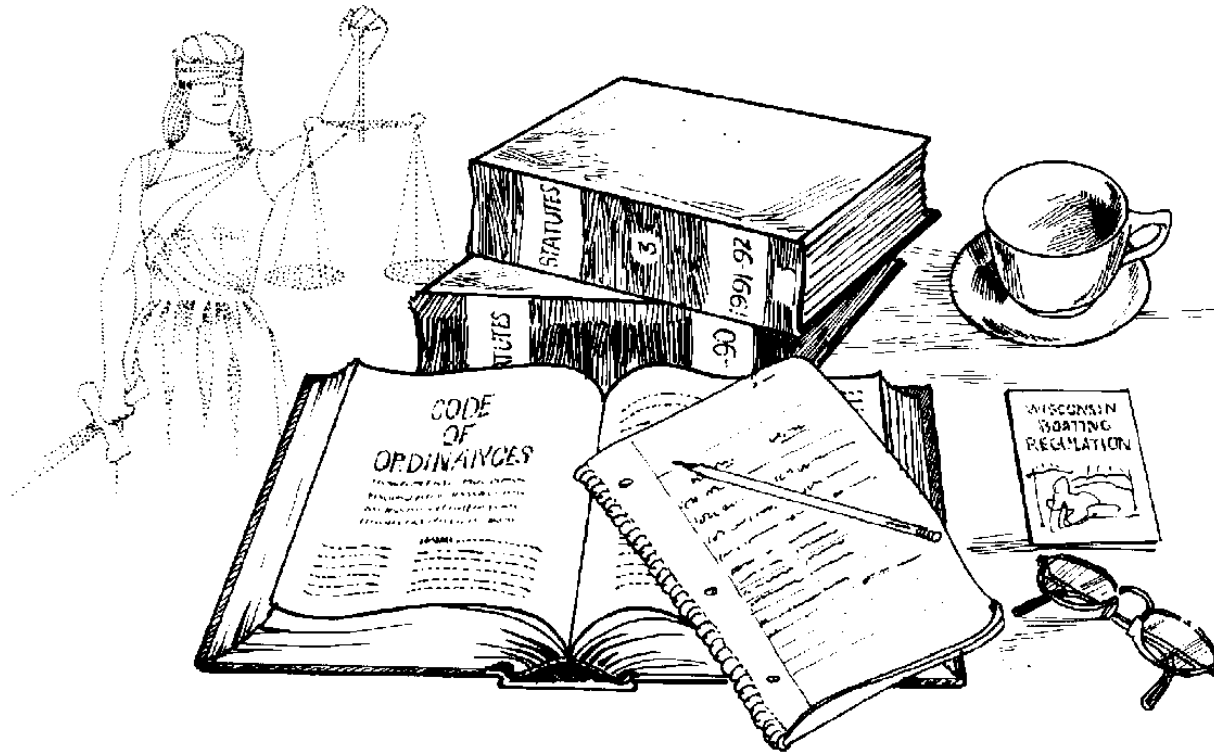


Plan Commission Workshop



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



Presentation Outline

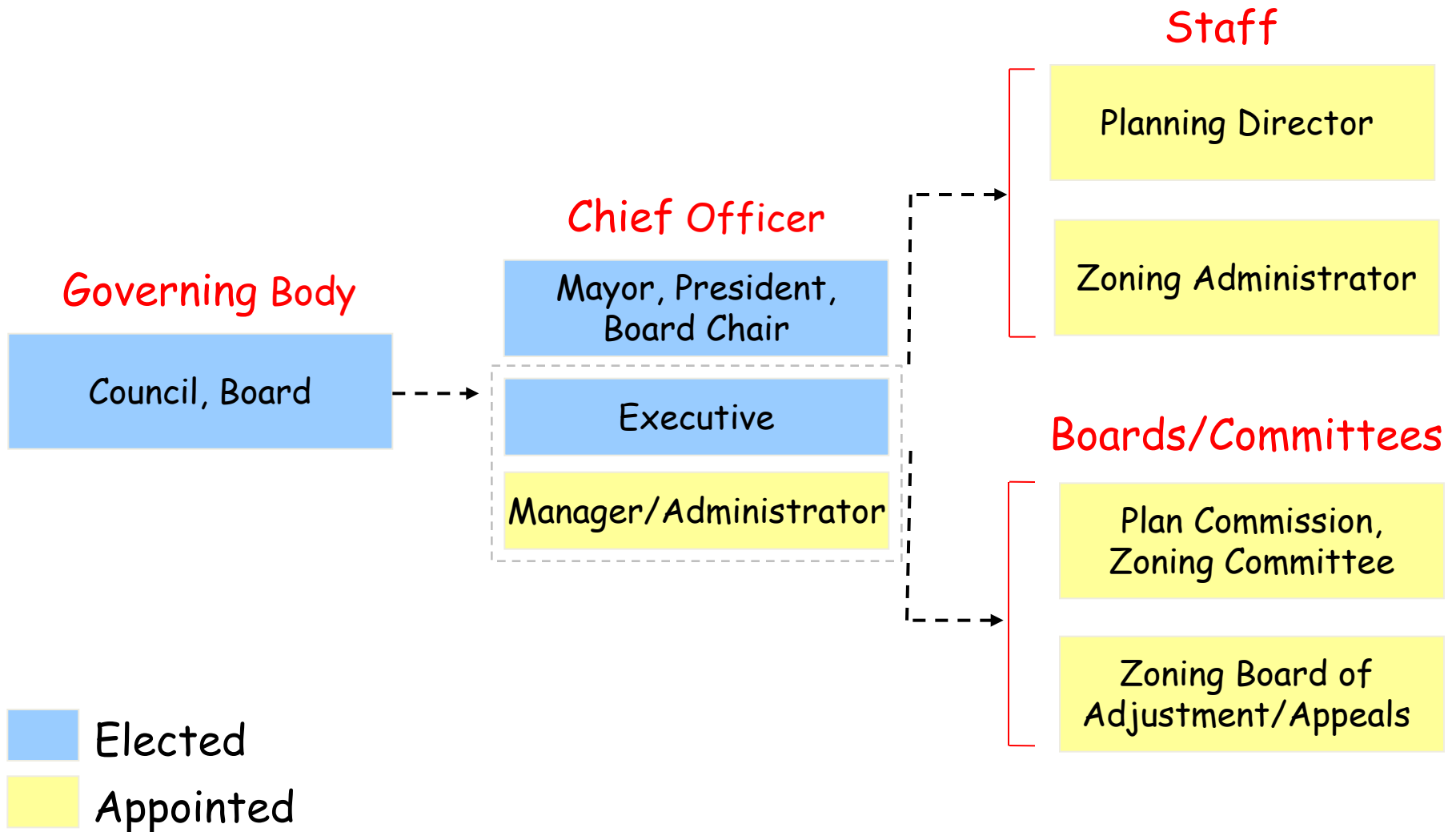
Plan commission roles and responsibilities

- ✓ Planning and plan implementation
- ✓ Development review - conditional use, rezone, plat review
- ✓ Referrals and advisory recommendations

Procedural responsibilities

- ✓ Open meetings, public hearings, site visits
- ✓ Making and recording decisions
- ✓ Impartial decision makers and recusal

Local Government Structure



Let's Review: who does what?

Governing Body

Plans, ordinances,
amendments

Conditional use
permits?

Plat review?

Zoning
Administrator

Simple zoning
permits

Plan Commission

Policy
Recommendations

Conditional use
permits?

Plat review?

Zoning Board

Conditional use
permits?

Variances

Administrative
appeals

Policy-Making

Zoning

Subdivision

Community Planning

- Allows a community to identify, anticipate, balance and decide how to meet its needs
 - preservation of resources and local character
 - targeted economic development and public investments
 - cost-effective delivery of services
 - intergovernmental opportunities
 - and more...
- Fosters predictable and defensible decisions
- Provides a proactive approach to the future

Types of Community Plans

Functional Plans:

- Land Use Plan
- Parks & Recreation Plan
- Housing Plan
- Facilities-Infrastructure Plan
- Economic Development Plan
- Disaster-Mitigation Plan
- Transportation Plan
- Transit Plan
- Bicycle & Pedestrian Plan
- Etcetera...

Spatial Plans:

- Site Plan
- Neighborhood/District Plan
- Regional/Intergovernmental Plan

Comprehensive Plan

- functional and spatial components

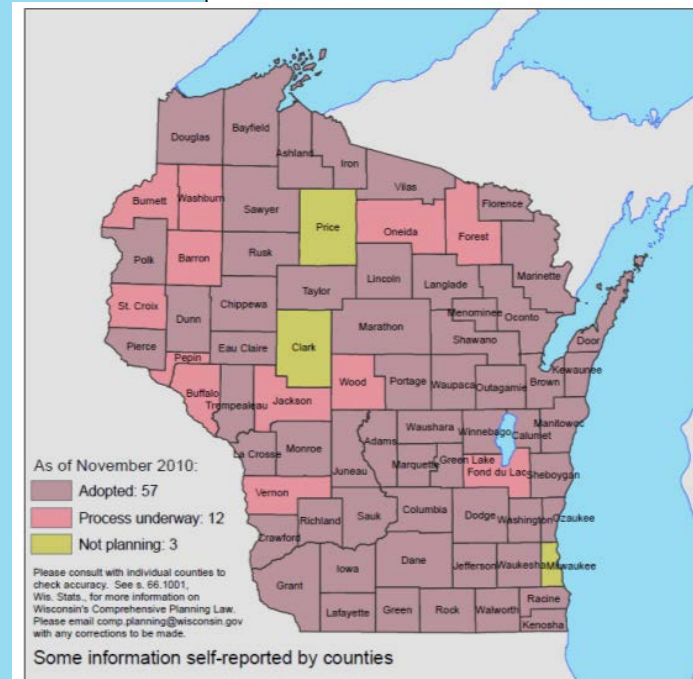
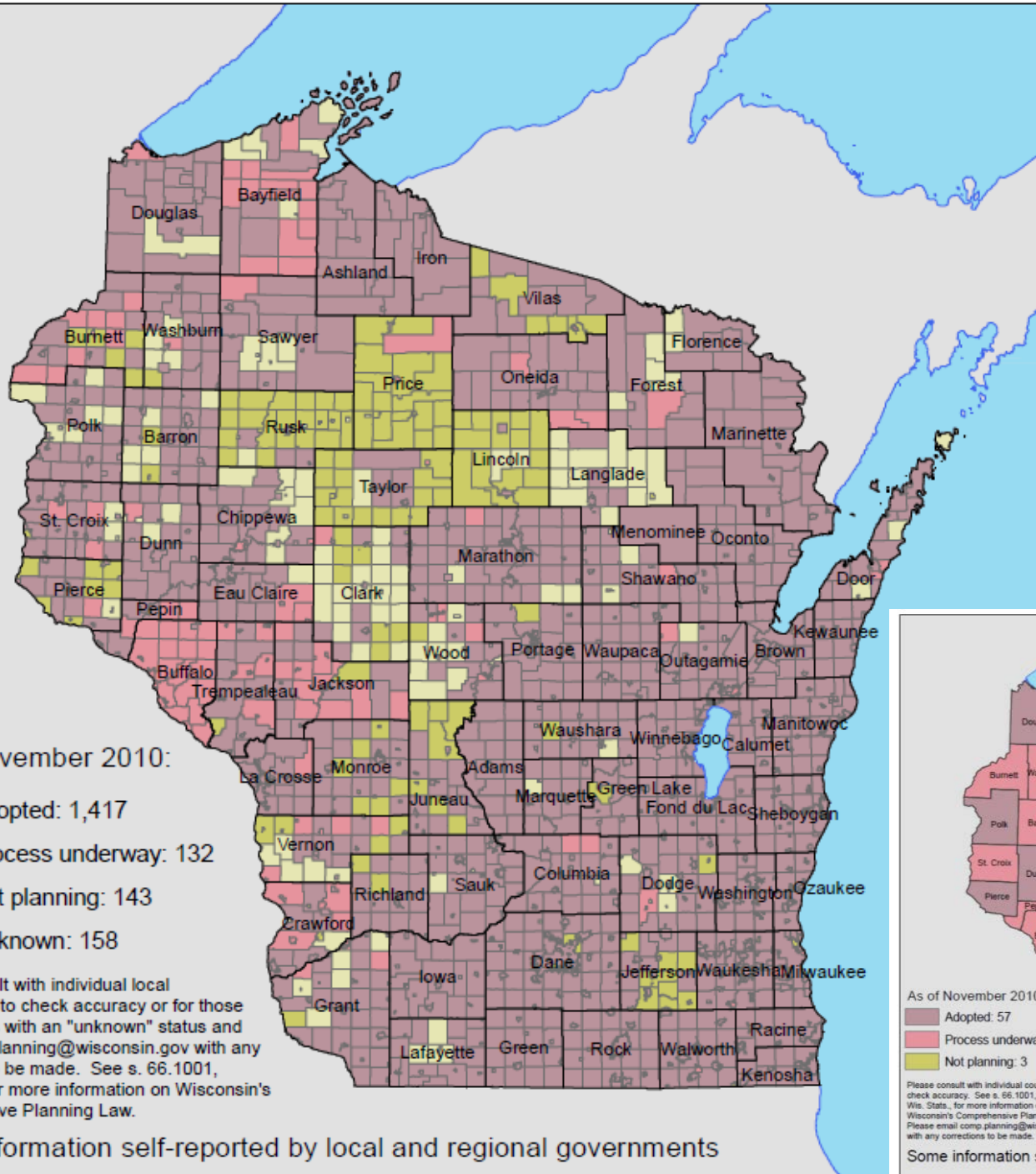
“The comprehensive plan is a central organizing umbrella under which other plans, regulations and initiatives exist.” – Duerksen, 2009

Comprehensive Planning

- A Comprehensive Plan must:
 - Address 9 elements
 - Include written procedures for public participation
 - Be widely distributed for review/comment
 - Be adopted by ordinance following public hearing
 - Be updated at least once every 10 years

(Wis. Stat. §66.1001)

Does your community have a comprehensive plan?



Using the Comprehensive Plan

- Do local officials and the public have access to your plan (and ordinances)?
 - Post on website
 - Place printed copies in schools, libraries and government offices
 - Hang large-format maps in meeting rooms
 - Provide a copy to plan commissioners and other local officials

Using the Comprehensive Plan

- Is the plan easy to understand?
 - Illustrate plan, ordinances and related educational materials with pictures, diagrams and non-technical language
 - Create “landowners guide” to development which includes simplified checklists, timelines, contact information, etc.
 - Prepare glossy, informational brochure summarizing main points

Using the Comprehensive Plan

- Do you regularly consult the plan before making major decisions?
 - Rezones, subdivision plats, other land use permits
 - Annexations
 - Investment of public dollars (capital improvements, TIF funds, etc.)
 - Location of infrastructure (parks, roads, sewer, water, etc.)

Using the Comprehensive Plan

Consistency Review

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

(2009 Wisconsin Act 372)

Consistency

- Not a literal, exact translation from plan to ordinance
- Ordinance usually includes more detailed maps/text
- Absence of policy does not create an inconsistency
- Plan and supporting ordinances not contradictory

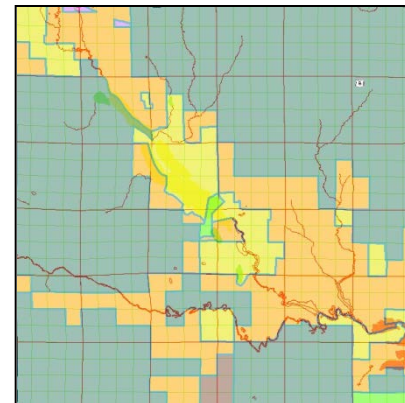
Example: Town of Wilson, Lincoln County



Planned Land Use Map

Major Land Use Designations:

- Public Forest
- Private Forest
- Environmental Corridor
- Rural Single Family Residential
- Rural Lands



Zoning Map

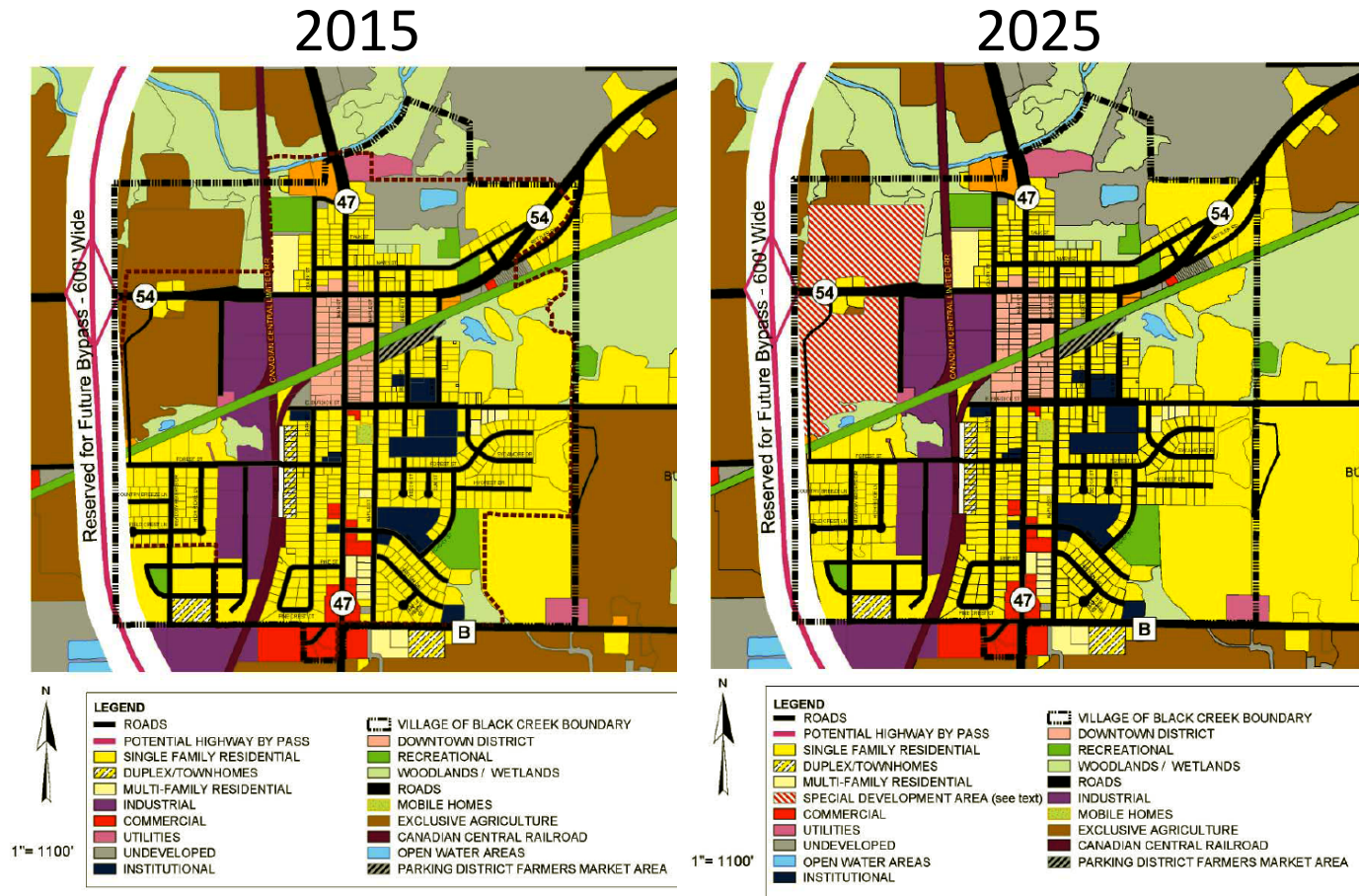
Major Zoning Districts:

- Forestry
 - Recreation
 - Rural Residential
 - Rural Lands
- Lakes Classification:
- High Sensitivity
 - Moderate Sensitivity
 - Low Sensitivity

Example

- Village of Black Creek – Future Land Use Maps

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

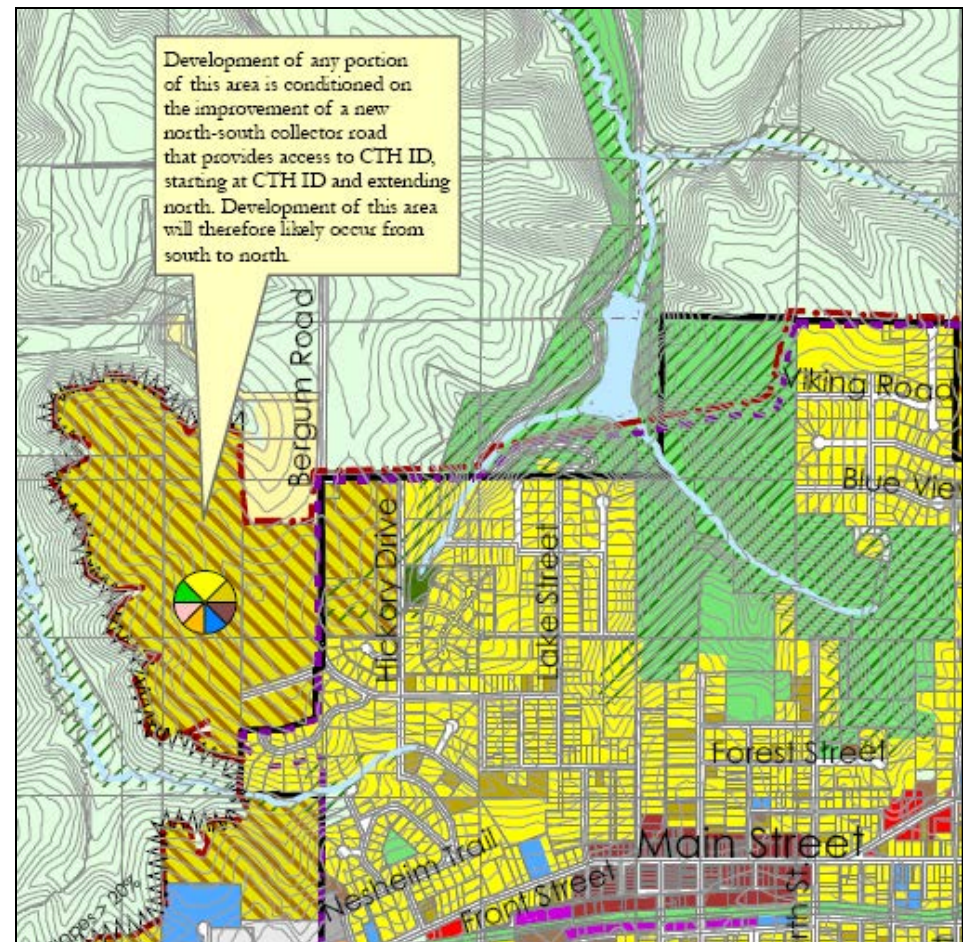


Example

- 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”

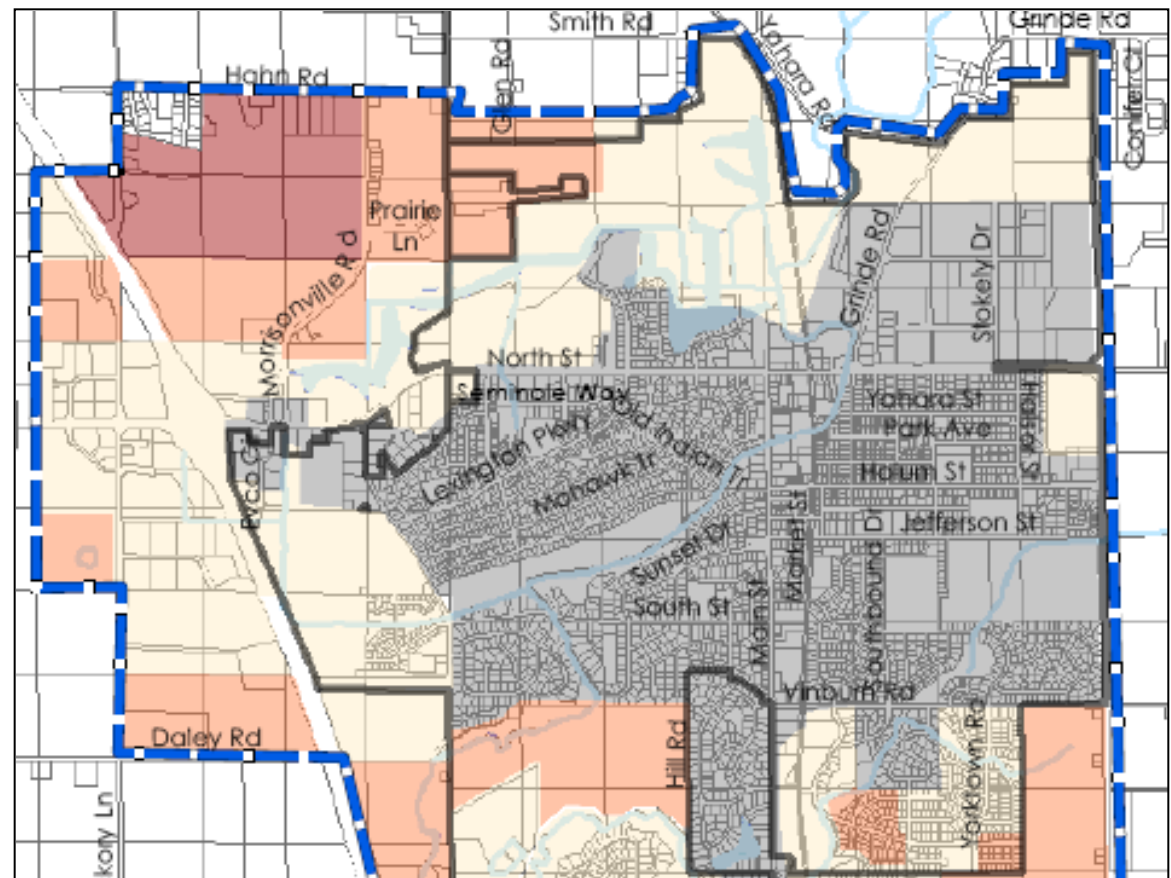


Example

- Village of DeForest – Growth Phasing Map

Growth phasing map specifies desired timing of development

Growth Phasing Areas



Example

- Village of DeForest – “Consistency Matrix”






Future land use categories include zoning district recommendations

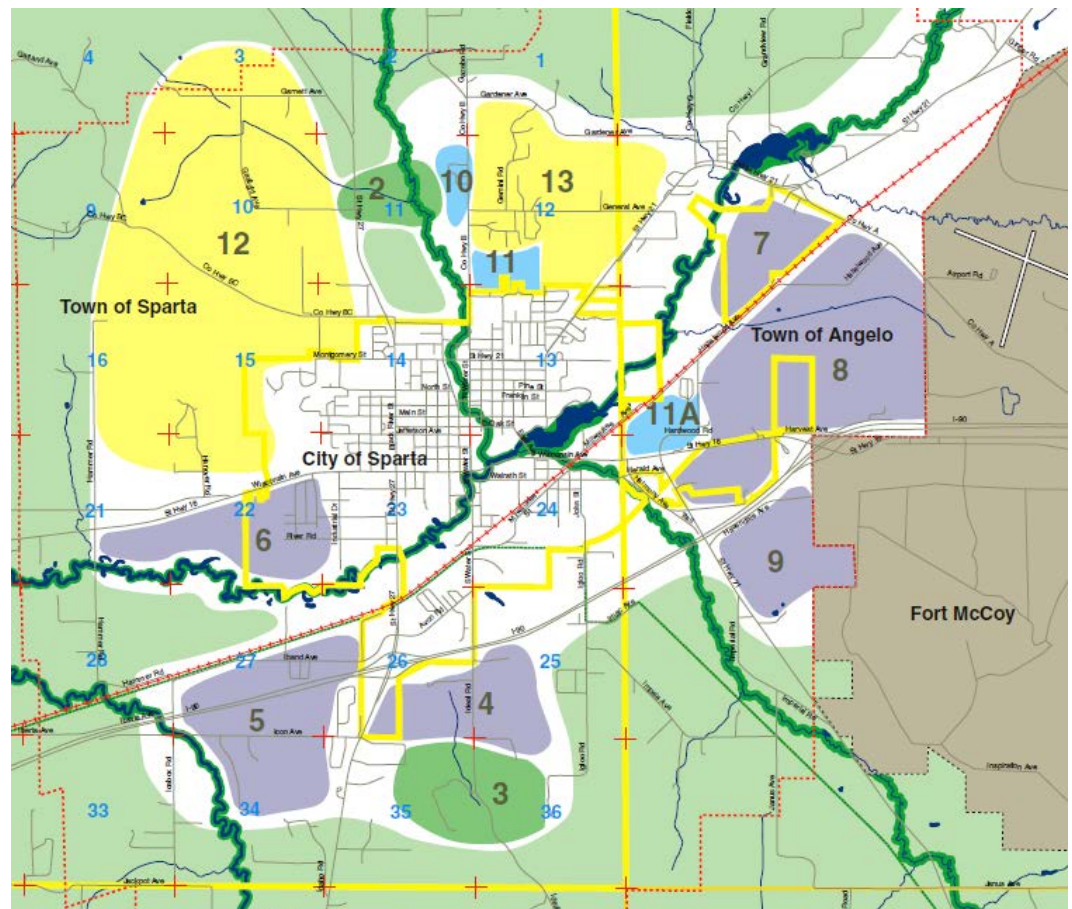
<p>Legend</p> <p><input checked="" type="checkbox"/> consistent</p> <p><input checked="" type="checkbox"/> potentially consistent</p> <p><input type="checkbox"/> not consistent</p> <p>Zoning Designation / Future Land Use Designation</p>	Single Family Residential Sewered	Two-Family Residential	Mixed Residential	Planned Neighborhood	Mixed Use Centers
Residential Districts					
RH: Rural Housing					
R-1: Single Family Residential	x				
R-2: Two Family Residential		x	✓		
R-3: Multi-Family Residential			x		
Business Districts					
B-1 Central Business					

Example

- City of Sparta – Development Concepts Map

Maps are drawn in “bubble” fashion showing general locations for future development

- 1  Open Space/Environmental Corridor
- 2-3  Park
- 4-9  Industrial
- 10-11A  Institutional
- 12-13  Single Family Residential



Using the Comprehensive Plan

Plan Implementation

- 2009 Wisconsin Act 372 clarified that the comprehensive plan is not a regulation
- Refer to the implementation element for a list of programs, policies, tools, actions and other recommendations to implement the plan

Plan Implementation

- Identify for each tool:
 - Timeline for implementation
 - Resources required
 - Party responsible for implementation
 - Indicators or measures of success

Example

- Implementation, Town/Village Black Creek

LAND USE GOAL #1				
Create a healthy, livable community that attracts quality residential and business development.				
RELATED ELEMENTS	SUPPORTING OBJECTIVES	CHAMPION / PARTNER	POTENTIAL FUNDING SOURCE	MILESTONE DATE
Land Use	1. Develop connectivity standards within the subdivision and zoning chapters of the Town and Village ordinances to promote better connectivity through the community.	WisDOT	Town and Village Budgets	2009
Economic Development	2. Review and revitalize local landscape ordinances to include illustrations and an information brochure to make the ordinance more user-friendly.	Local Business Community	Town and Village Budgets	2007
Land Use	3. Encourage mixed used developments that integrate businesses/services (e.g. schools, offices, parks) and housing in close proximity by revising the Village Zoning Ordinance to allow corner uses (e.g. neighborhood activity centers).	Developers	Village Budget	2006

Example

- Implementation Element, City of Oshkosh

For the **Zoning Ordinance** the revisions that were viewed as most important to conduct include:

- a. Creating minimum requirements for open space area and/or recreation facilities for high-density residential development (or require a deposit to a park development fund).
- b. Creating Landscaping requirements for new developments and parking lots.
- c. Reviewing the minimum lot sizes and setback standards for residential, commercial, and industrial properties.
- d. Reviewing and reducing parking space requirements.
- e. Reviewing minimum lot sizes and setback standards for shorelands and other natural features.

Plan Implementation Toolbox

Regulatory Tools:

- Zoning
- Official mapping
- Subdivision regulation
- Cluster/conservation design
- Sign ordinances
- Driveway ordinances
- Building and sanitary codes
- Livestock facility siting ordinance
- Stormwater management

Educational/Voluntary/Fiscal Tools:

- Pamphlets, brochures and other educational materials
- Public land acquisition
- Land conservation programs
- Purchase or transfer of development rights
- Capital improvement plan
- Impact fees and user fees
- Density bonus
- *And many, many more...*

Recommended Resource


Plan Implementation Tool Factsheets

www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/PlanImplementation.aspx

Report Card

Cost	Money or staff resources required to implement the tool.
Upfront costs, long-term gains	A TIF bond is riskier than a general obligation bond, resulting in higher interest rates and more total interest paid. There are also higher issuance costs including feasibility studies, legal fees, and other costs. TIF bonds are also more difficult to sell than general obligation bonds, and the interest rates are typically higher. TIF bonds are also more difficult to sell than general obligation bonds, and the interest rates are typically higher.
Public Acceptance	The public's perception of the tool.
Mixed support	The public's perception of the tool is mixed. Some people support the tool because it can be used to fund public improvements in a district. Others are concerned about the potential for higher taxes and the loss of property to the district.
Political Acceptance	Local officials' support of the tool.
Widely used	In 2008, 100% of local officials supported the tool. Though performance is not seen, the tool is widely used.
Equity	Fairness of the tool.
	TIF allows for the development of new housing and commercial buildings. In the absence of TIF, the development of new housing and commercial buildings would be difficult. TIF allows for the development of new housing and commercial buildings.

Planning Implementation Tools Tax Increment Financing



Center for Land Use Education
www.uwsp.edu/cnr/landcenter
November 2009

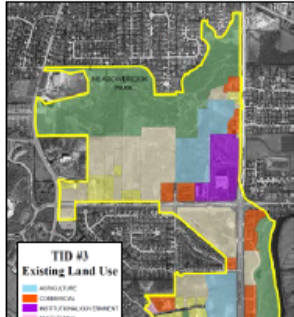
TOOL DESCRIPTION

Tax increment financing (TIF) is a tool used to spur the development or redevelopment of an area. When a tax incremental district (TID) is created, all taxing jurisdictions—including the county, municipality, school district, technical college, and special taxing districts—agree to limit the amount of taxes they receive from the district based on property values in place when the district was created. The municipality agrees to pay for public improvements in the district in hopes of spurring additional private investment. As property values rise, taxes resulting from the incremental rise in value are used to repay the municipality.

COMMON USES

Since Wisconsin's TIF law was adopted in 1975, TIF use has expanded dramatically. Originally designed to redevelop blighted urban areas and to promote industrial development, TIF may now be used by cities and villages, and to a lesser extent, towns and counties for a variety of

Figure 1: TID #3 in the Village of Howard is being used to develop a new mixed-use village center.



Updating the Comprehensive Plan

Annual Self-Audit

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

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

Updating the Comprehensive Plan

- Set timeline and process for reviewing plan and criteria for considering plan amendments
- For example:
 - Amendments considered upon request of landowner, local government, etc.
 - Minor amendments considered annually or semi-annually
 - Major review and rewrite at least once every 10 years (per state statute)

Updating the Comprehensive Plan

- Same process used to adopt and amend the plan
 - Written public participation procedures
 - Plan distributed for review and comment
 - Class 1 notice provided at least 30 days prior to public hearing
 - Plan commission resolution recommending plan adoption
 - Governing body ordinance adopting plan

(Wis Stat. 66.1001(4))

Recommended Resource

Sample Documents for Comprehensive Plan Amendments

- ✓ Southeastern Wisconsin Regional Planning Commission, June 2010
- ✓ www.sewrpc.org/SEWRPC/communityassistance/EducationalServices2.htm#SmartGrowth

Includes:

Application form

Public hearing notice

Plan commission resolution

Local government ordinance

Sample public participation procedures

APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT TOWN OF _____ COUNTY	
Date of Plan Adoption: _____	
Date of Application for Plan Amendment: _____	
Attach a legal description and provide the tax key numbers of parcels included in this application: _____ _____	
Property Owner's Name: _____	
Mailing Address: _____ Signature _____	
City: _____ State: _____ Zip: _____	
Phone Number: _____	
<small>Note: If the property owner's signature cannot be obtained in the above space, a "letter of agent status" signed by the property owner must be submitted if you are an applicant (tenant, leaseholder, or authorized agent representing the legal owner) acting on their behalf.</small>	
Applicant's Name (if different than property owner): _____	
Mailing Address: _____ Signature _____	
City: _____ State: _____ Zip: _____	
Phone Number: _____	
Existing planned land use category as shown on the Town land use plan map: _____ _____	
Proposed land use category: _____ _____	

Zoning

Counties

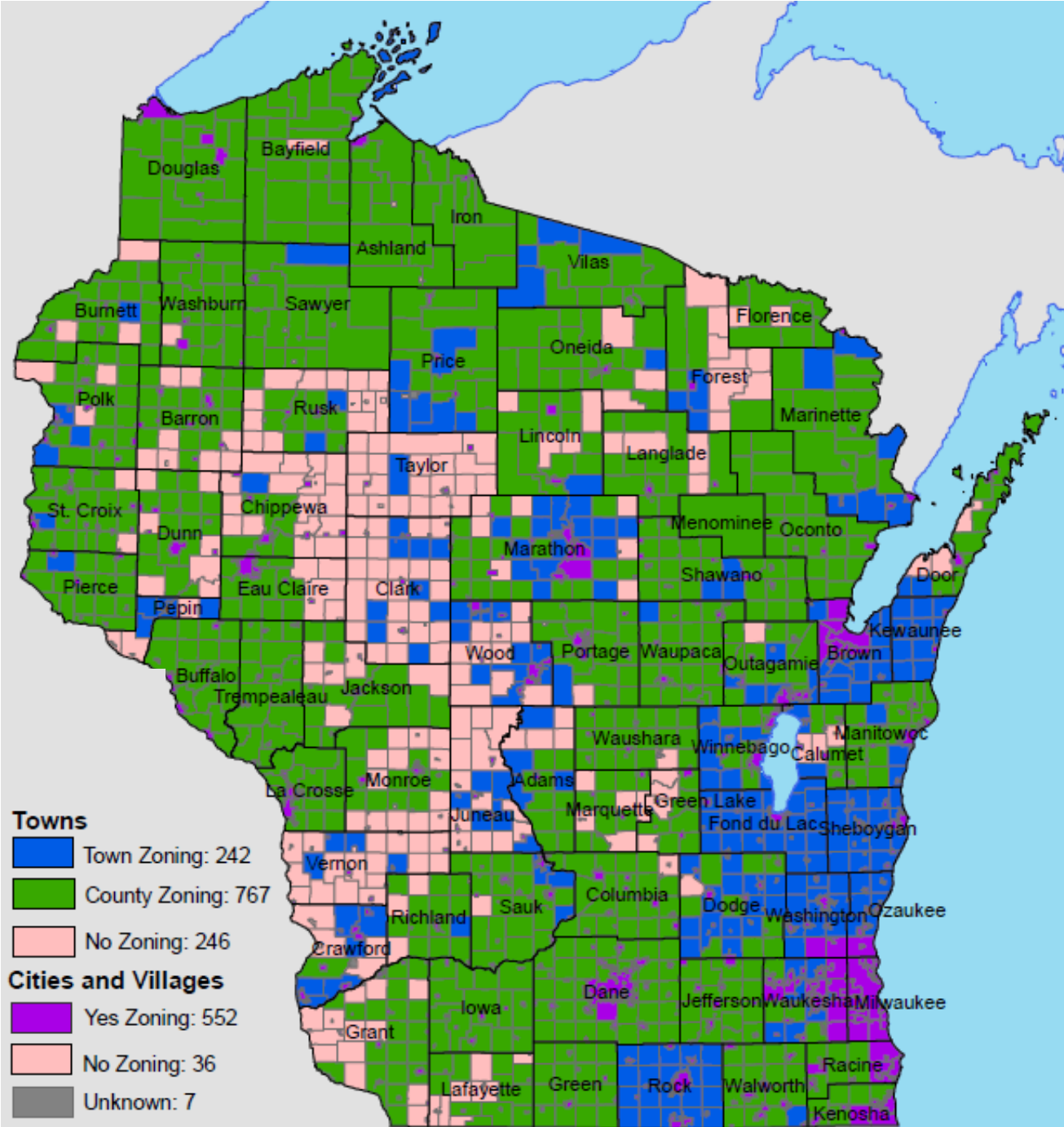
- Required to administer shoreland/wetland zoning
- May adopt general zoning in unincorporated areas

Towns

- May adopt general zoning if no county zoning or after adoption of village powers
- May adopt shoreland zoning if more restrictive than county

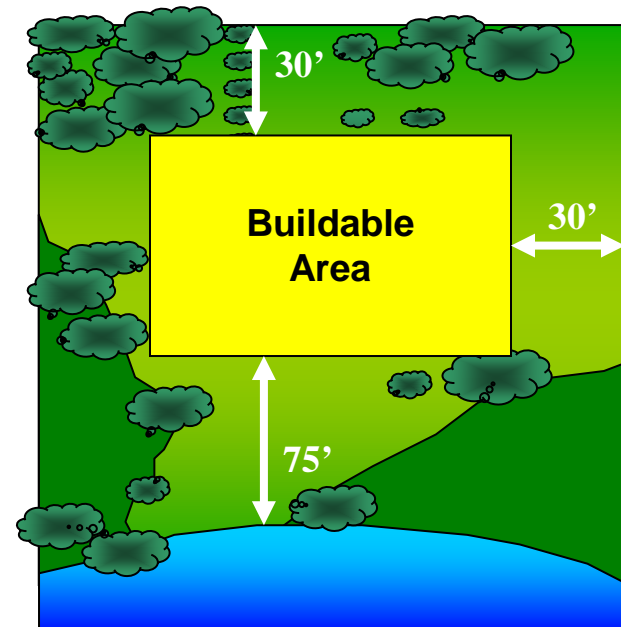
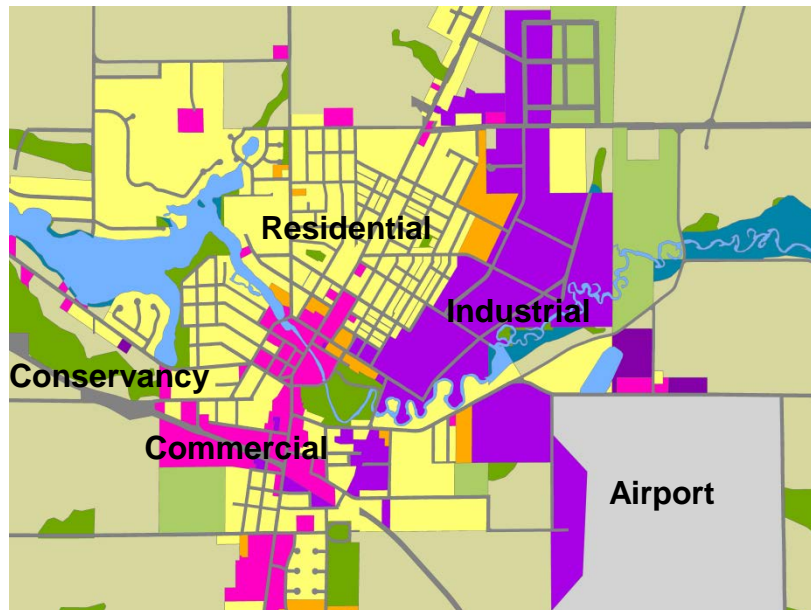
Cities/Villages

- May adopt general zoning and extra-territorial zoning (1.5-3 miles of boundaries)
- May have shoreland or floodplain zoning - required in some circumstances



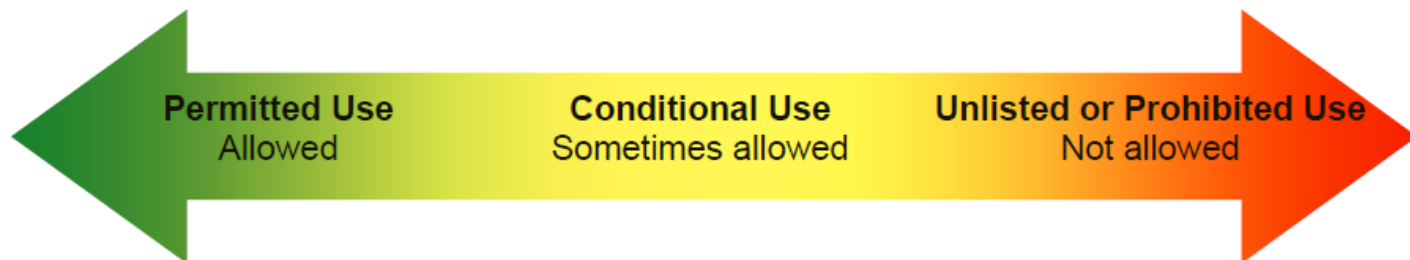
Zoning

- A zoning ordinance contains 2 parts:
 - Map – divides the community into districts
 - Text – describes allowable uses and dimensional restrictions (i.e. lot size, density, setbacks, height, etc.)



Zoning – Allowable Uses

1. **Permitted Use** – a use that is listed and allowed by right in all parts of a zoning district (granted by zoning administrator)
2. **Conditional Use** – a use that is listed for a district and may be allowed if suited to the location (decided by plan commission, zoning board or governing body)
3. **Unlisted or Prohibited Use** – a use that is expressly prohibited or not listed for the district is not allowed



Zoning – Conditional Uses

- Discretionary decision – may be granted or denied
- Must be listed for the zoning district
- Decision criteria also listed in the ordinance
- Conditions may be attached

Zoning – Conditional Uses

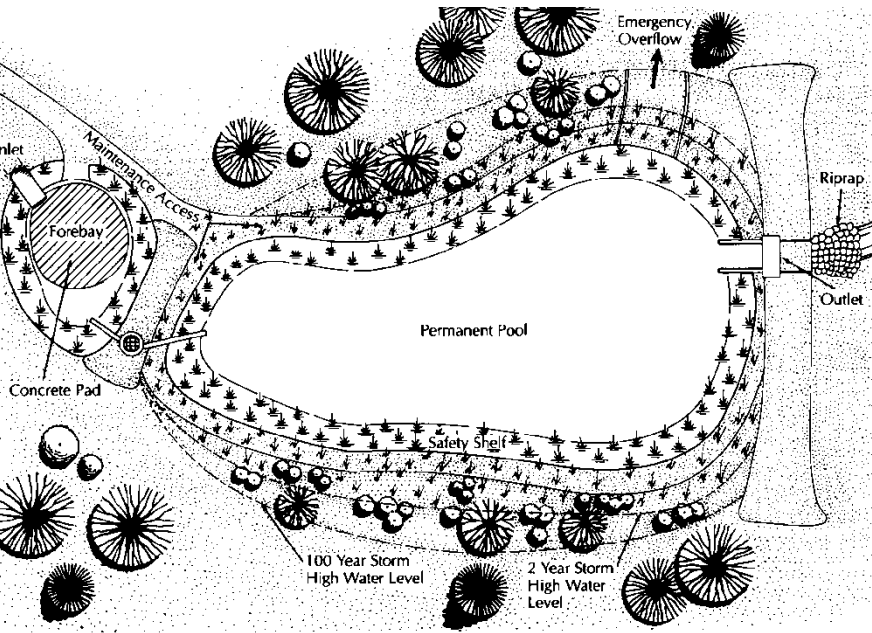
- Permit generally assigned to property, not owner
- Conditions cannot be changed unless permit is revoked or expires
 - Permit may be revoked due to non-compliance
 - Expiration date appropriate for temporary uses such as gravel pit
- In the case of a zoning change, property becomes nonconforming and conditions cannot be enforced

(Hussein v. Germantown BOA, 2011 WI Court of Appeals)

Attaching and Tracking Conditions

- Options for developing conditions:
 - Zoning staff develops generic list of conditions based on common permit requests/situations
 - Zoning staff recommends conditions specific to permit request as part of staff report
 - PC/GB/BOA develops conditions specific to permit request at close of public hearing
 - Some combination of the above

Attaching and Tracking Conditions



Conditions must meet 2 tests:

- 1) **Essential nexus** – address expected harmful project impacts
- 2) **Rough proportionality** – be proportional to the extent of those impacts

Attaching and Tracking Conditions

- Options for ensuring compliance:
 - Conditions recorded on deed
 - Compliance reporting by owner as condition of permit (required on periodic basis or upon sale of property)
 - Zoning staff maintains database and periodically checks for enforcement
 - Cash or surety bond for projects involving significant capital outlay (i.e. mitigation, construction, etc.)
 - Do nothing -- wait for complaints

Zoning – Relief Mechanisms

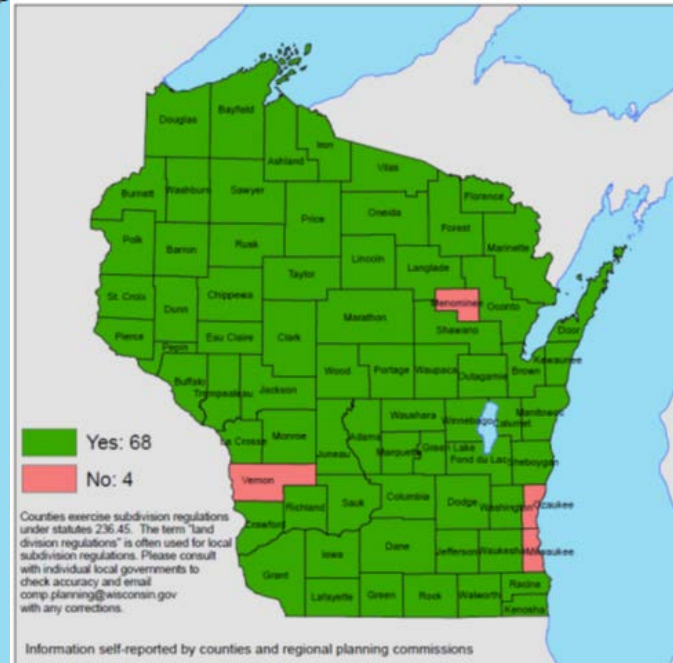
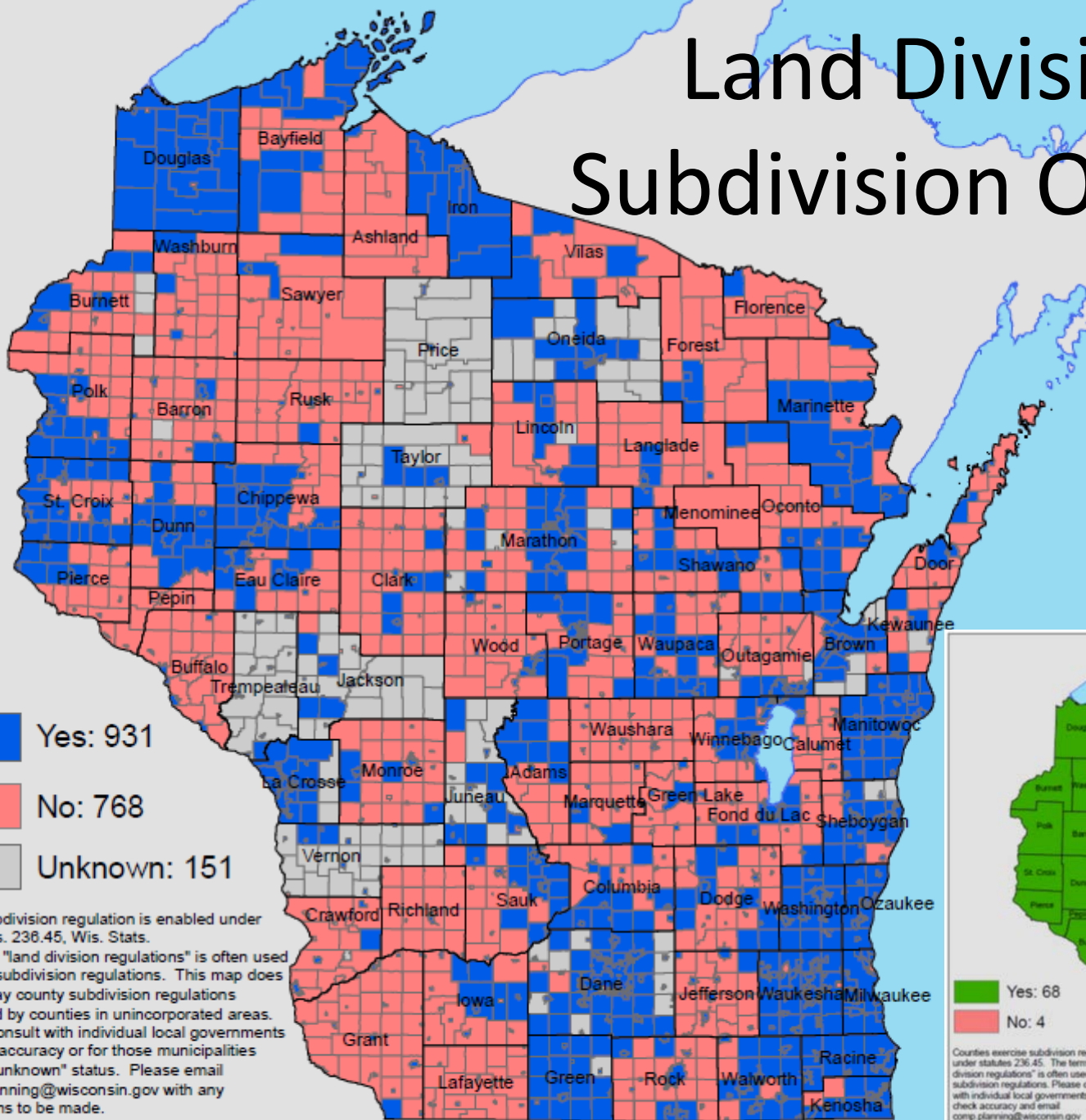
1. **Variance** – allowed “violation” of an ordinance standard (decided by zoning board)
2. **Appeal** – contested decision or interpretation of the zoning ordinance (decided by zoning board or circuit court)
3. **Map or Text Amendment (Rezoning)** – change to the zoning ordinance (adopted by governing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

Zoning – Amendments

Legislative decision – reasonable and constitutional

- Suggested rezoning criteria:
 - Consistent with comprehensive plan.
 - Meets criteria for proposed district. May include soil suitability, septic suitability, environmental suitability, proximity to wetlands and adjacent waters, etc.
 - Compatible with adjacent uses. Avoid potential conflicts with neighbors such as noise, litter, lighting, aesthetics, construction erosion, and stormwater runoff.
 - Public purpose. Should provide public purpose or benefit, not merely benefit an individual property owner.

Land Division and Subdivision Ordinances



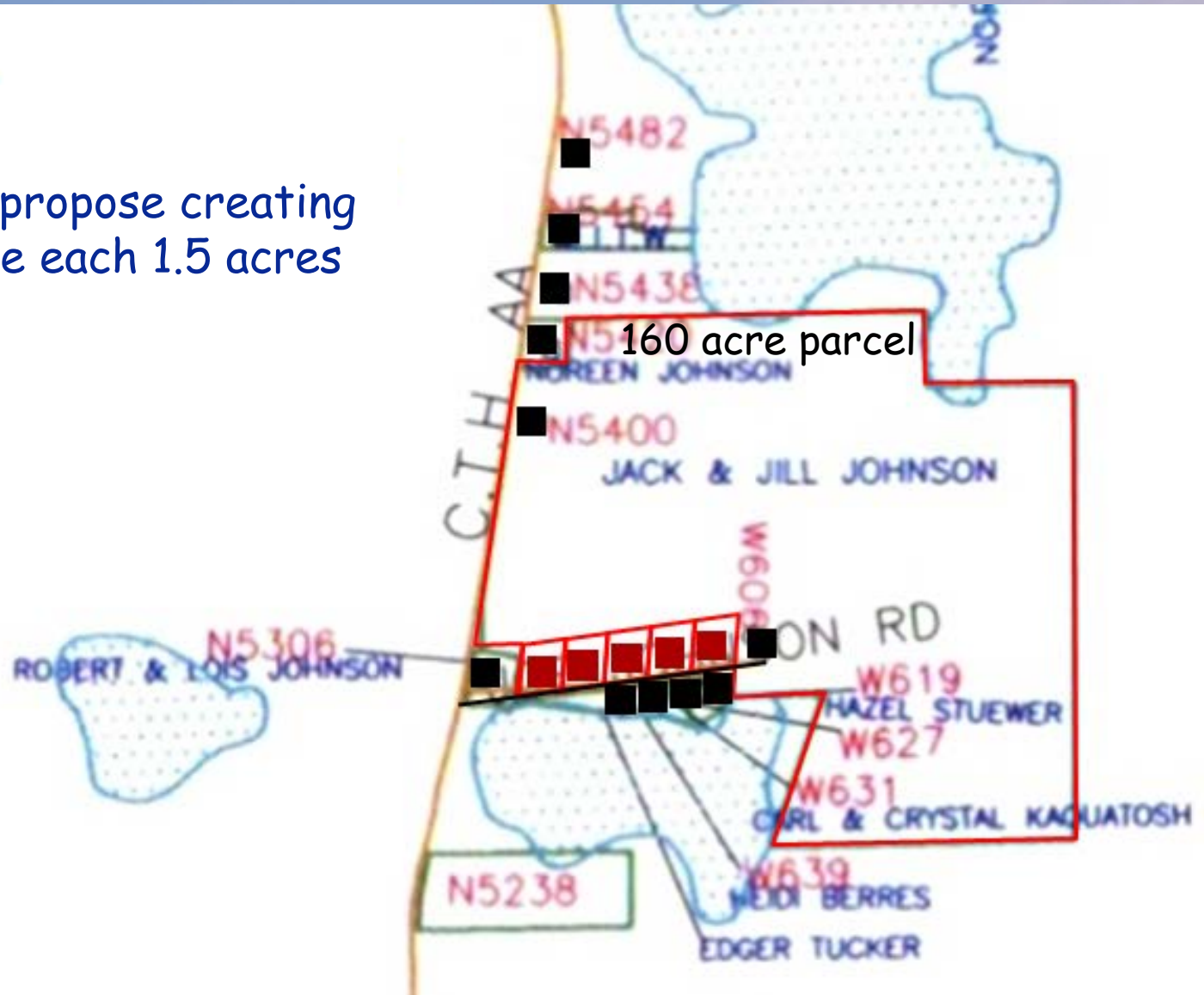
Information self-reported by local and regional governments

Information self-reported by counties and regional planning commissions

Is a subdivision plat required?

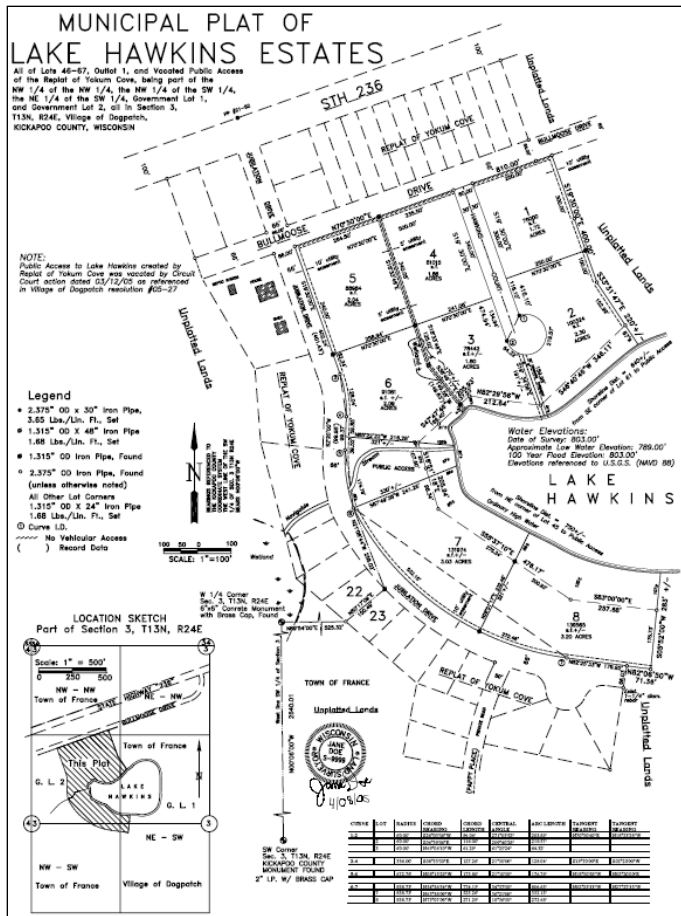
Scenario 1

Jack and Jill propose creating 5 lots that are each 1.5 acres in size.



Is a subdivision plat required?

YES!



- State provides minimum standards for subdivisions
 - Creation of 5 or more parcels of 1½ acre or less within 5 years
 - plat map, monuments, legal description, sanitation, street access
- Counties, towns, cities, villages may also have ordinances
- Most restrictive ordinance applies

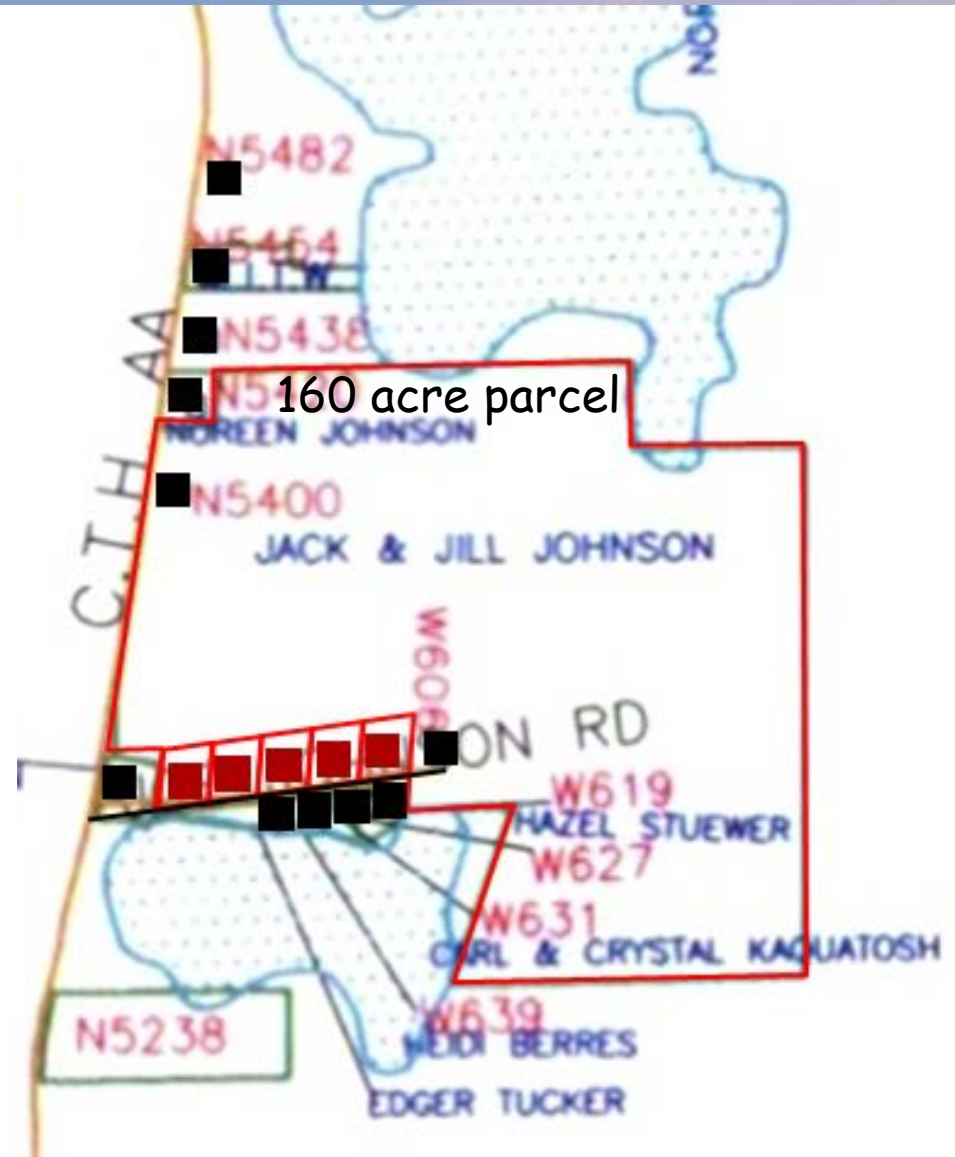
Who has plat review authority?

Scenario 1

The subdivision is located in a town approximately 1 mile from the nearest village.

The county has a subdivision ordinance.

The town and village do not.



Objecting Authorities

- The following agencies have authority to “object” to state-defined subdivision plats:
 - [Dept. of Administration](#) – all subdivisions reviewed for compliance with surveying, layout, mapping and plat submittal requirements.
 - [Dept. of Transportation](#) – subdivisions that abut a state trunk or connecting highway reviewed for public safety issues and the preservation of public interests/investments.
 - [County planning agency](#) – subdivisions not served by public sewer reviewed for lot size/elevation necessary for proper sanitary conditions.
 - Some counties (i.e. Brown) review for conflicts with parks, highways, airports, schools, and other planned public developments.

Approving Authorities

- The following units of government have authority to “approve” of state-defined subdivision plats:
 - City – if the subdivision is located in the city or its extraterritorial plat review jurisdiction
 - Village – if the subdivision is located in the village or its extraterritorial plat review jurisdiction
 - Town – if the subdivision is located in the town or an area whose annexation is being contested by the town
 - County – if the subdivision is located in the county and outside the city or village plat review jurisdiction

Extraterritorial Plat Review

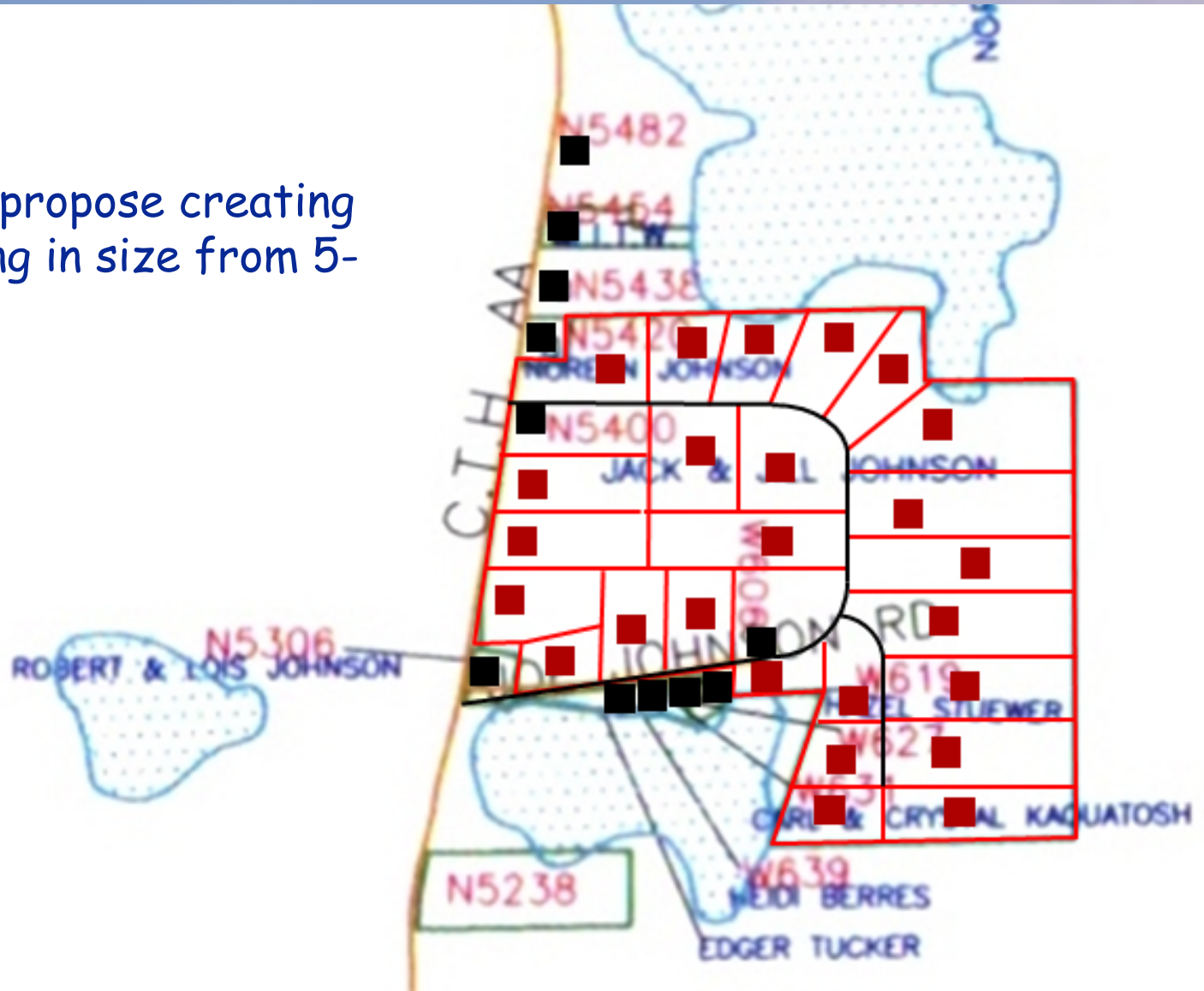
- The extraterritorial plat approval jurisdiction extends:
 - 3 miles from a first, second, or third class city
 - 1.5 miles from a fourth class city or village
- The city or village must have an adopted subdivision ordinance or official map to exercise this authority

Answer: State, County and Town review Scenario 1

Is a subdivision plat required?

Scenario 2

Jack and Jill propose creating 25 lots ranging in size from 5-10 acres.



Is a subdivision plat required?

It depends on local regulations...

	No. parcels	Parcel size	Time period	
State	5 or more	1.5 acres or less	5 years	No
Racine Co.	5 or more	3 acres or less	5 years	No
Kenosha Co.	5 or more	5 acres or less	5 years	Maybe
Walworth Co.	5 or more	15 acres or less	5 years	Yes

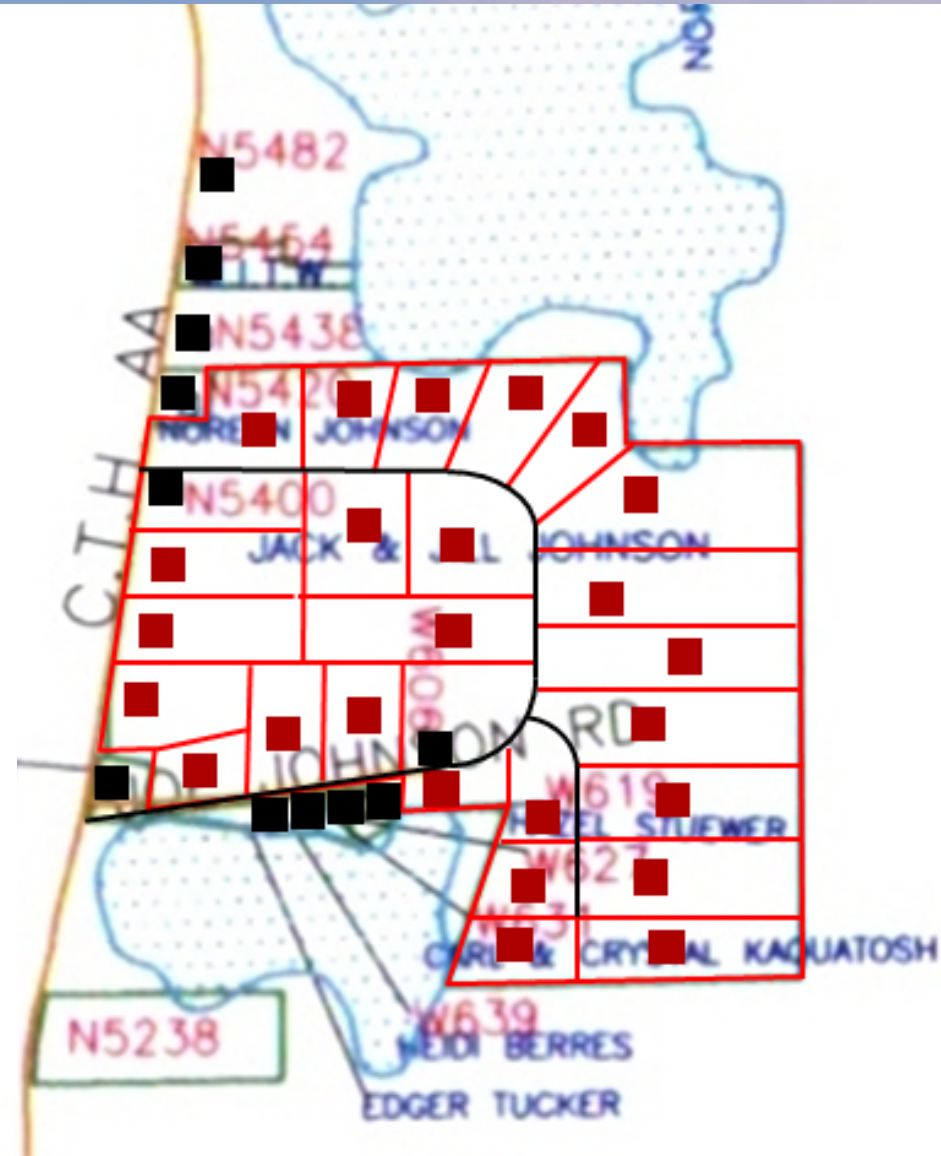
How does your community define “subdivision”?

Brown County ≤ 40 acres in sewer service area; ≤ 10 acres elsewhere
Several counties regulate 5 or more parcels of any size

What can the town review for?

Scenario 2

- Layout, access and safety (sight lines, turning radius, emergency vehicle access, etc.)
- Provision of public improvements (street lights, curb and gutter, etc.)
- Efficient use of public facilities/services (road length, proximity to existing utilities, etc.)
- Preservation of natural features (steep slopes, shorelands, wetlands, forests, etc.)
- Compatibility with adjacent uses (use, intensity, scale, etc.)

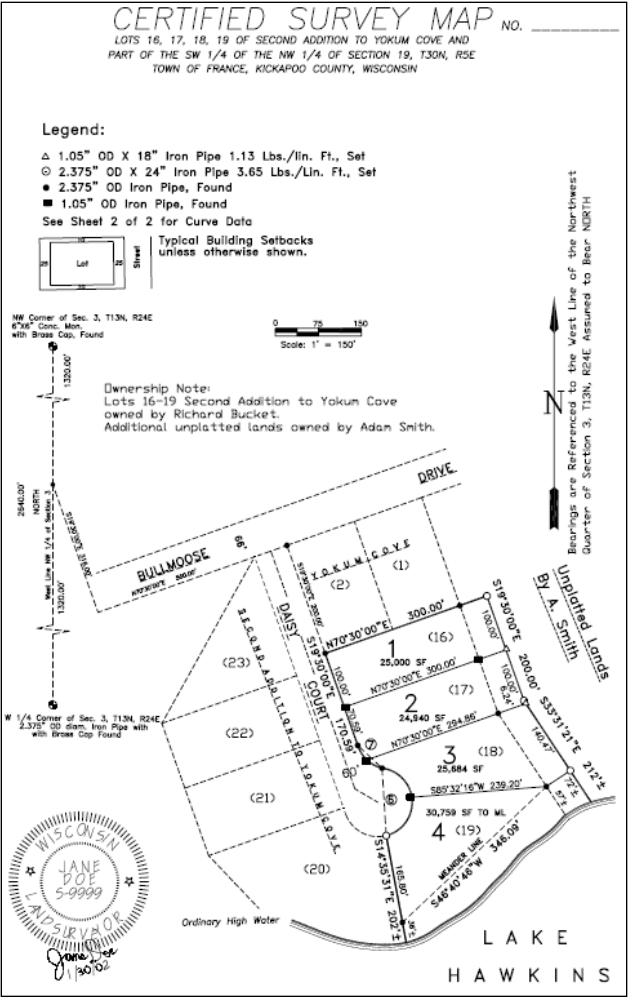


What can the town review for?

- Plat approval may only be conditioned on:
 - Compliance with local ordinances in place at time of submittal
 - Consistency with comprehensive plan or official map
 - Provision of public improvements or financial guarantees (contained in a town/village/city subdivision ordinance)
 - Satisfaction of objections raised by state agencies
 - Other requirements of Wis. Stat. Ch. 236

Short answer... items contained in an adopted comprehensive plan, ordinance or official map.

Land Divisions Not Subject to Plat Review



- Land divisions that do not meet state or local definitions of a subdivision (usually 4 or less parcels) may be surveyed, monumented and mapped by a registered land surveyor.
- The approved certified survey map is filed with the county register of deeds.

Role of the Plan Commission

- Subdivision plats must be referred to the plan commission for review and a recommendation.
- The governing body may delegate preliminary or final plat approval authority to the plan commission.
- Final plats dedicating streets, highways or other lands must be approved by the governing body.

(Wis. Stat. 62.23(5) and 236.10(3))

Typical Plat Review Process

1. **Pre-Application Conference** (PC and Staff – *if required*)
 - Informal review intended to spot problems upfront
2. **Preliminary Plat Approval** (GB or PC – *if required or submitted*)
 - Submission of detailed plans and maps
 - 90 days for local government to approve, condition or deny
3. **Final Plat Approval** (GB or PC)
 - Submission of detailed engineering and design drawings that meet requirements of Ch. 236
 - 20 days for state agencies to register objection
 - 60 days for local government to approve, condition or deny
4. **Survey by registered land surveyor and recording with county register of deeds**



Department of Community Development

3805 S. Casper Drive
P.O. Box 510921
New Berlin, Wisconsin 53151-0921

Ph: (262) 797 2445
Fax: (262) 780 4612

www.newberlin.org/dcd

PRE-APPLICATION CHECK LIST

- Dumpster Enclosures
- Cross sections of all RTU, wall mounted meters or air handling units.
- Lighting Plan – Parking Lot and Street Lighting if required

§226 & §275-55 Stormwater & Drainage Plan

- ___ Stormwater Management Plan meeting the requirements of Chapter 226
- ___ Master Grading Plan drawn to a scale no greater than 1"=100' on no smaller than 24" x 36" sheets
- ___ Erosion Control Plan drawn to a scale no greater than 1"=100' on no smaller than 24" x 36" sheets

§275-24C(3) Utility Plans

- ___ The Utility Plan may be incorporated into the site plan as long as it remains readable.
- ___ Utility Plans draw to a scale no greater than 1" = 100' on no smaller than 24" x 36" sheets (four copies required).
- Sewage Disposal with location of pipe, septic field, holding tank or sampling manhole
- Water Supply source with location of pipe or well
- Location of electric, gas and telecommunication equipment
- Location of existing and proposed utility easements
- RTU, wall mounted meters or air handling units.

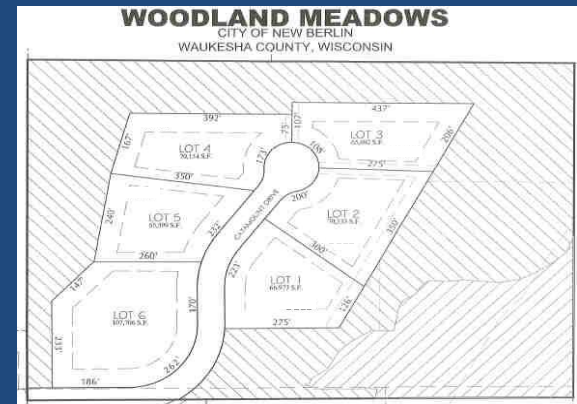
§275-56 Landscaping Plan

- ___ Landscaping Plan to a scale no greater than 1" = 100' on no smaller than 24" x 36" sheets (four copies required)
- ___ Landscaping Plan drawn and colored suited for public presentation to fit on a single 11" x 17" sheet (eighteen color copies required)
- Signature of Landscape Architect that prepared plan
- Fiscal security – installation and maintenance bond or letter of credit
- Limits of Disturbance boundary, §275-54A
- Size, location, type and height of new and existing landscaping
- Screening materials
- Location of electric, gas and telecommunication equipment screening
- RTU, wall mounted meters or air handling units screening.
- Buffer yard landscaping
- Existing wooded areas
- Watercourses
- Scenic or significant vistas
- Pedestrian Access / Sidepaths / Trails

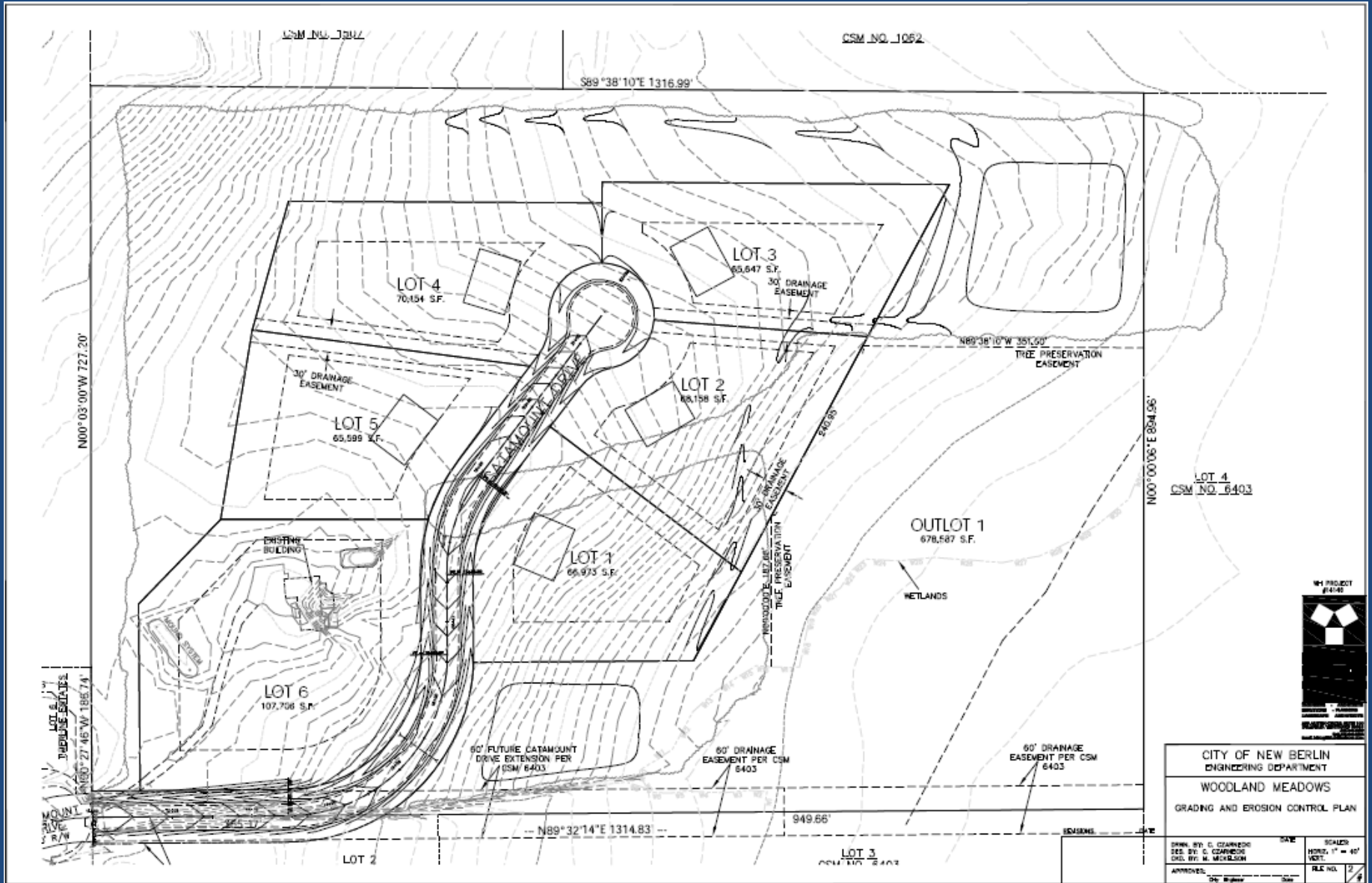
§275-54 Natural Resource Preservation

- ___ Limits of Disturbance (LOD) boundary shown on Site Plan and Landscaping Plan
- No development, grading or vegetation removal or alteration (other than approved landscaping) shall occur outside the LOD
- Residential uses: No more than 60% of the total gross area to be within the LOD
- Non-Residential uses: No more than 75% of the total gross area to be within the LOD
- Woodland, tree and vegetation protection shown on Landscaping Plan
- Location and size of all significant trees (deciduous trees with a DBH of 5 inches or larger or conifers trees 10 foot and taller)
- Significant trees to be removed shall be identified
- Location and size of all replacement trees, see §275-54B(6)
- Wildlife conservation plan (only if required by staff) in accordance with §275-54C

§275-37B(4)(b) Wetland Field Verification



Preliminary Plat drawn to scale including location of streets, utility lines, parks, storm drainage, sewer and water lines, etc....



CITY OF NEW BERLIN
 ENGINEERING DEPARTMENT
 WOODLAND MEADOWS
 GRADING AND EROSION CONTROL PLAN

DRAWN BY: C. CZARNICKI DES. BY: C. CZARNICKI CHK. BY: M. MCKELSON APPROVAL: _____ Date: _____	DATE: _____ SCALE: HORIZ. 1" = 40' VERT. _____ RLE NO. 2
---	---

FINAL PLAT

Declarer hereby declares, certifies and reserves easements over Sublot 1 operating as the final easement or fee interest...

- (a) Filing and opening activities must be allowed with prior approval from both the Bureau of Land and the City Engineer...

WISCONSIN TREE PRESERVATION ACT

THOSE AREAS OF LAND WHICH ARE DEEMED AS WILDLIFE AND RELATED NATURAL RESOURCES...

- 1. The removal or destruction of any vegetation... shall be prohibited...

GENERAL NOTES

- (1) THIS INSTRUMENT IS SUBJECT TO THE MUNICIPALITY UNLAWFUL CONVEYANCE STATUTE...



RECORDING INFORMATION: THIS INSTRUMENT IS SUBJECT TO THE MUNICIPALITY UNLAWFUL CONVEYANCE STATUTE...

WOODLAND MEADOWS

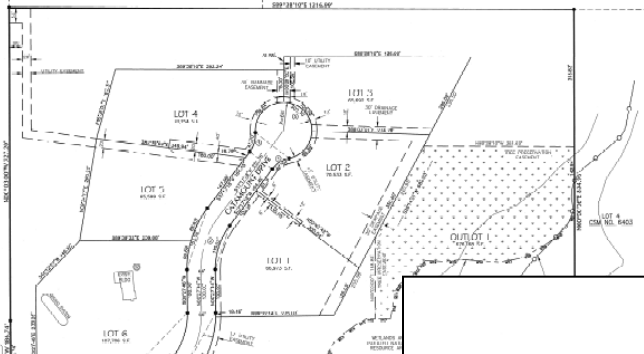
ALL OF LOT 1 CSM NO. 6403 BEING A PART OF THE NORTHEAST 1/4, SOUTHWEST 1/4, AND THE NORTHWEST 1/4 OF SECTION 17, TOWNSHIP 8 NORTH, RANGE 20 EAST, CITY OF NEW BERLIN, WISCONSIN



There are no objections to this plat with respect to Sublots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, Wis. Stats. as provided by 235.12, Wis. Stats.



LEGEND: 1. 2.357' C.I. INCH P.P.F. MET. 1/4" LINES, N. 3/8" L.P.C. 1/2" NON P.P.F. MET. ALL OTHER LINES 1/8" L.P.C. 1/2" CONCRETE MONUMENT BY BRASS CAP FOUND



WETLAND COURSE TABLE with columns for LINE, LENGTH, BEARING, and other survey data.

WOODLAND MEADOWS

ALL OF LOT 1 CSM NO. 6403 BEING A PART OF THE NORTHEAST 1/4, SOUTHWEST 1/4, AND THE NORTHWEST 1/4 OF SECTION 17, TOWNSHIP 8 NORTH, RANGE 20 EAST, CITY OF NEW BERLIN, WISCONSIN

There are no objections to this plat with respect to Sublots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, Wis. Stats. as provided by 235.12, Wis. Stats.

SURVEYOR'S CERTIFICATE: I, Annette C. Nelson, Registered Land Surveyor hereby certify that I have surveyed, plotted and mapped as Lot 1 Certified Survey Map No. 6403 being a part of the City of New Berlin, Wisconsin...



Consent of Mortgage, State of Wisconsin, and Utility Easement Provisions sections of the instrument.

UNLAWFUL CONVEYANCE OF RESIDUALS: As owner, I hereby certify that I owned the land described on this plat to be surveyed, divided, mapped and dedicated as represented on the plat...

WHEREAS the land and part of said owner's title is in possession of David F. Engberg, Theron E. Engberg, and Nancy Public...

STATE OF WISCONSIN: WISCONSIN COUNTY: I, David F. Engberg, Nancy Public, Theron E. Engberg, and My Commission Expires...

Accompanied by: Surveyor's certificate of compliance, Owner's certificate of dedication, Consent of mortgage, Certificate of taxes paid, Description of easements, and Local government approvals.

Final Plat including subdivision name, legal description, street names, boundaries, measurements and other engineering data.

Must follow accepted printing, layout and binding standards.



Role of the Plan Commission

Required Referrals:

- Land division and subdivision plats (Wis Stat 62.23(5))
- Adoption or amendment of subdivision or land division ordinance (Wis. Stat. 236.45(4))
- Amendment or repeal of comprehensive plan, zoning ordinance, official map (Wis Stat 62.23(5))

In most cases, Plan Commission has 30-day review period before decision-making body may take action.

Failure to refer may result in a court voiding the action.

Role of the Plan Commission

Required Referrals:

- Location and design of public buildings (Wis Stat 62.23(5))
- Location of statues and memorials (Wis Stat 62.23(5))
- Acquisition of or changes to land for public purposes (street, park, airport, housing, etc.) (Wis Stat 62.23(5))
- Location, extension or abandonment of public or privately-owned utilities (Wis Stat 62.23(5))
- Application for licensure of a child welfare agency or group home (Wis. Stat. 48.68(3)) or community-based residential facility (Wis. Stat. 50.03(4))
- Creation of a pedestrian mall (Wis. Stat. 66.0905)
- Proposed housing projects (Wis. Stat. 66.1211(3))

Role of the Plan Commission

Other programs that require PC involvement:

- Tax increment financing district (Wis. Stat. 66.1105)
- Business improvement district (Wis. Stat. 66.1109)
- Architectural conservancy district (Wis. Stat. 66.1107)
- Reinvestment neighborhoods (Wis. Stat. 66.1107)
- Urban redevelopment and renewal projects (Wis. Stats. 66.1301 and 66.1331)

Additional matters at discretion of governing body

- ex. conditional use permits, site plan review, planned unit developments, intergovernmental agreements, etc.

Presentation Outline

Plan commission roles and responsibilities

- ✓ Planning and plan implementation
- ✓ Development review - conditional use, rezone, plat review
- ✓ Referrals and advisory recommendations

Procedural responsibilities

- ✓ Open meetings, public hearings, site visits
- ✓ Impartial decision makers and recusal
- ✓ Making and recording decisions

Open Meetings

Wisconsin's [Open Meetings Law](#) requires:

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

Open Meetings



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



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

- If one-half of the members of a body are present, there is a meeting unless the purpose test is not met.
- A lesser number of members may meet the numbers test 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 & 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 & 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 and parent body.
- Legal counsel and others essential to closed session may also attend.
- Consider only matters for which session is closed.
- Motions and decisions must be recorded.

Notice Requirements

- Public Meeting Notice
 - At least 24 hours prior (2 hours for good cause)
 - May be posted (3 locations recommended)
 - Paid, published notices not required
- Public Hearing Notice
 - 1 newspaper publication at least 30 days prior to comprehensive plan adoption or amendment
 - 2 consecutive newspaper publications in 2 weeks prior to ordinance adoption or amendment
 - Other decisions as specified by ordinance



Site Inspections

What are your options??



Site Inspections

- Should decision-makers view the site as individuals? As a group?

Either. Must have inspection authorization, which may be included on application. Group visits must be noticed as an open meeting.

- Can the public go on-site?

If the board/commission goes on-site as a group, the inspection is an open meeting and must include the public. Otherwise members of the public must obtain owner's permission.

Site Inspections

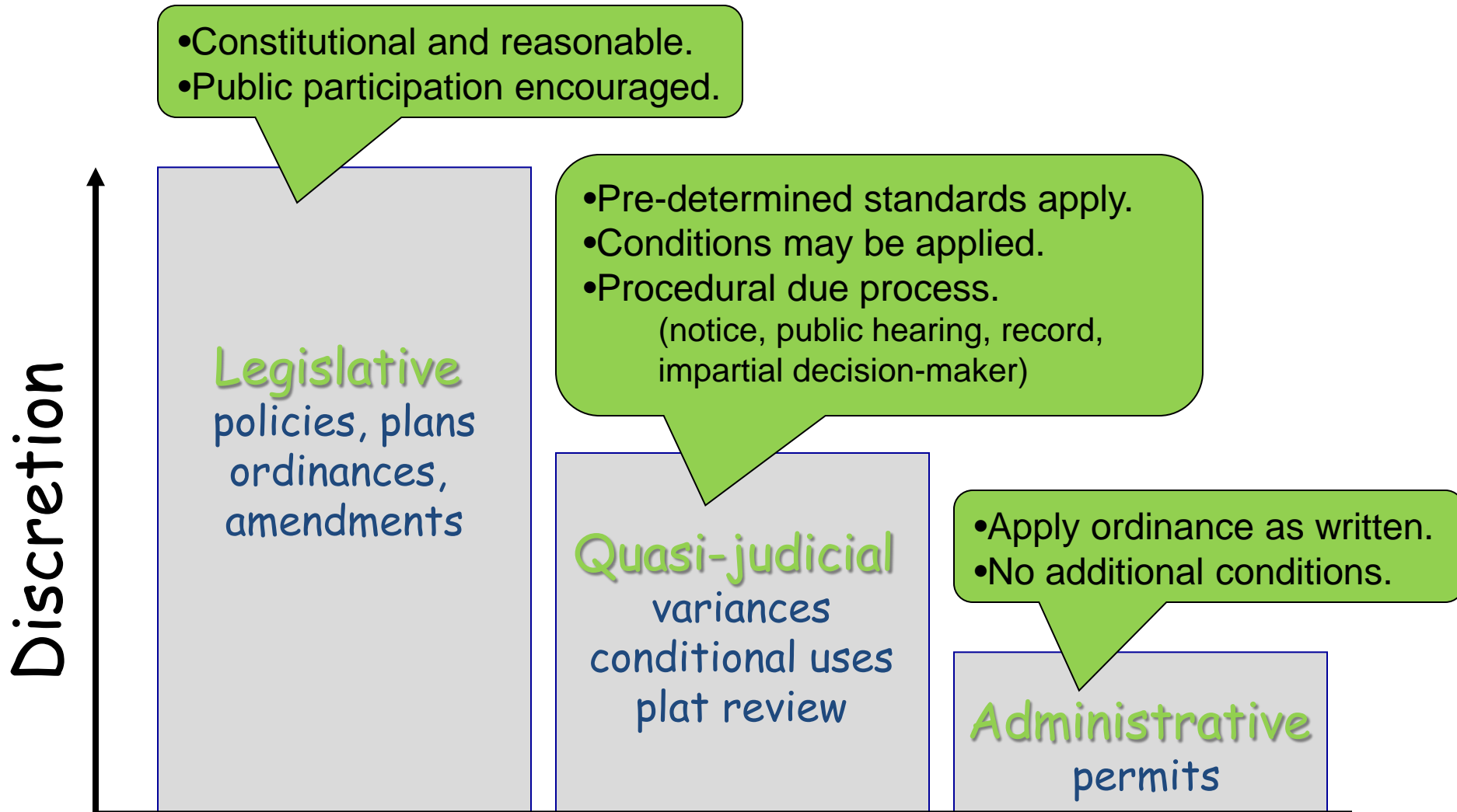
- Can decision-makers question the property owner on-site? How about staff?

You can ask technical questions or clarifications. All other questioning and discussion should be saved for the hearing.

- Who can decision-makers talk with during the ride from the site to the meeting?

They can talk to anyone, just not about board/commission issues.

Rules for Decision-Making



Impartial Decision-Makers

Statutory Conflicts of Interest

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

- A local official cannot use a public position for the private benefit or financial gain of:
 - the individual
 - immediate family members
 - organizations they are associated with

Impartial Decision-Makers

Bias of Local Officials

(Keen v. Dane County, 2004 WI App 26)

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



Impartial Decision-Makers

Biased??

Decision maker #1

Advocate
Risk of bias too high

- 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

Prior, independent
business transaction

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

Impartial Decision-Makers

- 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

Impartial Decision-Makers

- “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 you need to provide testimony, do so as a member of the audience

Impartial Decision-Makers

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.

Recording Decisions

- Back to the gravel pit case in Dane County...
- Local ordinance listed 10 factors to consider when deciding a CUP
 - Purposes of zoning district
 - Availability of alternative locations
 - Compatibility with existing or permitted use on adjacent lands...



Recording Decisions

- 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

Recording Decisions

- Lamar applied for a variance to raise a billboard above the City's max sign height
- BOA denied variance stating that the variance criteria were not met



Lamar Central Outdoor v. Board of Zoning Appeals of the City of Milwaukee, 2005 Wisconsin Supreme Court

Recording Decisions

- 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

Recording Decisions

- Which motion would you prefer?
 1. I move we recommend denial.
 2. I move we recommend denial because the petitioner did not meet the standards.
 3. I move we recommend denial because this guy isn't from here and we don't know him.
 4. I move we recommend denial because the petitioner failed to show increased traffic will not create a pedestrian hazard.

Recording Decisions

Application forms should prompt:

- Contact information
- Property description
- Current conditions
- Maps, photos, scale drawings
- Compliance with ordinance standards

Recommended Resource

- Sample guides, checklists and forms

Sample Development Guide

CITY OF JARVIS

What is Zoning

Regulating the use of land and buildings in a way that is consistent with the zoning district permitted. The City of Jarvis has several zoning districts such as residential, commercial, industrial, etc. about the City of Jarvis.

To find out what zoning district your site will allow, you can visit the City of Jarvis website at www.jarvisny.gov.

R1—S

R1D—

R2—L

Sample Pre-Application Checklist



General

____ Y ____ N
____ Y ____ N
____ Y ____ N
____ Y ____ N
____ Y ____ N
____ Y ____ N
____ Y ____ N
____ Y ____ N

§275-24C(2) P

This is a letter of intent to apply for a subdivision plat.
• The proposed subdivision plat
• Activities to be conducted on the site
• The frequency of activities
• The total number of units to be developed
• The estimated cost of development
• The number of units to be developed
• Number of units to be developed
• The expected date of completion
• The proposed subdivision plat

Department of Community Development

3805 S. Casper Drive
P.O. Box 510921

Sample Application Form



City of New Berlin Department of Community Development
3805 S. Casper Drive, New Berlin, NY 11706
Phone (262) 797-2445 / Fax (262) 780-4612 / www.newberlinny.gov

Subdivision / Land Division / Developer's Agreement Application

Applicant / Surveyor / Engineer

(Surveyor or Engineer required for all Subdivision Plats)

RLS/PE Name _____

Company _____

Address _____

City, State, Zip _____

Phone _____

Fax _____

Email _____

Project Name / New Company Name (if applicable) _____

Representing _____

Property Information

Property Address _____

Tax Key Number(s) _____

Current Zoning _____

Property Owner(s) _____

Property Owner's Address _____

Existing Use of Property _____

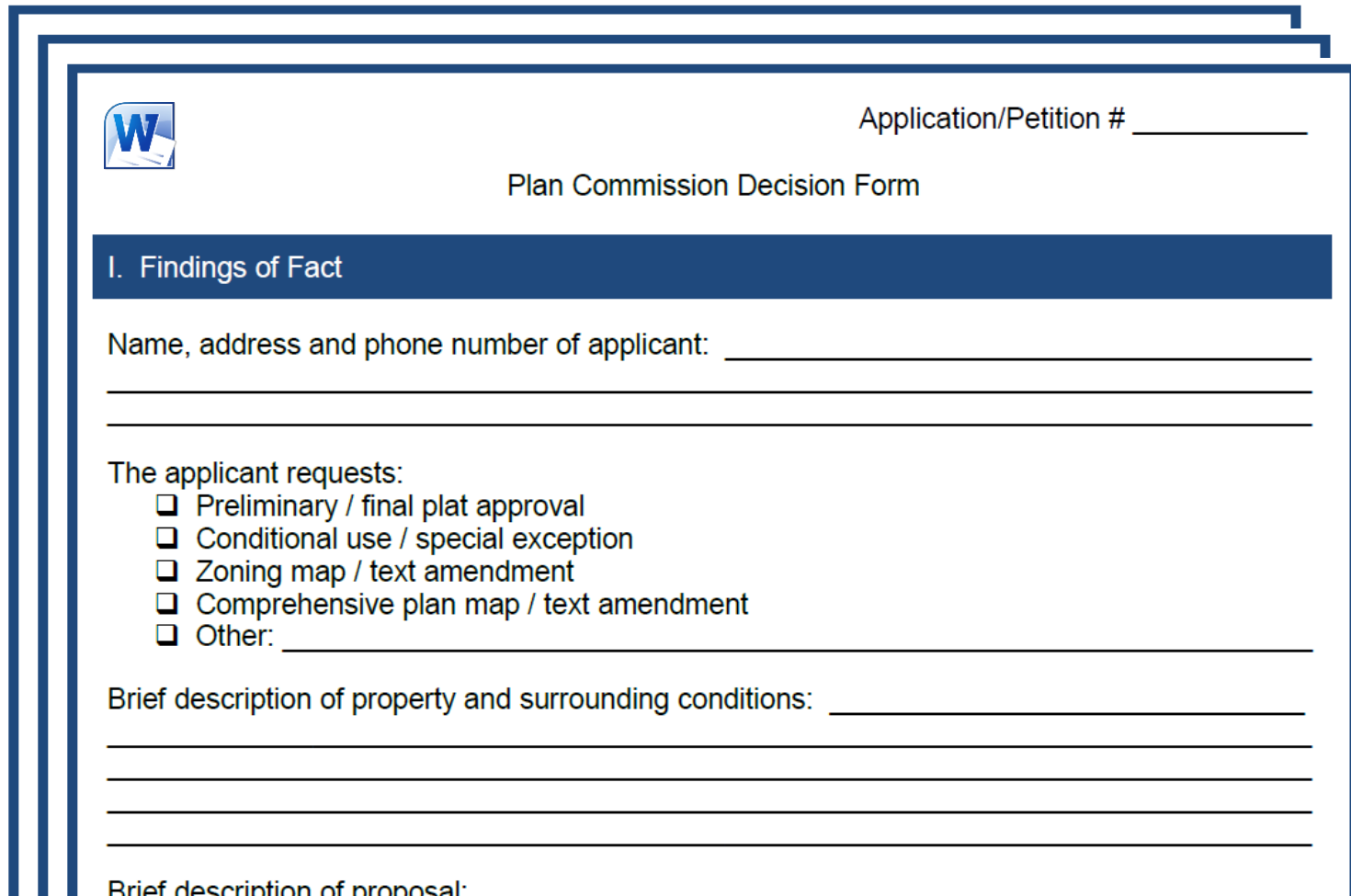
Recording Decisions

Decision forms should prompt:

- Facts of the case
- Compliance with ordinance standards
- Recommendation or decision
- Related conditions or limitations

Recommended Resource

- Sample decision forms



The image shows a sample 'Plan Commission Decision Form'. At the top left is a logo with a blue 'W' on a white background. To the right of the logo is the text 'Application/Petition #' followed by a blank line. Below this is the title 'Plan Commission Decision Form'. A dark blue horizontal bar contains the section heading 'I. Findings of Fact'. Below this bar, the form asks for the 'Name, address and phone number of applicant:' followed by three horizontal lines. Next, it asks 'The applicant requests:' and lists five options with checkboxes: 'Preliminary / final plat approval', 'Conditional use / special exception', 'Zoning map / text amendment', 'Comprehensive plan map / text amendment', and 'Other:'. The 'Other:' option is followed by a horizontal line. Below the list is the text 'Brief description of property and surrounding conditions:' followed by four horizontal lines. At the bottom, the text 'Brief description of proposal:' is partially visible.

Application/Petition # _____

Plan Commission Decision Form

I. Findings of Fact

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:

Legally Defensible Decisions

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

1) Subject matter jurisdiction

Did the body decide a matter that it is empowered by statute or ordinance to act on?

2) Proper procedures

Did the body follow proper procedures (open meeting law, public notice, hearing, record of decision, etc.)?

3) Proper standards

Did the body apply proper standards in making the decision? (refer to standards for rezonings, CUPs, plat review)

4) Rational basis for the decision

Could a *reasonable person* have reached this conclusion?

5) Evidence in the record

Do facts in the record of the proceedings support the decision?

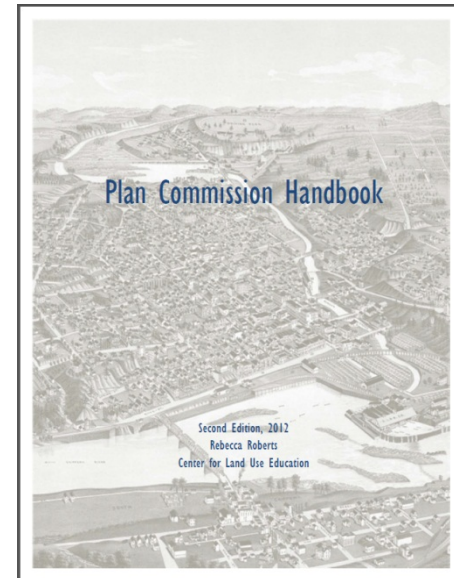
Recommended Resource

Plan Commission Handbook (CLUE, 2012)

www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/PlanCommissions.aspx

- 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

Plus forms, worksheets, glossaries and recommended resources



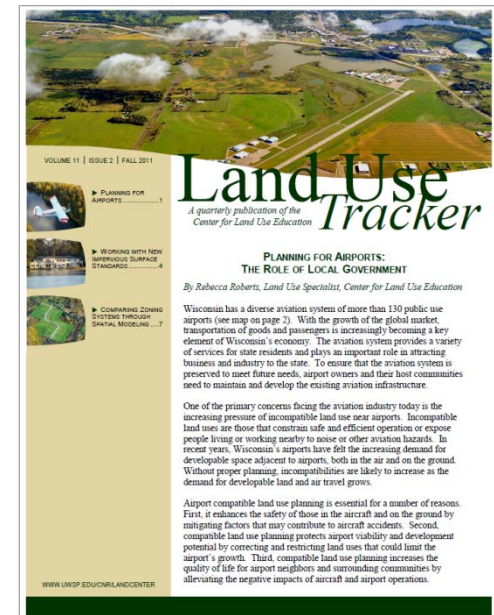
Recommended Resource

Land Use Tracker Newsletter

- ✓ Published quarterly by the Center for Land Use Education
- ✓ Distributed via email or accessible on the web:
www.uwsp.edu/cnr-ap/clue/Pages/LandUseTracker.aspx

Includes:

Wide range of articles and legal updates
focused on planning and land use regulation
Calendar of events (including workshops)
Appropriate for local officials, planning and
zoning staff, and interested citizens



Thank You!

Rebecca Roberts
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www.uwsp.edu/cnr-ap/clue
715-346-4322



University of Wisconsin
Stevens Point