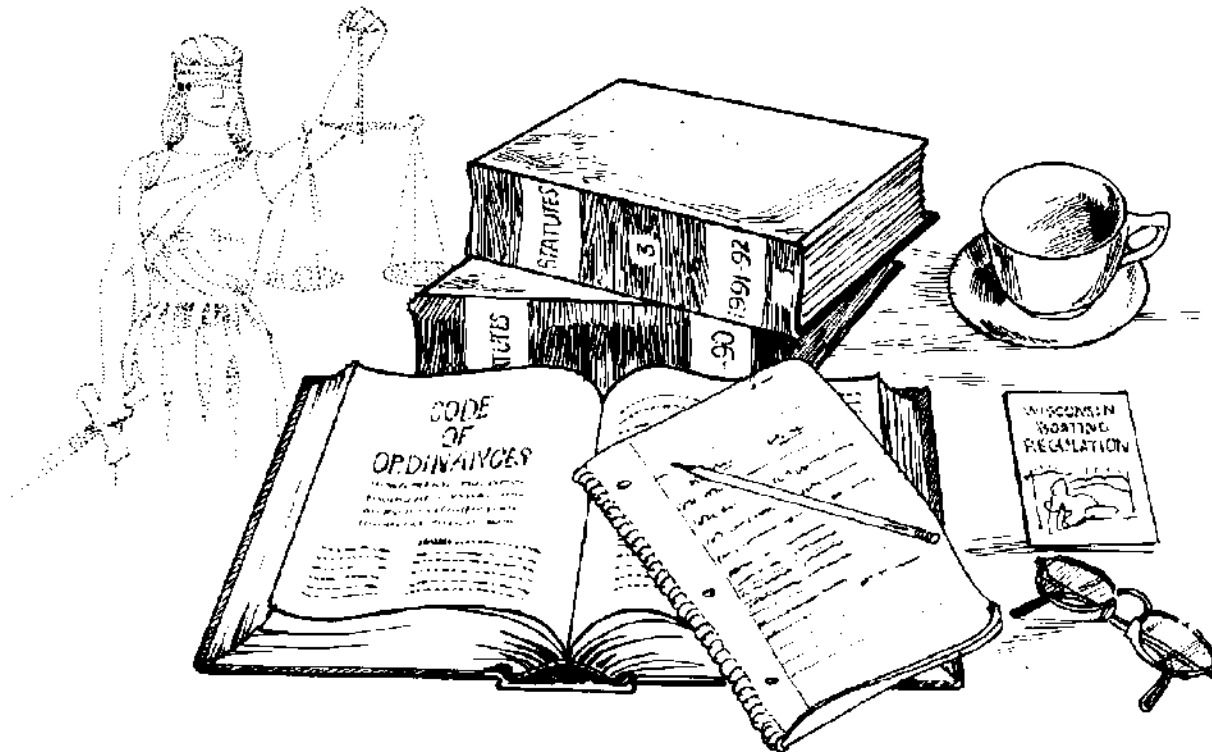


Workshop for Local Planning and Zoning Officials



Rebecca Roberts
Center for Land Use Education
UW-Stevens Point/Extension



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



Extension
UNIVERSITY OF WISCONSIN - MADISON

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

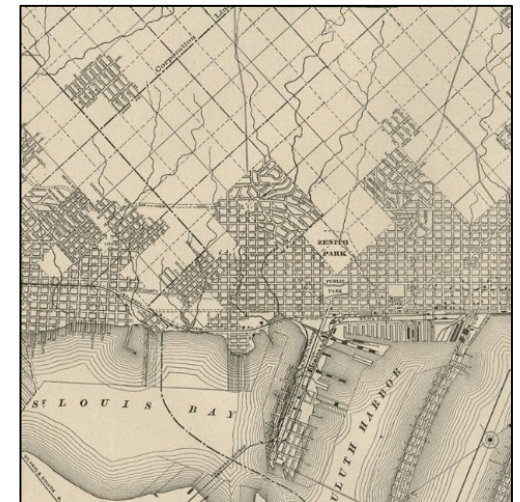
Regulatory Tools to Implement the Plan



Zoning Ordinance



Subdivision Ordinance



Official Map

Guiding Document



Comprehensive Plan

Non-Regulatory Tools to Implement the Plan



Incentives



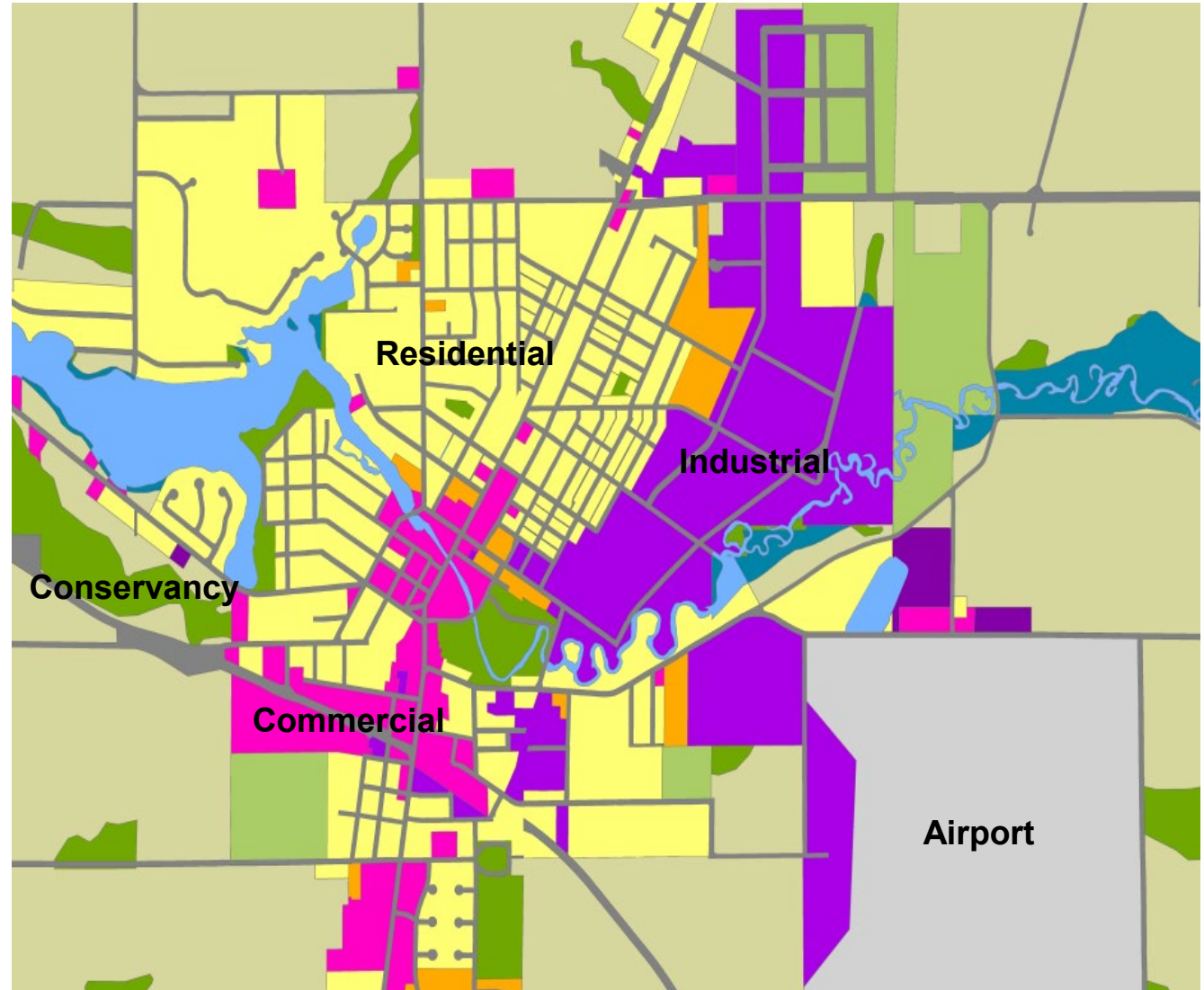
Capital Improvements



Education

A zoning ordinance contains two parts:

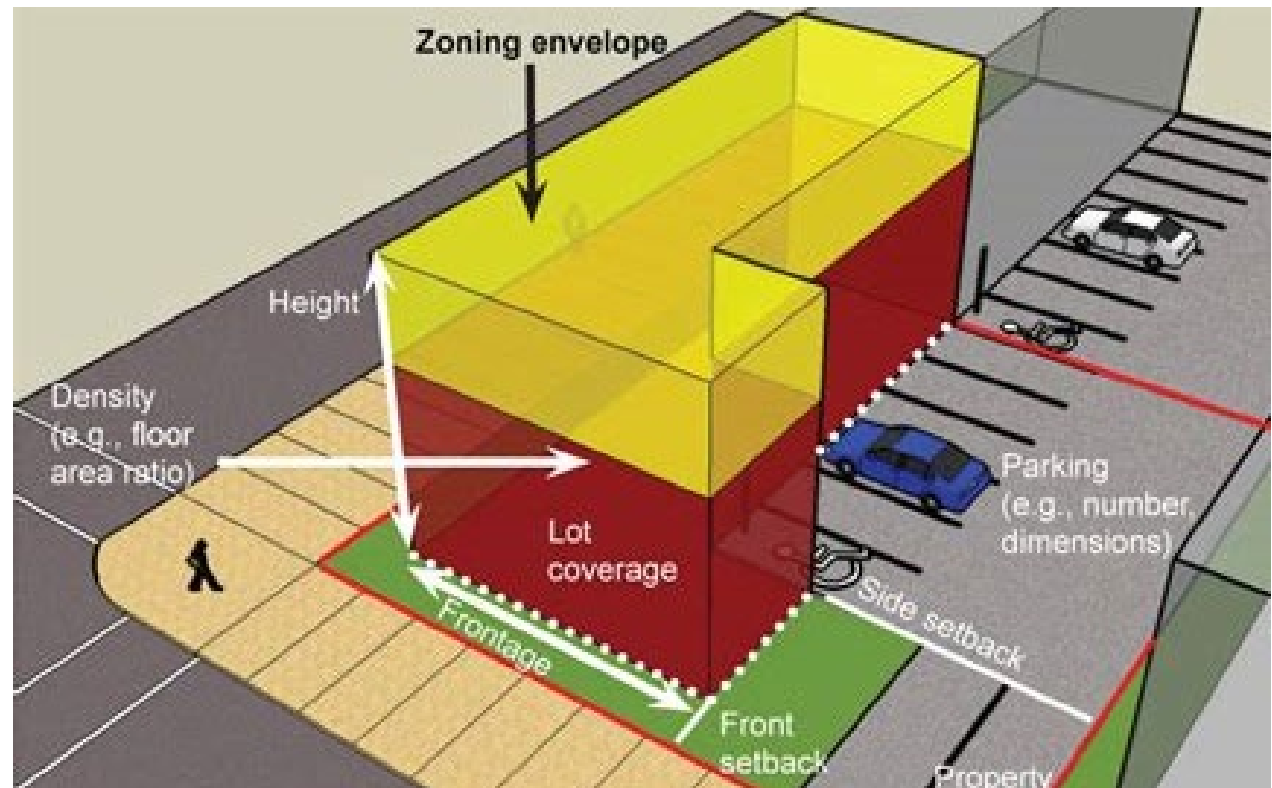
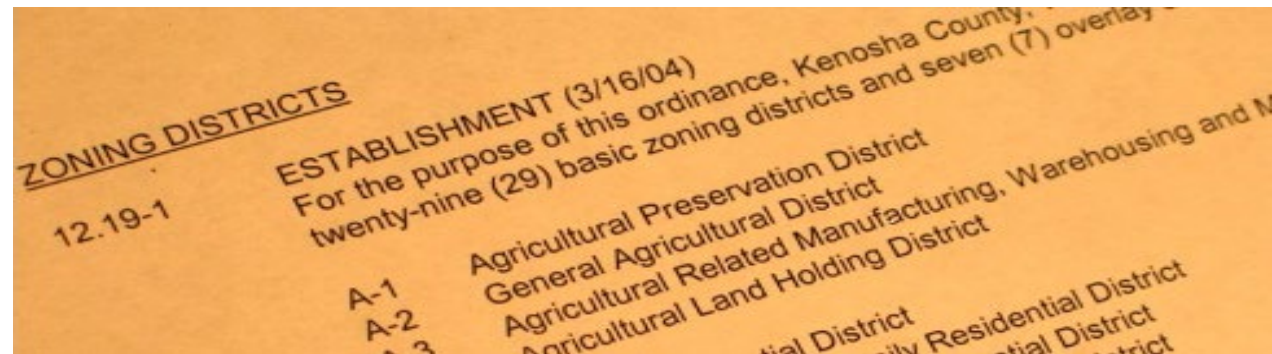
Zoning Map
divides the
community
into districts



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

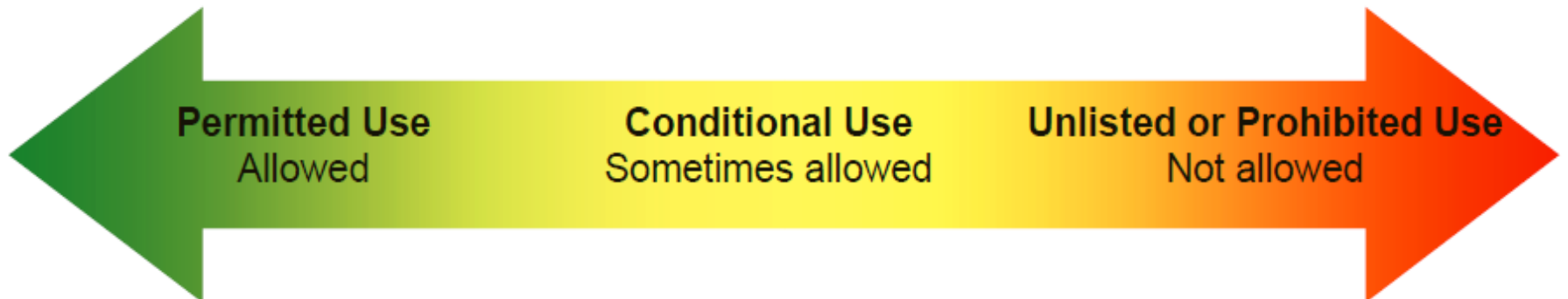
Use is listed for the district and may be allowed if suited to the location

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

Variances

The background features a series of concentric circles in light gray, some solid and some dashed, creating a ripple effect. A large blue callout box with a downward-pointing arrow is centered on the page.

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



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 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

Applicant burden of proof:

- 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

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.

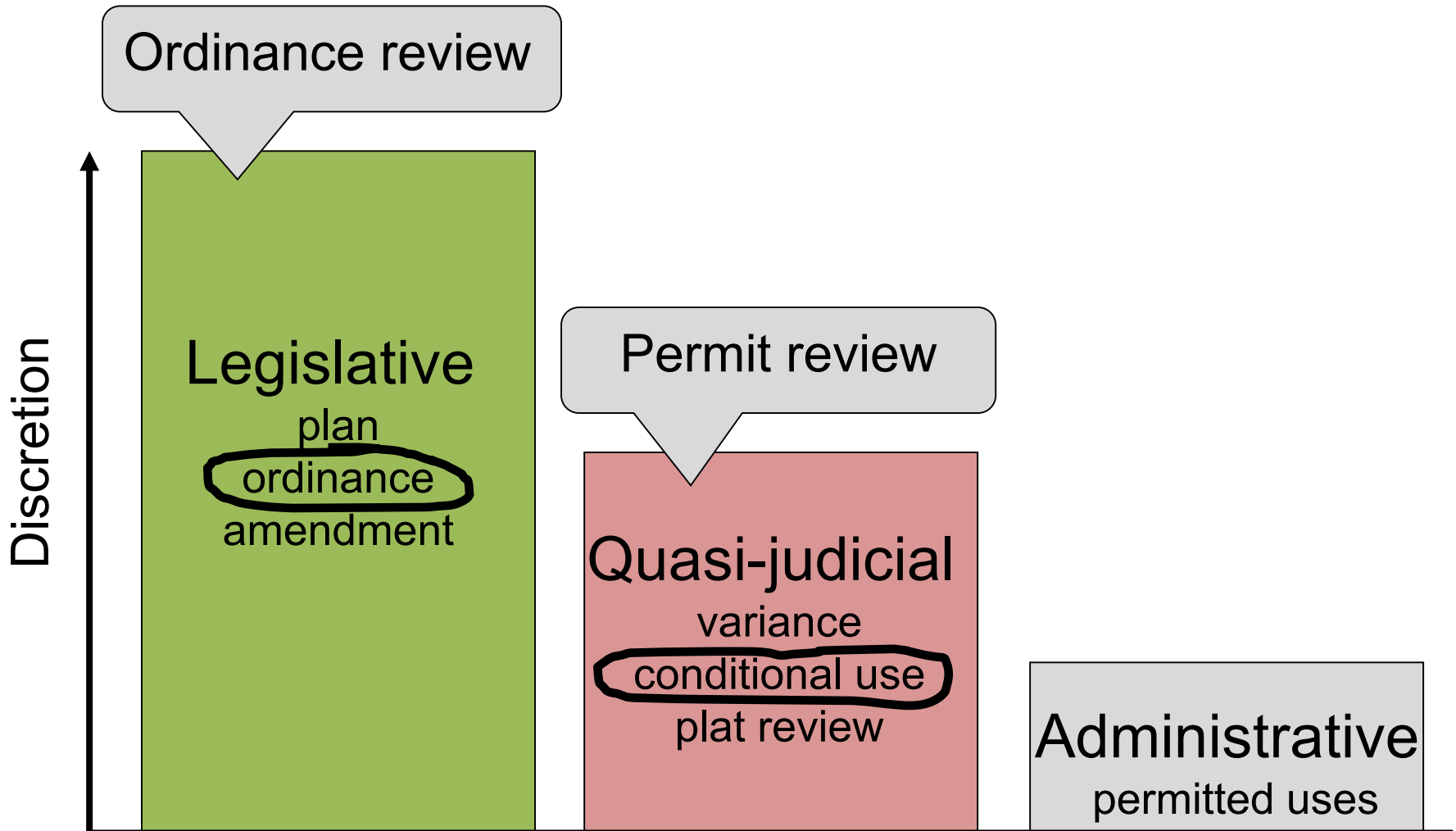
Conditional Uses

New law!
2017 Wis
Act 67

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

2 Opportunities to Review Conditional Uses



Permit Review Steps



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

Ordinance Review Steps



Review conditional uses listed in the ordinance



Update application and decision forms



Review standards, requirements and conditions listed in ordinance



Add monitoring, enforcement and reporting requirements



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

Review List of Conditional Uses

Title 2: Zoning Districts and Uses

| USE | 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 | |
| | Key: P Permitted Use C Conditional Use (Blank) Use Not Permitted | | | | | | | | | | | | |
| COMMERCIAL, OFFICE, and SERVICE USES | | | | | | | | | | | | | |
| Adult Entertainment | | | | | | | | | C | | | | Section 17.204.35 |
| Bank or Financial Institution | | | | | | | | P | P | P | | | |
| Bar, Tavern, or Micro-Brewery | | | | | | | C | P | P | P | | | |
| Bed and Breakfast | | | C | C | | C | | C | | | | | Section 17.204.36 |
| Business Service Establishment | | | | | | C | | P | P | P | | | |
| Car Wash | | | | | | | C | C | C | | | | Section 17.204.37 |
| Drive-Through Facility (accessory to a principle use) | | | | | | | | P | P | | | | Section 17.204.38 |
| Gas Station | | | | | | | | C | C | | | | Section 17.204.39 |
| 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 | | | | | Section 17.204.40 |
| Archery Range | | | | | | P | P | P | | | | | Section 17.204.41 |
| Place of Assembly | | | | | | | C | | P | P | | | Section 17.204.49 |
| Public or Self-Storage | | | | | | | C | | | | | | Section 17.204.42 |
| Recreation, Private Indoor | | | C | C | C | | C | c | P | P | | | Section 17.204.43 |



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

Review General Standards

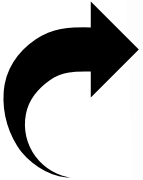
Section 17.803.03 BASIS OF DETERMINATION

- 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 standards that apply generally to all conditional uses. Make sure standards are reasonable and measurable. Reference the comprehensive plan if you want to consider it in decision-making.

Add 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.

Review 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.

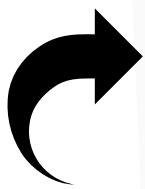
The procedures and standards in this Chapter are intended to provide a consistent and uniform method for review of conditional use permit proposals. These review procedures and standards are intended to accomplish the following purposes:

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.

Update Application and Decision Forms

| CONDITIONAL USE APPLICATION | | VILLAGE OF ROCHESTER, WISCONSIN | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|--|-------------------------------------|--|--------|-----|-------------------------------------|---|-------------------------------------|--|--------------------------|---|-------------------------------------|--|--------------------------|--|--------------------------|------------------------------------|--|--|-------------------------------------|---|--|--|-------------------------------------|--|--|--|--------------------------|-------------|
| Note: Application must be fully completed and signed by the applicant or the applicant's agent. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| OWNER: | Jagdish Patel | APPLICANT/ AGENT: | Same | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Zoning District: | B-3, General Business District | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TO THE VILLAGE OF ROCHESTER PLAN COMMISSION: The undersigned requests a conditional use permit to (specify use, project, structure, size, etc.): | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to conduct a U-Haul Rental Business which consist of four (4) U-Haul Rental Trucks and | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| reduce the number of required parking spaces from 40 spaces to 38 spaces | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AT (site address): | 2819 Beck Drive | Lots(s): | N/A | Block: | N/A | | | | | | | | | | | | | | | | | | | | | | | | |
| Subdivision: | N/A | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Parcel ID#: | 176031901020012 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| If served by municipal sewer, check here: | <input type="checkbox"/> | Sanitary permit # | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>✓ Attached are:</p> <table border="0"> <tr> <td><input checked="" type="checkbox"/></td> <td>Zoning permit application fully completed & signed by the applicant or the applicant's agent. The Village of Rochester will provide the original or the form may be obtained at http://rochesterwi.us</td> <td><input checked="" type="checkbox"/></td> <td>Hearing/ review fee payable to "Village of Rochester" (Fees are non-refundable, and re-publication/ amendment fees will be charged where applicable.</td> </tr> <tr> <td><input type="checkbox"/></td> <td>12 SETS: drawn-to-scale site plan that is based on a survey (2 full sets at scale, 10 no larger than 11' x 17', folded to 8.5" x 11")</td> <td><input checked="" type="checkbox"/></td> <td>Signed "Agreement for Reimbursable Services"</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Letter of agent status- If the applicant does not own the property at the time of filing and/or public hearing, a written, signed and dated letter from the property owner acknowledging said petition and authorizing specified agent to speak on the owner's behalf must be submitted.</td> <td><input type="checkbox"/></td> <td>3 SETS: landscaping/ lighting plan</td> </tr> <tr> <td></td> <td></td> <td><input checked="" type="checkbox"/></td> <td>12 SETS: report/ cover letter & operations plan</td> </tr> <tr> <td></td> <td></td> <td><input checked="" type="checkbox"/></td> <td>Names & mailing addresses of the property owner's within 100' of the subject property and across the street.</td> </tr> <tr> <td></td> <td></td> <td><input type="checkbox"/></td> <td>Other _____</td> </tr> </table> | | | | | | <input checked="" type="checkbox"/> | Zoning permit application fully completed & signed by the applicant or the applicant's agent. The Village of Rochester will provide the original or the form may be obtained at http://rochesterwi.us | <input checked="" type="checkbox"/> | Hearing/ review fee payable to "Village of Rochester" (Fees are non-refundable, and re-publication/ amendment fees will be charged where applicable. | <input type="checkbox"/> | 12 SETS: drawn-to-scale site plan that is based on a survey (2 full sets at scale, 10 no larger than 11' x 17', folded to 8.5" x 11") | <input checked="" type="checkbox"/> | Signed "Agreement for Reimbursable Services" | <input type="checkbox"/> | Letter of agent status- If the applicant does not own the property at the time of filing and/or public hearing, a written, signed and dated letter from the property owner acknowledging said petition and authorizing specified agent to speak on the owner's behalf must be submitted. | <input type="checkbox"/> | 3 SETS: landscaping/ lighting plan | | | <input checked="" type="checkbox"/> | 12 SETS: report/ cover letter & operations plan | | | <input checked="" type="checkbox"/> | Names & mailing addresses of the property owner's within 100' of the subject property and across the street. | | | <input type="checkbox"/> | Other _____ |
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| | | <input checked="" type="checkbox"/> | Names & mailing addresses of the property owner's within 100' of the subject property and across the street. | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <input type="checkbox"/> | Other _____ | | | | | | | | | | | | | | | | | | | | | | | | | | |



List ordinance criteria. Ask applicant to provide substantial evidence. Prompt local government to support decision and conditions with substantial evidence.

Think about Long-Term Compliance

4.23.11.3. Continuing Jurisdiction.

1. The [zoning board] retains continuing jurisdiction over all conditional uses for the purpose of ensuring that the applicant for a conditional use permit meets all of the requirements and conditions of the [City/Village/Town/County] ordinances and the conditional use permit.

2. Any person may notify the [zoning board] in writing that one or more requirements or conditions of [City/Village/Town/County] ordinances or conditions of a conditional use permit have not been completed, or are being violated.

3. The [zoning administrator] shall initially determine whether there is a reasonable probability that the subject conditional use is in violation of a condition of approval. If the [zoning administrator] determines there is a reasonable probability of a violation, the [zoning board] shall conduct a hearing following publication of a class 2 notice under ch. 985 of the Wisconsin Statutes.

4. The [zoning board] may, in order to bring the subject conditional use into compliance with the conditions previously imposed by the [zoning board], modify the existing conditions and impose additional reasonable conditions. If no reasonable modification of the conditional use can be made that are consistent with the standards of this ordinance, the [zoning board] may revoke the conditional use permit and direct the [zoning administrator] and the [City/Village/Town/County] Attorney to seek elimination of the conditional use. An applicant may appeal a decision of the [zoning board] under this paragraph to the [Common Council or Village/Town/County Board].

Set up tracking/reporting/enforcement program. Record conditions on deed. Require compliance reporting as condition of permit. Allow modification of conditions or revocation of permit in the case of non-compliance.

The background features a series of concentric circles in light gray, some solid and some dashed, creating a ripple effect. A large blue callout box with a white border and a downward-pointing tail is centered on the page. Inside the box, the text "Ordinance Amendments and Rezones" is written in white, bold, sans-serif font.

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

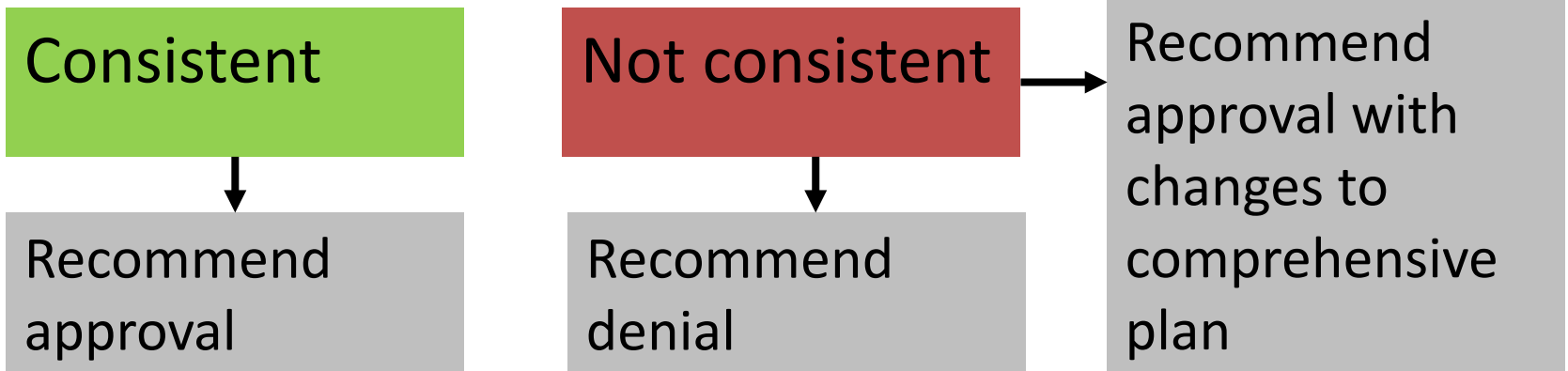
- Beginning Jan. 1, 2010, **new or amended** zoning, land division and official mapping **ordinances** must be consistent with an adopted comprehensive plan
- **Consistent means** “furthers or does not contradict the objectives, goals and policies contained in the comprehensive plan”

(2009 Wisconsin Act 372)

Determining Consistency

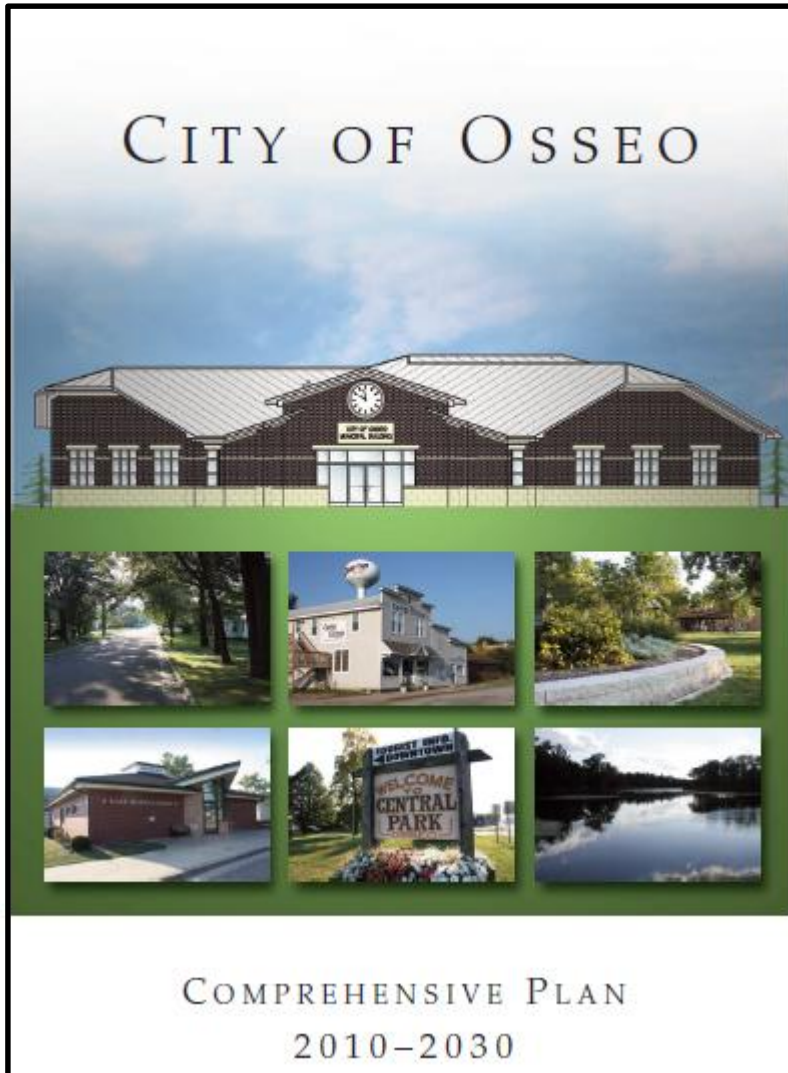
Rezone Example:

1. Look to future land use map
2. Look to text of comprehensive plan
3. Determine if proposal is consistent with plan

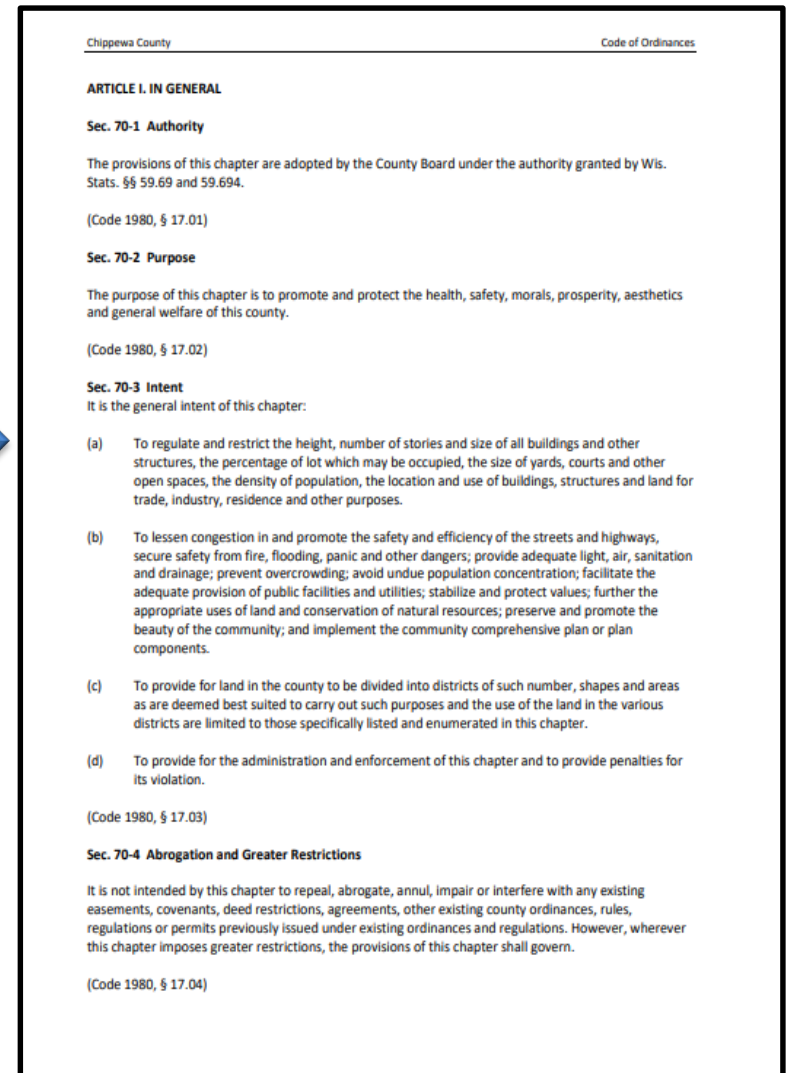


Plan does not translate directly to ordinance

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

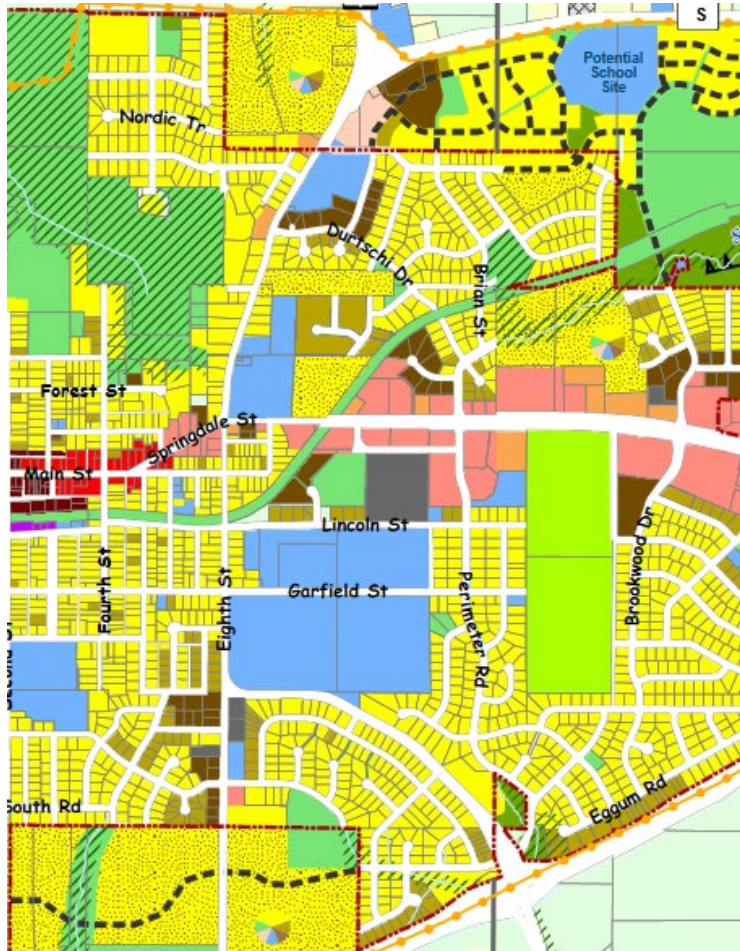
Regulatory

Force of law
applies today

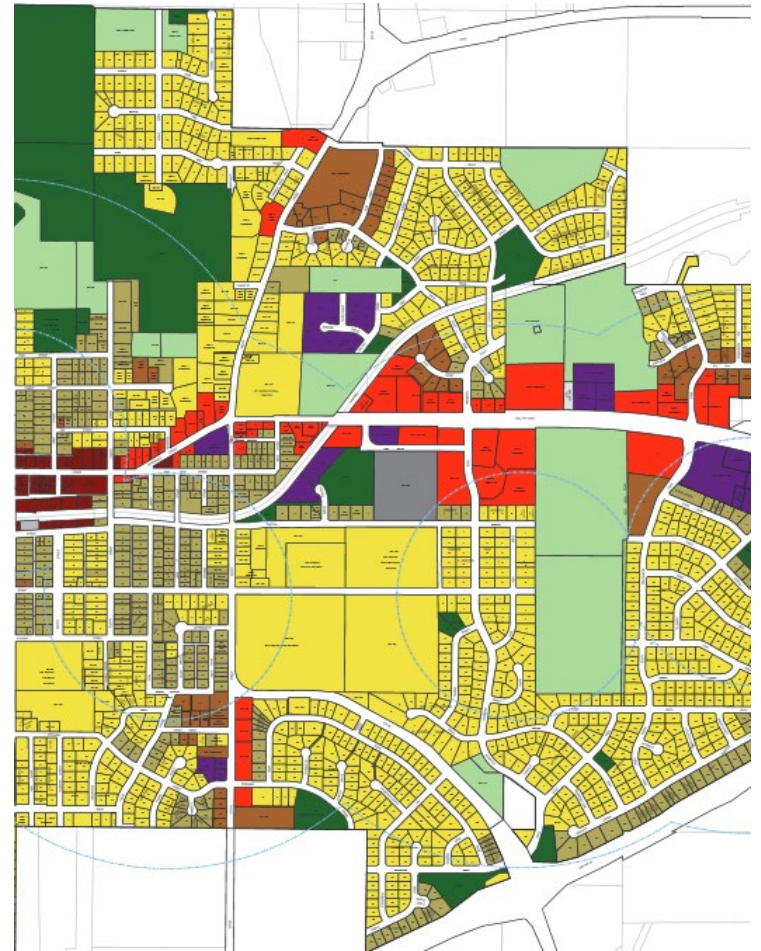
Detailed regulations
control location,
density, use, etc.

Plan does not translate directly to ordinance

Future land use map



Zoning map



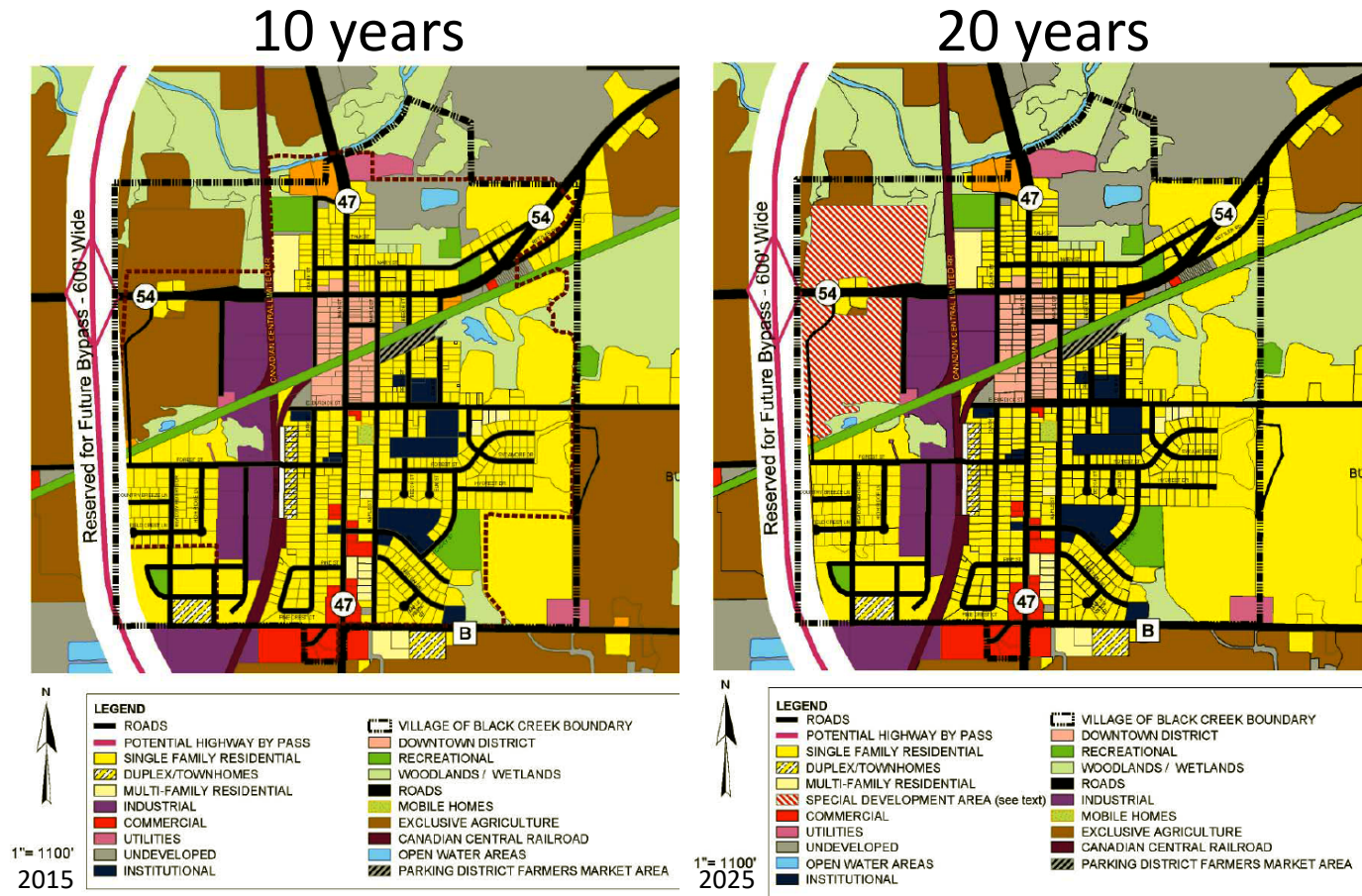
Plan provides roadmap for tomorrow.

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

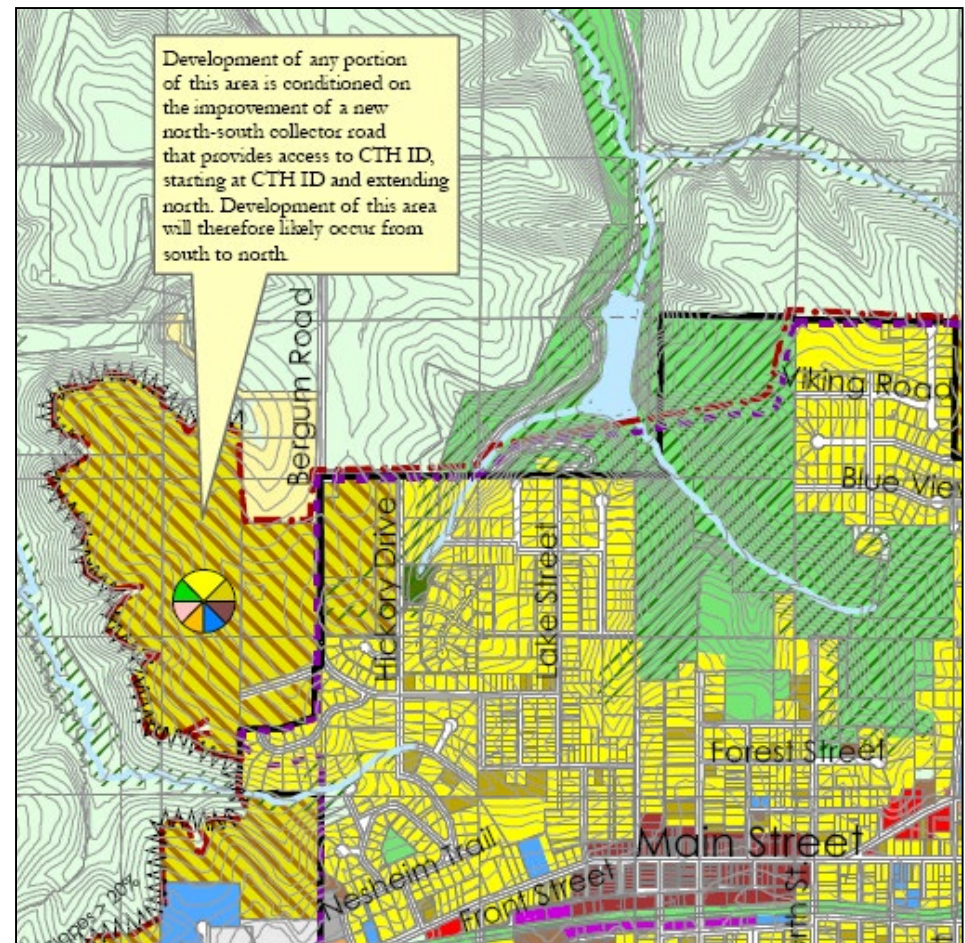


Consistency Examples

- Village of Mount Horeb – Future Land Use Map

Plan specifies conditions under which growth may occur:

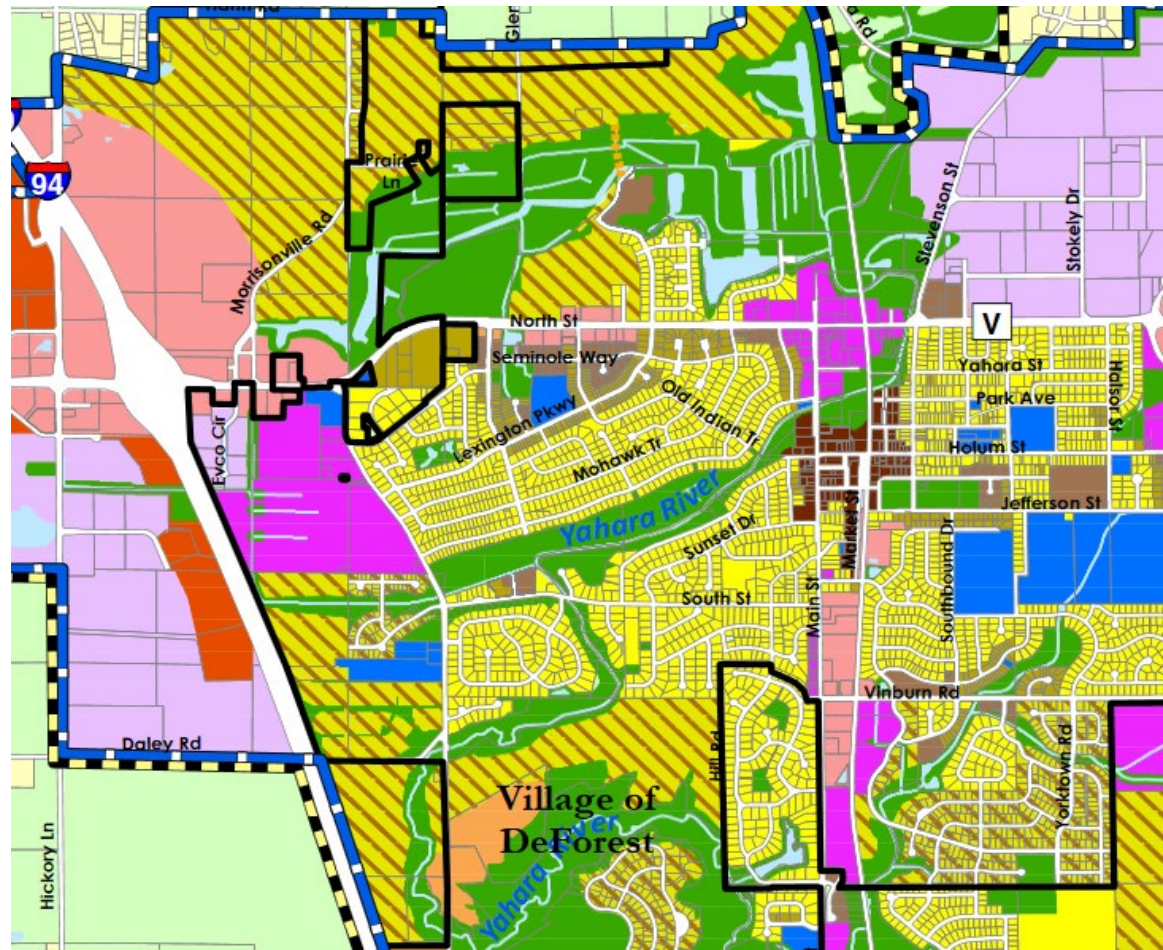
“development of this area is conditioned on the improvement of a new north-south collector road”



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

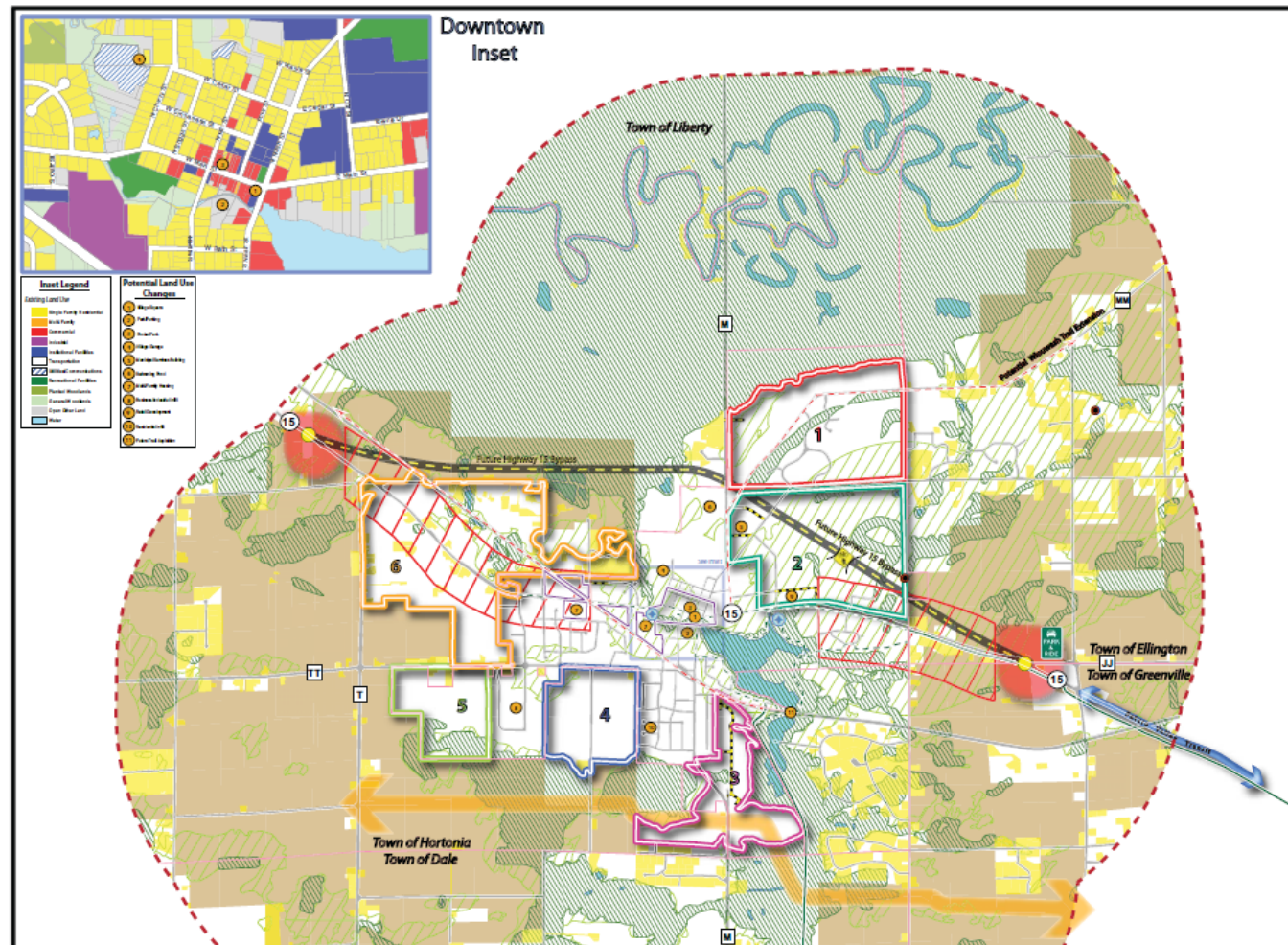
Text provides guidance for zoning.

| 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"> 1. In addition to zoning requirements, meet commercial design policy in the Economic Development chapter 2. Time rezoning to when public sanitary sewer and water services available and a specific development proposal is offered. 3. Assure that development provides access and an attractive rear yard appearance and existing and future development behind these sites. 4. Require developments to address off-site traffic, environmental, and neighborhood impacts. |
| 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"> 1. Encourage uses most appropriate for the Village downtown area to develop or remain there. 2. Pay special attention to design and scale when considering approvals in the Downtown. 3. Preserve the architectural and historic character of the core downtown historic buildings. 4. See the Downtown chapter for more specific land use, redevelopment, and revitalization recommendations. |
| 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"> 1. Design and approve developments within Office/Research areas to result in higher-end "office park" or "office/research campus" setting. |

Consistency Examples

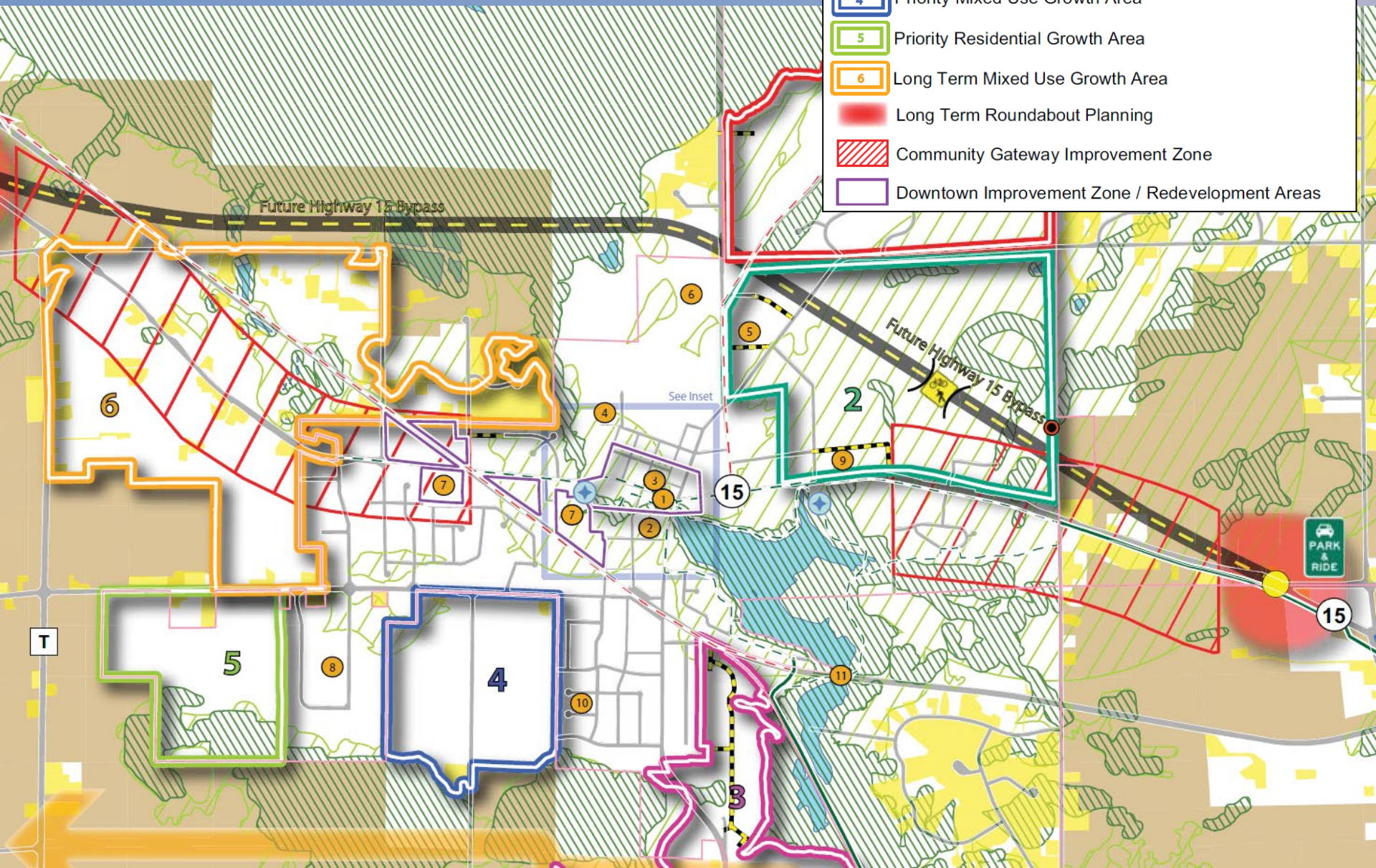
- Village of Hortonville – Future Land Use Map

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

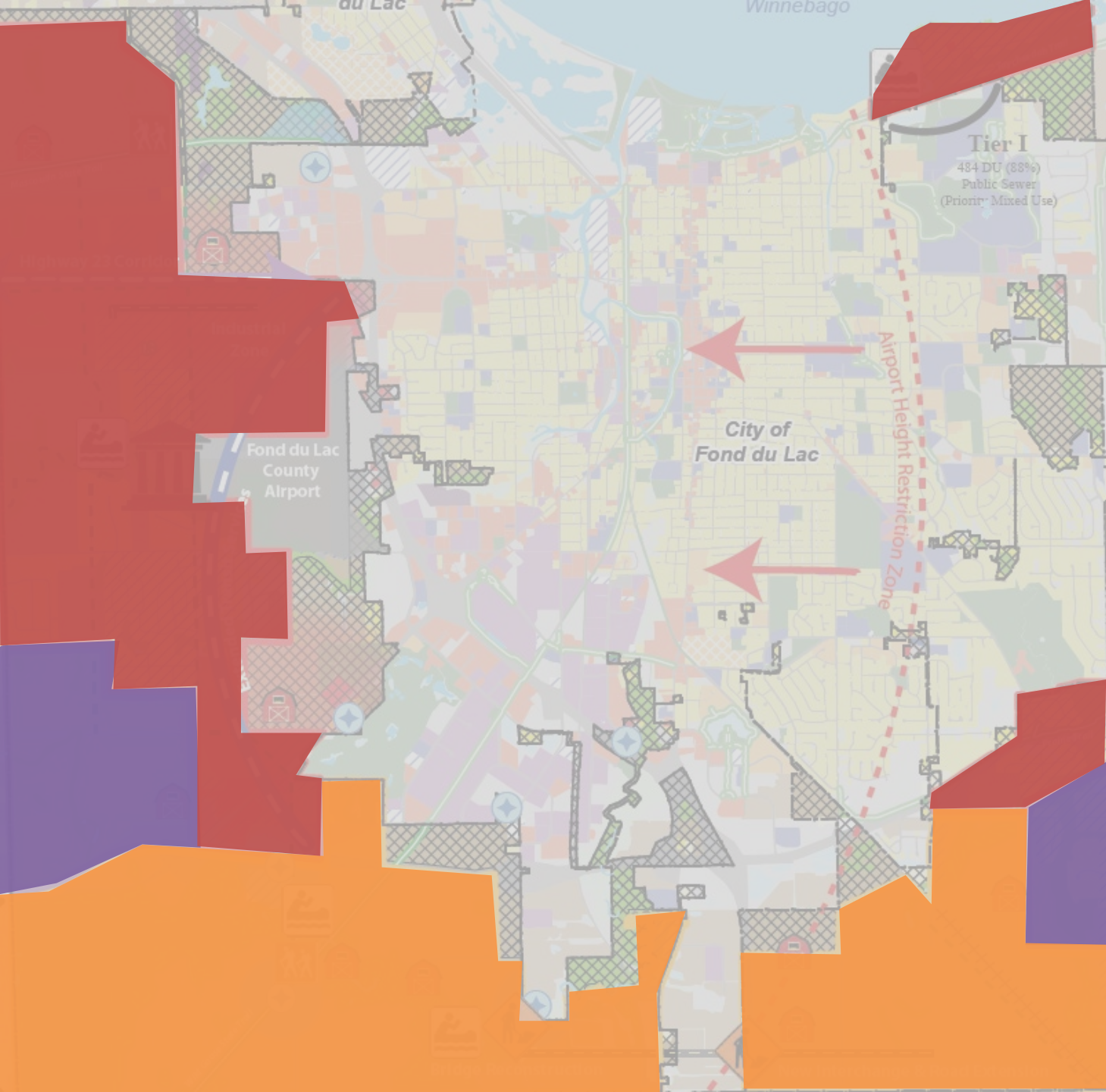


Village of Hortonville

- 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.

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 tail is centered on the page. Inside the box, the text "Procedural Responsibilities" is written in white, sans-serif font.

Procedural Responsibilities

Procedural Responsibilities

- Meeting and Hearing Conduct
- Impartial Decision-Makers
- Making and Recording Decisions





Legislative

Create new standards that apply to the community as a whole or a broad segment of the community.

Broad discretion

- Must be reasonable and constitutional.
- Broad public participation encouraged.
- No concern about discussion outside of hearing.

vs. Quasi-Judicial

Apply ordinance standards to a specific land use proposal.

Limited discretion

- Must apply ordinance as written.
- May approve or deny.
- May attach conditions to minimize negative impacts of proposal.
- Input, fact-finding, and decision-making limited to public hearing.

Procedural Responsibilities

All local officials must comply with Wisconsin laws related to:

- Open Meetings (Wis. Stat. 19.81)
- Public Notice (Wis. Stat. 19.84)
- Conflicts of Interest (Wis. Stat. 19.59 and 946.13)

In addition...

Quasi-Judicial

decision-makers must follow rules of procedural due process:

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



Meeting Conduct

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 / substantial evidence
 - Reasons applicant does or does not meet standards

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Impartial Decision-Makers

Statutory Conflicts of Interest

(Wis. Stat. s 19.59 and s. 946.13)



A local official may not use a public position for the private benefit or financial gain of:

- the individual
- immediate family members
- organizations they are associated with

Bias of Local Officials

Keen v. Dane County,
2004 WI App 26

- Payne & Dolan applied for a conditional use permit for a gravel pit
- CUP was granted over the protests of neighbors
- Neighbors appealed



Biased??



Advocate
Risk of bias too high

Decision maker #1

- A letter was submitted as part of the CUP application stating: “Payne and Dolan has always stood out above the rest in their efforts and success in being a good corporate citizen and caretaker of the land.”

Decision maker #2

- Had leased his land to Payne and Dolan for the operation of a gravel pit.



Prior, independent
business transaction

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 the appearance of)

- 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.



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Recording Decisions

Recording Decisions

Keen v. Dane County,
2004 WI App 26

Local ordinance listed 10 factors to consider when deciding a CUP

- ✓ Purpose of zoning district
- ✓ Availability of alternative locations
- ✓ Compatibility with existing or permitted use on adjacent lands...



Recording Decisions

Keen v. Dane County,
2004 WI App 26

- After a very lengthy discussion...the CUP was granted with 61 conditions
- But the decision did not refer to the 10 factors in the ordinance
- A record without any reference to the factors in the ordinance is not sufficient



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: _____

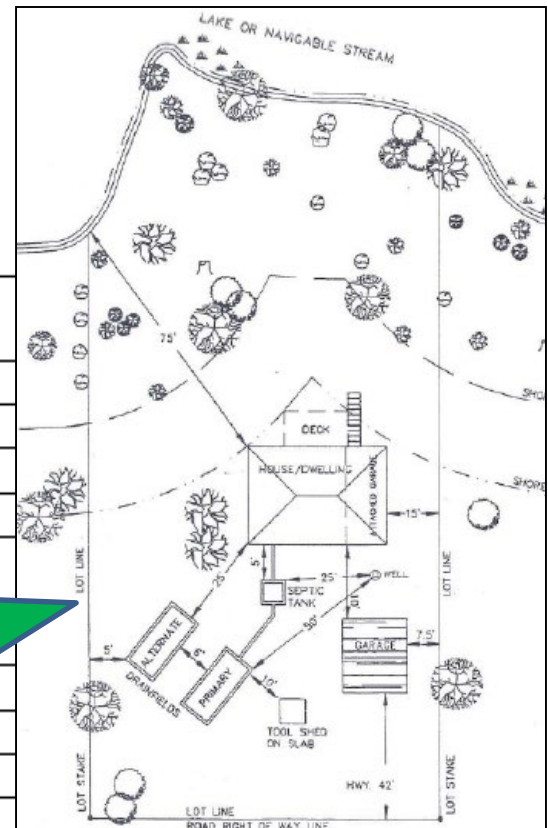
The applicant requests:

- 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: _____

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?

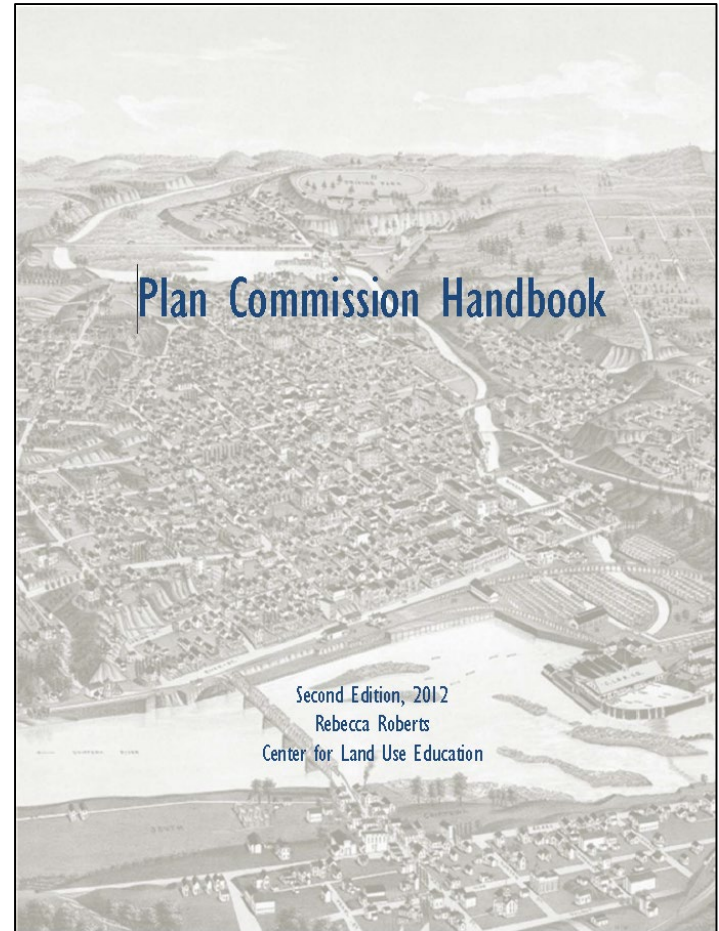
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Recommended Resources

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

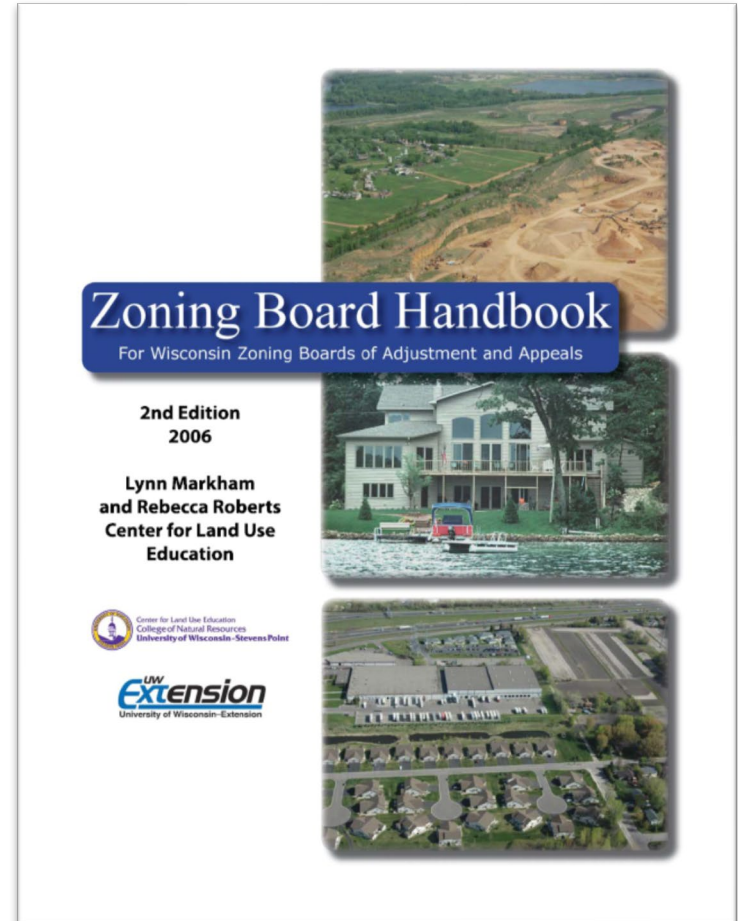
Includes forms, worksheets, glossaries
and recommended resources



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!

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



Extension
UNIVERSITY OF WISCONSIN-MADISON