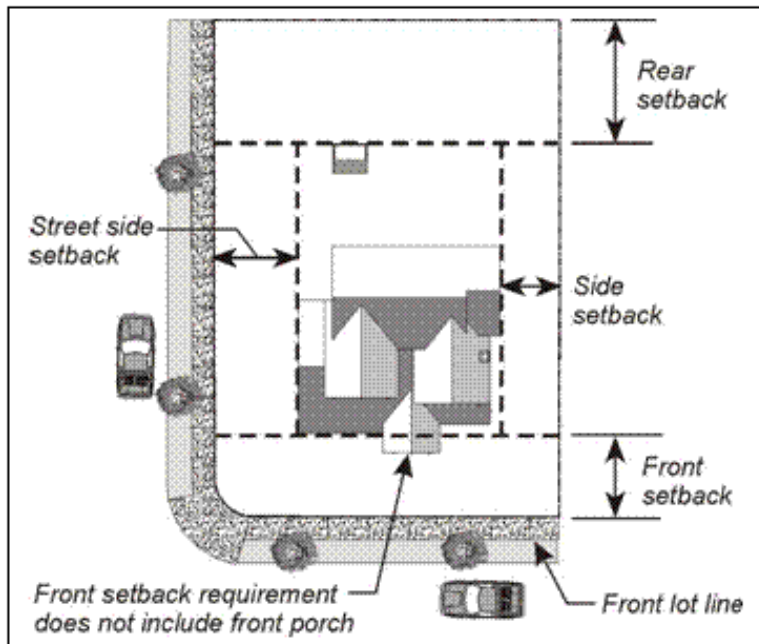


Figure 4-6 – Location and measurement of setbacks

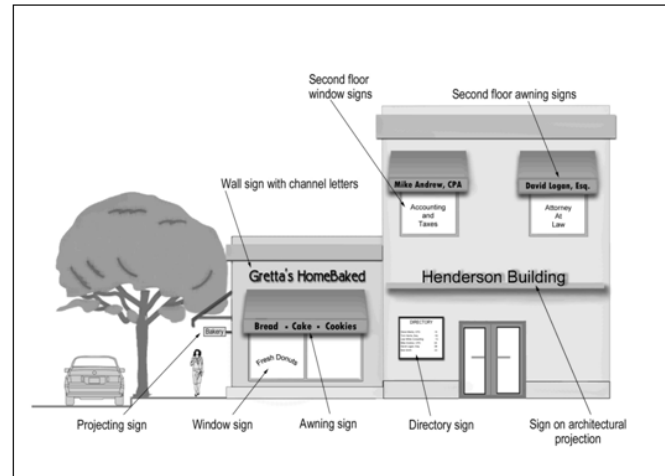
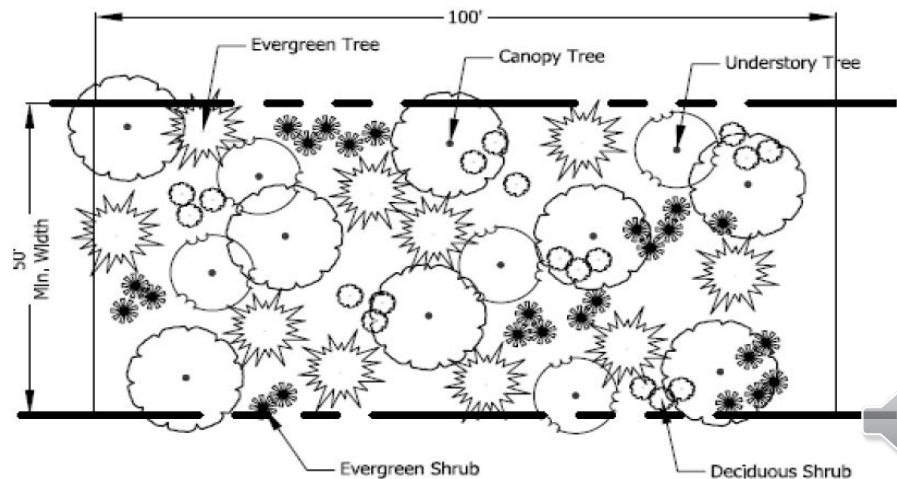


Figure 4-7 – Types of signs

## STANDARD D BUFFER YARD

- 50 FEET minimum width
- 8 Canopy trees
- 5 Understory trees
- 10 Evergreen trees
- 25 Evergreen shrubs
- 15 Deciduous shrubs





# Interactive Zoning Portal

**Ledgeview** Town of Ledgeview  
Set your sights high

Home Interactive Map Highlights Administration Tools Document

Zoning Code | Home

I Want to...

Interactive Zoning Map

**Highlights**

- Zoning Districts
- Land Uses
- Dimensional Standards
- Procedures
- General Requirements

**Administration**

- Frequently Asked Questions
- Application Forms

**Tools**

- Find Your Zoning
- Submit An Application

# Public Participation

- Use a variety of communications channels to inform and involve the community at all stages of the update
  - Seek diverse participation
  - Make sure information is accessible and understandable
  - Continue to engage the public after adoption



# Political Process

Involve elected officials on a regular basis long before you have something for them to adopt

- ✓ Why are we doing this?
- ✓ What are the current regulations?
- ✓ What are the proposed changes?
- ✓ How will the proposed changes impact constituents?

# Political Process

Involve constituents:

- ✓ Developers
- ✓ Neighborhood groups
- ✓ Environmental groups
- ✓ Design professionals
- ✓ Business owners
- ✓ Other community members

Identify “project champions” – officials/citizens who will move project forward and keep it on the agenda



# Drafting Team

- Staff
- Consultant
- Governing body
- Plan commission
- Advisory committee
- Special interests/knowledge
- Legal counsel

# Annual Self-Audit

- Hold joint meeting with governing body, plan commission, zoning board and staff
- Summarize number and types of rezones, conditional uses, variances, appeals, etc.
- Make recommendations to update plan or ordinance language that is unclear, inadequate, overly restrictive or otherwise problematic
- Monitor progress towards plan implementation

See PC Handbook (chapter 6, pg. 11) or BOA Handbook (chapter 19)

The background features a white surface with several thin, light gray lines. Some are solid and curve across the frame, while others are dashed. A prominent blue callout box is centered, containing the title text. The box has a rectangular top and a pointed bottom. The text is white and centered within the box.

# Legal and Procedural Responsibilities

# Legal & Procedural Responsibilities

- Open meetings and public comments
- Findings of fact and recording decisions
- Fair and impartial decision-makers
- A checklist for legally defensible decisions





# Wisconsin Open Meetings Law

- meetings must be open and accessible to the public, including the disabled
- public is provided with advanced notice of meetings
- closed sessions are limited to specified circumstances and procedures

## Wisconsin Open Meetings Law Compliance Guide



Wisconsin Department of Justice

[www.doj.state.wi.us](http://www.doj.state.wi.us)

# Open Meetings



1) Purpose test = discussion, information gathering or decision-making on a matter within the jurisdiction of the body.



2) Numbers test = enough members of a body are present to determine the outcome of an action.

- Generally, one-half of members. Less than one-half if they can block a decision.

# Open Meetings

- Phone conferences, letters, e-mails or faxes between board members may constitute a meeting if the numbers and purpose tests are met.
- A series of phone calls or conversations to “line up votes” or conduct other business violates the law.
- Discussion of meeting scheduling and logistics is OK.



# Closed Sessions

Closed sessions are limited by statute:

- Deliberations concerning a judicial or quasi-judicial “case” with opposing parties
- Legal consultation for current/likely litigation
- Deliberations regarding property acquisition and other bargaining issues
- Personnel matters including employee performance, compensation, discipline, etc.
- Damaging personal information
- Others listed at Wisc. Stat. §19.85





# Conduct of Closed Sessions

- Record individual votes to convene in closed session
  - Those who vote against may participate without liability
- Attendance limited to body, parent body, and those essential to closed session (ex. legal counsel)
- Consider only matters for which session is closed
- Motions and decisions must be recorded

# Public Notice

(Wis. Stat. 19.84)

- Time
- Date
- Place
- Subject matter

Timing and type of publication depends on decision (see statutes and local ordinances)



# Public Meeting



- Meeting designed to conduct public business
- Public has a right to attend and observe, not comment (unless specifically allowed)
- Effective means to engage public with the right techniques

# Public Hearing



- Formal proceeding designed to gather public input
- Required when reviewing land use proposals (conditional use, variance) and adopting plans and ordinances

# Setting the Stage for Successful Meetings

- The room sets the tone for the meeting
- Arrange based on meeting purpose and expected number of participants
- Be flexible - have a backup plan!







# Sign in Sheet

- Document participation
- Record those who wish to provide testimony
- Distribute materials / report back after meeting

# Introductions

- Describe authority and purpose of meeting
- Establish ground rules
- Review agenda and handouts
  
- Document attendance, quorum, and compliance with open meetings law





# Sample Ground Rules

1. One person speaks at a time after being called on the by the chair or facilitator.
2. Be respectful of each other and each other's viewpoints (even though you may disagree).
3. When opinions are in conflict, focus on interests rather than positions. Focusing on interests helps get to solutions rather than focusing on problems.
4. Treat all members with courtesy and respect.
5. Only comments pertaining to topics on the floor shall be made.



# Meeting Materials

- Provide print or electronic copies of important information
- Committee should review before meeting

Materials may include:

- Application materials
- Maps, photos, exhibits
- Ordinance standards
- Staff recommendation
- Decision form



## Property Information



- 0.42 acre site
- Zoned Office Commercial (OC)
- Existing 3,253 sq. ft. structure
- Previous use = Office
- Surrounded by office and institutional type uses.

# Public Comment

- Register and qualify those offering testimony
- Encourage testimony related to legal standards
- Refer back to agenda, time limits, ground rules, and decision standards
- Strong chair/facilitator is key!



# Sample Public Comment Structure

1. Opportunities for public comment at CSC meetings shall be limited to the time on the agenda allotted to them. Deviation from this rule shall be by vote of a majority of those CSC members present at the meeting.
2. Anyone present may speak during the public comment period providing they identify themselves by name and address.
3. Nobody can interfere with or interject comments while another person has the floor.
4. The CSC is interested in hearing all pertinent opinions and evidence, however, the chair may rule on relevancy.
5. The chair may impose a time limit on individual comments.
6. Repetition of comments should be avoided and remarks should be limited to the subject matter being considered.
7. Personal attacks, abusive testimony, or gross hearsay, rumor, or gossip will be ruled out-of-order by the chair.

# Deliberation and Decision

- Public hearings are not a popularity contest!
- Determine what information is credible and related to the standards you must apply
- Document your decision
  - Legal standards
  - Findings of fact / evidence
  - Reasons applicant does or does not meet standards



# Quasi-Judicial Decision-makers

Follow rules of procedural due process:

- Notice
- Public hearing
- Findings of fact
- Record of decision
- Impartial decision-makers
- Opportunity to appeal

Local officials deciding on quasi-judicial matters (i.e. conditional use, variance, etc.) must not harbor bias, or an impermissibly high risk of bias, or prejudge the application



*Keen v. Dane County, 2004 WI App 26*

# Recuse yourself from decisions that present a conflict of interest or bias (or appearance of bias)

- Not the same as abstaining (not voting)
- Do not participate in decision or discussion leading up to decision
- Physically separate yourself from the decision-making body if possible
- If you want to provide testimony, do so as a member of the audience



**Ex-parte Communication** = discussion regarding a pending matter not included in the public record.

Quasi-judicial decision-makers should:

- avoid it,
- disclose it, and
- encourage citizens to make important information part of the public record.





# Decision-makers must express, on the record:

1. the statutory or ordinance criteria under which the application is decided and
  2. the reasons the criteria are or are not satisfied
- The reasons do not need to appear in a written decision but should appear somewhere in the public record (meeting minutes, transcript, recording, etc.)
  - If appealed, a judge will review the record and needs to be able to follow your reasoning

# Decision Forms

## Decision

If an applicant for a conditional use permit meets, or agrees to meet, all of the requirements found in the zoning ordinance and all conditions imposed on the permit, the local government is required to grant the permit.

Based on the above findings of fact, conclusions of law, and the record in this matter, the permit is:

Approved, with the conditions stated above.

Denied, for the following reasons:

---

---

---

---

Signature of local government

Date

# Findings of Fact

## I. Findings of Fact

Describe proposal and surrounding conditions

Name, address and phone number of applicant: \_\_\_\_\_

---

---

The applicant requests:

- Preliminary / final plat approval
- Conditional use / special exception
- Zoning map / text amendment
- Comprehensive plan map / text amendment
- Other: \_\_\_\_\_

Brief description of property and surrounding conditions: \_\_\_\_\_

---

---

Brief description of proposal: \_\_\_\_\_

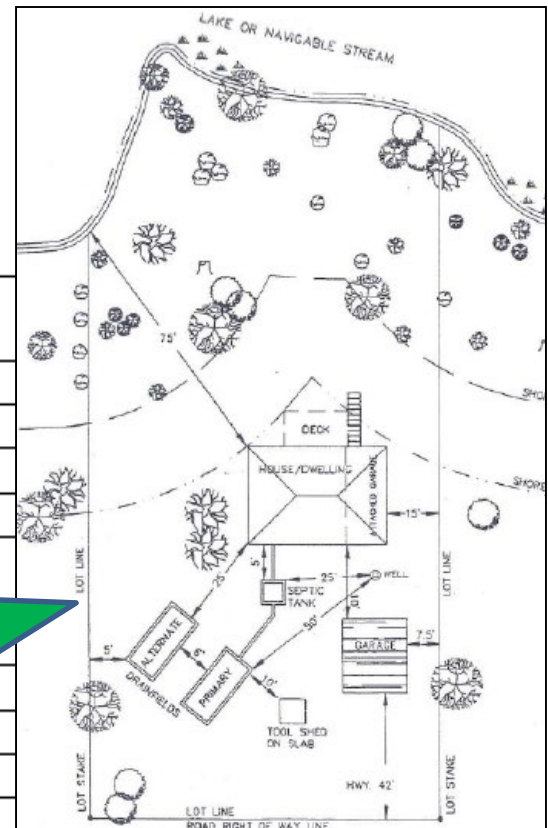
---

---

---

---

Attach or reference maps, photos, and other materials



# Conclusions of Law

## II. Conclusions of Law

- The proposed use conforms with the purposes of the zoning district in which it is located.
- The proposed use will not be detrimental to the use or enjoyment of other properties in the immediate vicinity or to the community as a whole.
- The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the surrounding area.
- The proposed use will be adequately served by essential public facilities and services, including highways, streets, water, sewage, drainage, schools and emergency services.
- Adequate measures have or will be taken to prevent or control noise, odors, fumes, dust, vibrations, light, and other unusual activities or disturbances.
- Adequate measures have or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.

Describe reasons why proposal does or does not meet each standard: \_\_\_\_\_

---

---

---

List standards found in your ordinance

Analyze and document how the applicant meets (or agrees to meet) the standards



# Order and Determination

## III. Recommendation or Decision

On the basis of the above findings of fact, conclusions of law and the record in this matter, the plan commission recommends / finds that the proposed development is:

- Approved, subject to the following conditions.
- Tabled for further consideration.
- Denied for the following reasons.

Specify conditions of approval, additional information requested, or reasons for denial:

---

---

---

---

Decision and  
conditions of  
approval

Signed \_\_\_\_\_  
Chairperson

Attest \_\_\_\_\_  
Secretary

Dated: \_\_\_\_\_

Filed: \_\_\_\_\_

# Impartial Decision-Makers

- Use professional judgement to apply adopted ordinance standards.
- Do not prejudge or exhibit bias.
- Avoid ex parte communication (discussion outside the public hearing)
- Record your decision (provide evidence and explain why the applicant does or does not meet the standards)

# Legally Defensible Decisions

Courts defer to local decision makers when these tests are met:



Authority

Are you empowered by statute or ordinance to act on the matter?



Proper procedures

Did you follow proper procedures?  
(notice, open meeting, public hearing)



Proper standards

Did you apply the proper standards?  
(ordinance, state statute, case law)



Rational basis

Were you unbiased? Could a reasonable person reach the same conclusion?



Evidence

Do facts in the record support your decision?

The background features several concentric circles of varying radii, some solid and some dashed, creating a ripple effect. A blue callout box with a downward-pointing arrow is centered on the page.

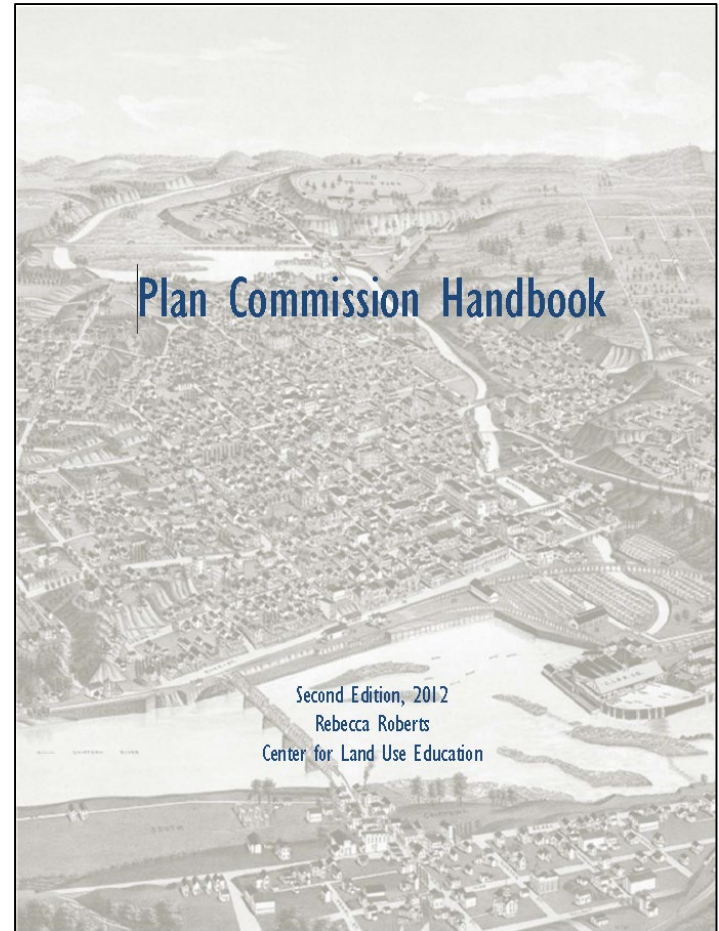
# Recommended Resources



# Plan Commission Handbook

- I. Introduction to the Plan Commission
- II. Procedural Responsibilities
- III. Community Planning
- IV. Public Participation
- V. Plan Implementation
- V. Ordinance Administration
- VI. Zoning Regulations
- VII. Subdivision Regulations

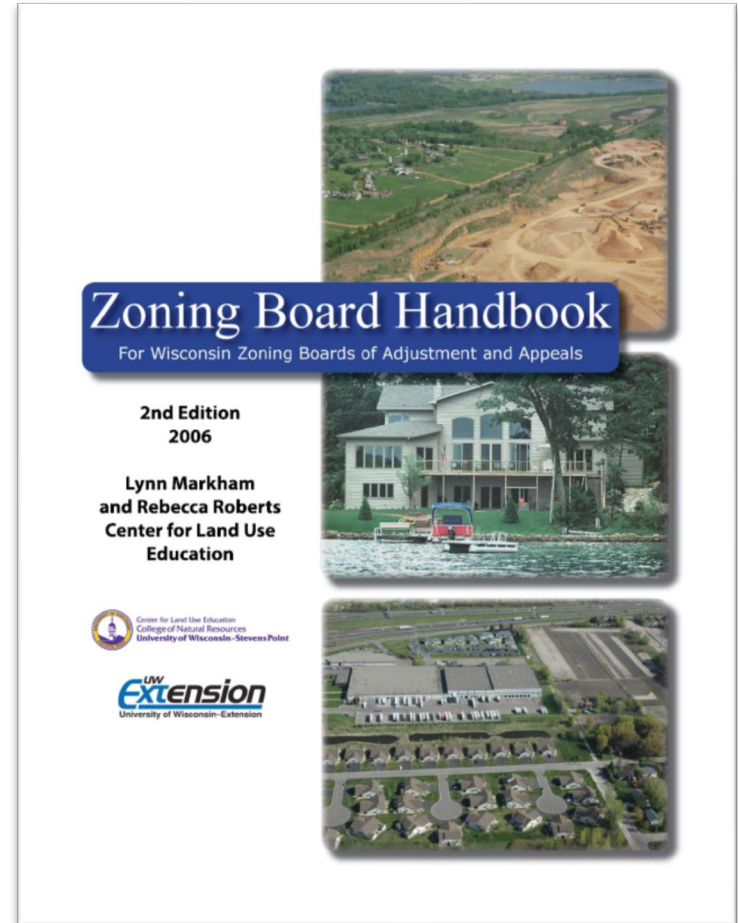
Includes forms, worksheets, glossaries  
and recommended resources



# Zoning Board Handbook

- I. Zoning Board Basics
- II. Laws that Apply to the Zoning Board
- III. Zoning Board Decision Process
- IV. Decisions of the Zoning Board
- V. Appeals of Zoning Board Decisions
- V. Improving Zoning Board Decisions

Includes sample application, public hearing, and decision forms



<https://www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/Zoning.aspx>

# A Quarter Century of Changes to Wisconsin's Local Land Use Enabling Laws

- I. Costs of Development (impact fees, housing affordability reports)
- II. Property Rights (moratorium, vested rights, downzoning, nonconformities)
- III. Planning (comprehensive plans, boundary agreements)
- IV. Discretionary Approvals (conditional use permits, variances)
- V. Property Management (short-term rentals, inspections, building codes)
- V. Process Issues
- VI. Shoreland Zoning

<https://dpla.wisc.edu/staff/brian-w-ohm/>



Department of Planning  
and Landscape Architecture  
COLLEGE OF LETTERS & SCIENCE  
UNIVERSITY OF WISCONSIN-MADISON

APPLIED RESEARCH REPORTS

2018-3  
December 2018

*Thank You!*

**Rebecca Roberts**

**Center for Land Use Education**

**715-346-4322**

**rroberts@uwsp.edu**



Center for Land Use Education  
College of Natural Resources  
**University of Wisconsin - Stevens Point**



**Extension**  
UNIVERSITY OF WISCONSIN-MADISON