

A CITIZENS' GUIDE TO LAND USE IN WISCONSIN

Third Edition, 2002



- Setting the Stage for Change
- Responding to a Development Proposal
- Creating or Recreating a Land Use Plan
- A Guide to the Smart Growth Law
- Public Participation
- Resources



1000 FRIENDS
OF WISCONSIN

THE LAND USE INSTITUTE

Perfecting the Places We Live
to Protect the Places We Don't

NOTE FROM THE EDITOR

This is our third edition of the Citizen's Guide. It has been improved from comments by users of the first two editions, which came out in 1998 and 2000, and we want to continue to make it better. So, if you use this guide, please let us know what you like about it and what you find lacking. We'll learn from you and make the guide even more useful in future editions. Just as land use decisions and comprehensive plans change over time, this guide will too.

You can reach us by writing us at 16 N. Carroll St., Suite 810, Madison, WI 53703 or by calling us at (608) 259-1000. You can send us email at friends@1kfriends.org. To learn more about 1000 Friends and our other projects, visit us on the web at www.1kfriends.org. If you want to see smart growth in action, check out our website at www.PictureSmartGrowth.org.

Finally, if you would like to support our work, please complete the membership form on the last page of this guide. **We need your support to make sure that all Wisconsin citizens know that they have a voice in local land use decisions.**



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FORWARD

This guide was written with the average citizen in mind. People sitting with their neighbors around a kitchen table trying to catch up with a development proposal that might change the quality of their lives in their own neighborhoods, or thinking about getting involved in a local comprehensive planning process to chart a course for their community's future. People who don't necessarily have a lot of time on their hands. People who are, perhaps, getting involved in a civic issue for the first time in their lives. People who might find themselves thrust into a land use issue because of a proposed development or other change in their community that alarms or excites them or that they might want to just learn more about.

The meat of this guide is divided into six sections: the first is an introduction to land use issues in Wisconsin; the second is intended to help you respond to a development proposal made by someone else; the third is designed to help you get out in front of development proposals by coming up with a plan that your community can stick to in the face of development pressures. In our fourth section we offer an overview of the Wisconsin "Smart Growth" law, which we wrote and worked for in the state Legislature. Finally, we just added a fifth section on public participation — one of the most challenging but arguably the most important part of designing a plan that the entire community can live with for generations to come. The final reference section provides a glossary of smart growth terms and a list of resources. You may initially get involved in land use because you are responding to someone else's proposal, but we hope you'll stay with it to create good plans that will prevent conflicts and shape your community in a positive way in the future.

It's our hope that this guide will contribute not only to better land use decision making but to better land use decisions. It's our belief that when people are armed with the facts they'll make decisions that are in the best interests of the broader community both now and in the future.

SECTION 1: SETTING THE STAGE FOR CHANGE



AN OVERVIEW OF LAND USE ISSUES IN WISCONSIN

The Wisconsin landscape has always been evolving. At first the changes were brought on by natural events – a landscape sculpted by glaciers, fire and rushing water. Then came Native Americans who used fire to maintain prairies in the south while in the north they influenced the landscape by hunting, farming and gathering cranberries, rice and other wild foods. Since European settlement began in earnest some 160 years ago, Wisconsin's landscape has changed more rapidly. Lead miners made the southwest hills the most populous region in the state until the promise of riches in California pulled them away. Now, the southwest is among the most sparsely populated parts of our state. Timber barons leveled millions of acres of virgin forest and left them for dead by the 1920s. Today we have about as many forested acres as at the time of settlement, although the composition of those forests is not nearly the same. Farmers broke the sod of the prairies in the south and planted them with wheat. About a century ago, dairy farms took over and gave us the familiar red barn and Holstein against a green hill, which has become



a Wisconsin trademark landscape. And cities sprang up. At first they were relatively compact centers of trade and commerce, but the advent of the car and super highways allowed development to spread out into vast suburbs ringed the older central cities.

Today the trend toward scattered development is more pronounced than ever. It is estimated that we'll add 400,000 new households between 1995 and 2015. Where we put them will change the face of our state's landscape again. The trends have not been encouraging. **In the twenty-five years between 1970 and 1995, the population of seven southeast Wisconsin counties (Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington and Waukesha) grew by only 7%, while the amount of residential land increased 50.4% during the same period (the number of households increased 33.7% during this period).**

Much of the new development is taking place on prime farmland. Wisconsin has seen one-third of its farmland converted to other uses since 1950. Statewide, each year about 17,000 to 20,000 acres of **prime** farmland – our state's very best – are lost to development (Source: National Resource Inventory, United States Department of Agriculture cited by the *1000 Friends of Wisconsin Benchmarks Report 2002*). Where farmers choose to hold out in the face of sprawl, they find it harder to keep farming. Farm support services, like feed and implement dealers, leave after they lose a critical mass of their customers. And, often, a farm's new suburban neighbors don't appreciate the typical practices of a working farm, which can produce noise, dust and odors.

With scattered development comes increased reliance on auto travel. The number of vehicle miles traveled increased by one-third in the 1980's alone and in the summer of 1997 we set a record for miles traveled on our highways. And increased auto use leads to greater air and water pollution. Southeast Wisconsin is classified as a "severe non-attainment area" by the federal government and the leading cause of air pollution in southeast Wisconsin is cars and trucks. Water pollution is increased from construction site erosion and runoff from suburban lawns, driveways, parking lots and roads.

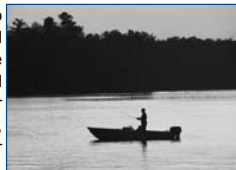
Natural systems are affected too. Since European settlement, **we've lost over 99% of our original prairies and oak savannas and over half of our wetlands.** With them goes all of their natural functions such as providing habitat for plants and animals and, in the case of wetlands, water purification and flood control.

And when we try to get away from it all, we find the getaway more crowded. In 1960, there were 15 visitors for every acre of state park land. Today there are 20.

Campsite Growth in the Wisconsin State Park System

	1980	1988	1993	1998	2001	% Increase
Number of Campsites	4,096	4,266	4,525	4,553	4,553	11.2%
Wisconsin Population	4,705,335	4,815,502	5,020,994	5,234,350	5,400,499	14.8%

Chances are the quiet lake "up north" is no longer so peaceful. Of the undeveloped northern lakes in 1960, six out of ten are now developed. Larger power boats and jet skis break the silence more than ever and chase away wildlife such as loons, which rely on small northern lakes for their summer homes.



Poorly thought-out development also affects us as taxpayers. Studies have shown that sprawling developments are much more expensive to serve than those which are more compact. It costs more to lay and maintain new roads and to run services like school buses, postal delivery and garbage collection in sprawling developments.

Perhaps of most concern, but harder to define, is the loss of a sense of place. Here's what author and Wisconsin resident Garrison Keillor has said about that:

"People will miss that it once meant something to be Southern or Mid-western. It doesn't mean much now, except for the climate. Out on the Minnesota prairie, the little Swede towns are dying and the vast suburbs are booming, which are identical to the suburbs of Atlanta or Charlotte, where people live on Anonymous Drive in Homogeneous Hills, people who, when you meet them, the question 'Where are you from?' doesn't lead to anything odd or interesting. They live somewhere near a Gap store, and what else do you want to know?"

How many downtowns have you seen weakened by the invasion of "big box" retailers that throw up massive concrete bunkers on the outskirts of town? Buildings that tell us nothing of the history, or the character, or the pride of the people in that town. Buildings that could just as easily be in Burbank or Palatine or New Jersey as in Stoughton or Wausau or Superior.

With 400,000 new households to add and with the dairy industry undergoing a revolution, Wisconsin is on the verge of recreating its landscape yet again. It is within our grasp to make our home state an even better place to live or to continue the trend toward sprawl with all of its ill effects.

We have been architects of the landscape as much as of the places we have built of bricks and mortar and wood. This architecture is a two-way endeavor. The land suggests a use and the uses in turn shape the land. And in that back and forth exchange between land and people comes a culture; a natural and built environment reflecting human values and human values shaped by nature.

The evidence suggests that in that culture we have yet to adopt the Land Ethic envisioned by the great Wisconsin conservationist Aldo Leopold. But Leopold's words are a very good place to start as we begin to evaluate developments in our back yards. In 1948, Leopold wrote:

"We abuse land because we see it as a commodity belonging to us. When we begin to view land as a community to which we belong we may begin to use it with love and respect."



AN OVERVIEW OF GOVERNMENT'S LAND USE RESPONSIBILITIES

Too often, land use debates fall into the trap of a senseless ideological war between "local control" and something else. The truth is that what we have had in our state for many decades is a complex interplay between state and local authorities. In many cases the state does not directly control land use but it requires local governments to control land uses in a very specific way. Below you will find a very brief sketch of this complex interrelationship between levels of government.

The State

State government has no *direct* control over land use decisions, but a myriad of policies that impact land use. Some of the most prominent include:

The Farmland Preservation Program. This program provides farmers with income tax credits if their local governments enact farmland preservation plans. The state also offers a tax break to farmers in places without farmland preservation plans under individual contracts. The state's Department of Agriculture, Trade & Consumer Protection is charged with administering the program, which includes approving the local plans and contracts and enforcing the law. Among those enforcement responsibilities is the responsibility to collect penalties from landowners when they have their land rezoned for development. All counties in Wisconsin have agricultural preservation plans with the exception of Milwaukee and Menominee.



Shoreland Zoning. This program requires counties to enact zoning restrictions on land in towns within 1000 feet of a lake or 300 feet of a navigable stream. There are statewide minimum standards for what must be in the ordinance, but counties are allowed to enact standards that are stricter than the state standards. In addition, cities and villages are required to zone all unfilled wetlands of five acres or more within their borders which are located within shorelands.

Floodplain Zoning. Counties, cities and villages are required by the state to adopt reasonable and effective floodplain zoning ordinances. The intent is to keep development away from flood prone areas.

Enabling Legislation. The state grants power to local governments to do a host of land use planning and regulating. Called "enabling legislation", the state allows local governments to act, but does not require it. For example, the state gives counties the authority to adopt county development plans, but does not require them to do so.

Projects that Impact Development. The state performs a variety of activities that spur development, but that are not directly related to a specific land use decision or policy. For example, when the state expands a highway, there are almost always land use impacts.

Regional Planning Commissions (RPCs)

Wisconsin has nine regional planning commissions. Their job is to prepare plans for the region and for any local government that might ask them to prepare a local plan for them. RPCs also collect and publish data on land use practices and trends in the region. They can be a wealth of information and advice. However, RPCs have little direct authority over land use decisions. Their most substantive power is their authority to advise the Department of Natural Resources on the extension of urban service areas (places where public water, sewer and other services usually associated with urban development can be provided). However, not all RPCs exercise even this power. Only the Southeast Wisconsin, East Central and Dane County regional planning commissions exercise this authority.

Counties

Counties have very significant land use responsibilities in unincorporated areas (outside of cities and villages). Almost all counties (54 of 72) have adopted an agricultural preservation plan. In addition, counties are authorized to zone land outside of cities and villages to promote public health, safety and general welfare. Counties also have a myriad of responsibilities and authorities under state law including shoreland zoning (described above), subdivision ordinances, rural and development planning and planning and development of county highways.

Towns

Towns can choose to zone themselves only if there is no general county zoning in place or if the town petitions the county to adopt an ordinance and the county refuses. Most towns come under county zoning. When towns are under county zoning, a change in zoning must be approved by both the town and the county. Town planning authority is more complicated. Towns can produce official maps and towns may cooperate with counties in rural planning, but counties are not required to recognize town plans when preparing county development plans.

Cities and Villages

Cities and villages in Wisconsin (which are also referred to as municipalities or incorporated areas) have greater powers than towns. They have authority from the state to plan and zone without the involvement of the county. They also have two additional significant authorities.

- They can annex land (take it within their borders). For this they need the agreement of the landowner but not the town from which the land is being annexed or the county.
- They have extraterritorial jurisdiction over certain decisions within three miles of their borders for medium and large size cities and within one and a half miles of their borders for small cities and villages. This authority allows cities and villages to influence the form of development in areas adjacent to them. The rationale is that these areas will likely be annexed to the city or village eventually and municipal taxpayers will have to provide them with services.

School Districts

School districts are not usually thought of as having any land use decision-making authority. However, their ability to draw school district lines independent of municipal boundaries gives them enormous influence over the land use decisions of individual property owners. Developers may want to market their new subdivision as being part of a particularly attractive school district because schools are an important part of the home buying decisions of young families.

Lake Districts and Lake Associations

Wisconsin lakes often receive less attention by natural resource managers than trout streams and rivers, despite the fact that they bear the brunt of recreational water use. For this reason, special purpose planning efforts have developed. These groups are vital contacts for those getting involved in surface water issues.

Lake districts are a form of special purpose government, much like a school district or sewer service district. They are created solely for the purpose of lake management activities. A lake district can levy taxes, conduct research, and create programs for lake improvement.

Lake associations are voluntary, private citizen organizations. Some function like a loosely organized neighborhood association, while others function as a chartered non-profit corporation. Activities can range from lobbying and applying for state grants to setting up a weed-harvesting schedule.



Metropolitan Planning Organizations

In order to receive federal funding for highway projects, states must establish metropolitan planning organizations, or MPOs, that produce regional transportation plans. Wisconsin's MPOs can be regional planning commissions, city planning departments, or other planning agencies associated with urban areas with a population of 50,000 or more. The Wisconsin Department of Transportation works with MPOs on Transportation Improvement Plans. These plans are used to prioritize the improvement projects that often have a tremendous impact on land use patterns.

TYPES OF LOCAL LAND USE DECISIONS

Local land use decisions are divided into two main categories: “legislative” and “quasi-judicial” decisions. It is important to understand the differences between these types of decisions because each type determines a citizen’s rights to participate in making the decision.

Local, elected governing bodies – city councils, village, town and county boards – make local legislative land use decisions. In these cases, the elected leaders are performing legislative acts just like state legislators or members of Congress, but at the local level. These decisions make or change local land use law. Legislative decisions establish broad, general policies, and are often applicable throughout a city or county, or to an entire class of land use decisions. Examples of local legislative decisions include the following: adopting a comprehensive plan or approving an amendment to a general, citywide zoning ordinance.

Quasi-judicial decisions, on the other hand, involve local leaders acting as “courts” making judicial decisions. Quasi-judicial decisions apply existing law to specific development proposals. Elected leaders may make these decisions or appointed bodies such as plan commissions and boards of adjustment may make them. Most local land use decisions are quasi-judicial decisions. Examples of these types of decisions are approving a rezoning or subdivision, and granting variances. The best local quasi-judicial decisions are those that are based on clear, objective criteria established in a local land use law such as a zoning ordinance.

Most local legislative decisions require public hearings, in order to give citizens the right to participate in shaping local land use law. Section 5 of this Guide specifically discusses the public’s rights to participate in making comprehensive plans. However, citizen’s roles in influencing quasi-judicial decisions vary greatly depending on the types of decisions, a community’s land use procedures, whether a citizen will be directly affected by the decision (i.e., living on a property adjacent to a property proposed for development), and more.

SECTION 2: RESPONDING TO A DEVELOPMENT PROPOSAL



EVALUATING A DEVELOPMENT PROPOSAL

At the risk of putting some private planners or lawyers out of work, this section will show you that evaluating a development proposal is not rocket science – you do not need to hire professionals to perform complex evaluations for large amounts of money!

The most important thing to do before you approach local officials about a development proposal is to collect some facts and define exactly what it is you support or find objectionable about it. Educating yourself and thinking through the values that the development proposal either threatens or reinforces will help you make your case as effectively as you can.

In addition to collecting objective information to serve as the basis for a rational and informed argument, you will want to think through more subjective issues that relate to your own values and how the development would affect them.

Below is a list of questions you might ask about the development. Not every point may be applicable in your case. Who do you ask? The local government and/or developer should be able to answer all of your questions. After all, they are the ones proposing and/or reviewing the development. It should be their job to provide the answers.

What exactly is proposed and where?

What type of development is proposed?

If it's a residential development, find out how many dwelling units are proposed, how large the lots will be, where and how many road access points are planned and what the street pattern will be. Will there be any street trees or sidewalks included? What about a new neighborhood park?

If it's a commercial development, find out the square footage of the stores (this gives you an idea of what business/company might go in), how much parking is planned, road access, etc. Some other common questions to ask are about whether there is a landscaping plan and what the architectural character of the buildings will be. Will it avoid environmentally sensitive areas? What kinds of employees will likely find jobs

there, and will they come from within the community or from elsewhere? Try to know everything you can about the proposal, but don't become paralyzed because you might not know every detail.

Can the proposal be changed to fit the neighborhood or is the proposal itself fundamentally flawed?

This is one of the first questions that must be considered when evaluating a development proposal. Here are some things to think about when trying to answer this question. First, is this the right development in the right place? If it is, could it be improved? Or is it simply the wrong development in the wrong place. Of course, it can be the right development in the wrong place, or the wrong development in the right place. Answering these questions can help you make a decision about how to begin creating arguments for, against, or about how to change a development.

Is the proposed use compatible with surrounding uses?

Will the development be a good fit for the area for which it is proposed?



For example, a new mixed-use building downtown with a combination of shops and apartments would be compatible with other downtown uses like restaurants and offices, but a new subdivision in the middle of cornfields probably isn't compatible with farmers trying to make a living on the land.

What will the impact be on public infrastructure like roads, sewers and schools?

A development's impacts on public infrastructure must be clearly understood before it is approved, including any new financial burdens placed on the local government and its citizens both for new facilities and maintenance. Residential development usually produces children for the public schools, which increases costs but also increases state aids to the school district. Commercial developments by their very nature attract customers who put pressure on roads and streets. Sewered develop-

ments are generally better for the environment because of the strict monitoring that comes with public systems; but if the development is too spread out it's not economical to extend sewer service. And, extending sewer service, just like roads, can encourage development in places it doesn't belong. *Make sure to ask if the appropriate studies have been completed before approving the development, such as traffic and storm water impact analyses.*

Will the development pay for itself? How is the development being paid for?

Not every development should be expected to pay for itself. But it is important to know what the impact will be for others in the community. A City of Mequon study found that it was less expensive for city taxpayers to buy the development rights on undeveloped land in the city than it was for the land to be developed at current densities and values. A Town of Dunn study found that residential development generally consumed 6 percent more in services than it produced in property taxes. By contrast, farm and open space land consumed 82% less in services than it provided in taxes. A State of Wisconsin study found that sprawling developments were 172% more expensive to serve for transportation and utilities than true urban or true rural development. The key issue is whether or not there are public costs for the development – infrastructure, services, maintenance, etc.

Another way many communities seek to fund developments is through tax incremental financing, or TIF. The TIF program was created in 1975 as a way of redeveloping blighted urban areas. It was intended to usher public investment into places that are neglected and would benefit from projects such as rebuilding sewers, installing street lighting, replacing rundown streets, etc. As a result of this public investment, new businesses and homes are created and property values rise. Under TIF, the city can borrow money to pay for the improvements and then pay off the loan through the new higher property tax revenues it receives as a result of those investments. The other taxing jurisdictions, mostly the school district and the county, don't get to share in the new higher values until the loans are paid off, but this is usually fair because they benefit in the long-run when higher property values come on line.

Although this is how TIF should work (and there are many success stories in which the program has worked just as it was intended), the

program has been abused in recent years to subsidize development on the urban fringe. A recent Land Use Institute study found that about 30,000 acres of open space land have been developed using TIF and almost half of TIF districts have been used to develop at least some green space.

Will there be an impact on natural systems like wetlands, steep slopes, streams and lakes?

Certain lands are of particular ecological significance, and just as it is important to know what a development's impacts will be on public infrastructure and finances, it is equally important to know what, if any, impacts there will be on the natural environment. Some counties have officially designated "environmental corridors" which are usually streams and their associated shore lands, wetlands and sometimes the upland slopes surrounding them. If there are wetlands involved you will want to find out if any filling is proposed and if the needed permits from the Army Corps of Engineers and the state Department of Natural Resources have been obtained. Even if there isn't filling planned, you will want to know if there is a plan to deal with construction site erosion and runoff from lawns, which can affect water quality.

What would the development mean for future development patterns?

Developments don't happen in a vacuum. Retail chains, for example, tend to want to locate near one another to take advantage of the same customer base. That's why you often see clusters of fast food places next to one another in a strip. Ask yourself what kinds of developments might follow this one in five or ten years.

If there are farms in the area, what does it mean for the future of farming?

Farmers increasingly find themselves squeezed by new suburban neighbors who come to the country with unrealistic notions of what life will be like. When confronted with the realities of modern working farms there are sometimes conflicts; for example, the suburban residents might be in a hurry to commute to work but must share narrow rural roads with tractors and other farm vehicles. In addition, development of adjacent property can result in pressure for more development on remaining farms.

Will the development as proposed change the neighborhood or community character?

Developments change communities – maybe just a little at a time if it's only one building or dramatically if it's a large subdivision, but each one has an impact. It's important to consider how the development will change your community, neighborhood or area. Some developments might bring more traffic or change the character of the neighborhood in some fundamental way. Some might be for the better, like a small grocery store or coffee shop serving a residential neighborhood. Others might be less attractive, like a big strip mall with an oversized parking lot. Will this development enhance your community's character, detract from it, or change it in a neutral way? For example, a large subdivision on a farm can significantly change the character from rural to suburban.

What about the bigger picture?

It's good to ask yourself if, as a general rule, the proposed development is going to lead to more sprawl, more auto dependence and more pollution or whether it will lead to more compact development, more transportation options and less pollution. Will this development take your community in the direction it wants to go?

Where is the proposal in the review process?

Find out which government agencies must approve the development and in what order. Find out when public hearings are required and if they have already taken place or are coming up. There is more about this in the next section, which is devoted entirely to the process of government approvals.



CATCHING UP WITH THE APPROVAL PROCESS

Planning & Zoning 101

Local governments may have a number of plans to guide land use: master plans, neighborhood plans, planned unit developments, Farmland Preservation Plans, etc. Some communities, usually rural towns, have no plans. But even for those communities that do have plans there is often a disconnect between actual land use decisions and what is in the plan. In an ideal situation zoning decisions would match plans, but too often plans are ignored. That will change in 2010 when the "consistency requirement" in the Smart Growth law kicks in. As of January 1, 2010, all local land use decisions will have to be consistent with the comprehensive plan.

While plans can inform land use decisions, most of the actual decisions are made through zoning. Zoning ordinances generally have two elements: a map showing what uses are allowed where and text describing what is allowed in each district (agricultural, residential, commercial, conservation). In addition, zoning categories usually allow "conditional uses." A conditional use is one that isn't generally allowed in that zoning category, but which would be allowed under certain conditions. For example, a gravel pit might be a conditional use in an agricultural district. When a landowner wants to "rezone" his land, it usually means that he wants to change the map to apply a different category to his land.

If a landowner wants to develop several houses or businesses on a site, he may need to comply with a subdivision ordinance. These ordinances govern the details of the development, such as the distance required between the house and the streets (the "setback"), the distance between houses (the "side yard"), the width of the streets, the size of the lots, etc.

The details of approval processes vary depending on what is being proposed and where it is being proposed. It is likely that you will learn about a proposed development while it is somewhere along its path to a proposal. While it's always good to get in early, don't worry too much about that. It's typical that a development will have gone through part of the approval process before the community catches up with it. Don't hesitate to ask the appropriate government body to delay its decision while you gather information and talk to your neighbors so that the community can make an informed decision.

Your Links to County & Town Government

- **The County Board:** This is the elected governing body for Wisconsin counties. County board members, called "supervisors," are your representatives and have a great deal of decision making authority on land use issues. County board elections are non-partisan and they occur every other year in April.
- **The County Planning or Zoning Administrator:** This is the county government official whose job it is to administer the county zoning ordinance. This person, who is a civil servant, is a source of information with regard to land use procedures.
- **The Board of Adjustment (or Appeals):** This decision making body has a great deal of authority on issues of interpretation. This board is involved in certain situations where there may be some flexibility in the specific application of a land use regulation or plan.
- **The Town Board:** Made up of three or five members, this elected body has similar characteristics to the county board. Elections are non-partisan and held in April.
- **The Town Planning Commission:** Not all towns have an established planning commission, but those that do will have a commission made up of citizens and sometimes town board members. The commission's job is to advise the town board on decisions related to its land use plan.

The Decision-Making Process in Towns

Patterns of settlement in Wisconsin towns vary widely. Most towns are largely rural with sparse populations and few community services. They might even lack basic land use controls like zoning. On the other extreme, some Wisconsin towns are heavily populated, provide everything from trash collection to streetlights, and may have their own planning and zoning department. Because the land use situation varies so widely across the state, so does the process of land use decision making. If you are getting involved in the approval of a development, regardless of whether you support or oppose it, it is likely that you are actually getting involved in the process of zoning or subdivision approval.

A Typical Approval Process in Towns

A very common land use situation in towns is the conversion of farmed land into housing. Such a development will typically require a zoning change from agricultural to residential, and subdivision review for the creation of new lots. Here is an example of how the process would work in a town without an established planning agency of its own, but within a county that has an established planning department. This is a generalization. You will need to find out about the exact process in your community.

Step 1 An owner of farmland wants to sell some of his land for a housing development. He visits the county zoning administrator who informs him that residential development is not allowed on his land, which is zoned for agriculture. The landowner will need to have his land rezoned to allow residential development.

Step 2 The zoning change is referred to the town planning commission, which holds a public hearing.

Step 3 Usually at a separate meeting after the public hearing, the plan commission votes to recommend that the zoning change be accepted or rejected by the town board.

Step 4 The town board holds a public hearing on the zoning change.

Step 5 The town board votes to approve or deny the zoning change

Step 6 The matter is referred to the county board which in turn refers it to a committee, often called the "Zoning Committee".

Step 7 Comments may be prepared by a regional planning commission or the county planning and zoning office where one is present.

Step 8 The Zoning Committee holds a public hearing.

Step 9 Usually at a separate meeting, the Zoning Committee votes to recommend that the zoning change be approved or denied by the whole county board.

Step 10 The county board votes on the zoning change.

Step 11 If the zoning change is approved, depending on the number and size of lots being created, the county determines what level of subdivision review is required (Note: In some communities, it is common practice for zoning and subdivision approvals to be considered together.)

Step 12 Preliminary subdivision plans are forwarded by the county planning staff to reviewing bodies, which may include the town board, the county board, other county departments, state agencies, and neighboring municipalities with extraterritorial jurisdiction.

Step 13 Revisions to the plan may be recommended. After revisions are made, a final subdivision plan is submitted. The subdivision is approved if all issues are resolved, and no reviewing authorities object

Some towns are not under county zoning. They may either have their own zoning or no zoning at all. The process to develop farms in these towns will be different in each case. Your best bet is to call both your town and county offices to find out exactly how decisions will be made to approve or deny a development in these situations. Most of the time, subdivision review will still be required, and that decision will be made at the county level after the town has made a recommendation.

When controversial developments are proposed in towns without zoning, these become excellent times to encourage your community leaders to start the process to create a comprehensive plan. Why? Because the next time a controversial development is proposed your local leaders won't be on the hot seat – as much – to approve or deny it; rather, they can base their decision squarely on the comprehensive plan that has been created by entire community.

Your Links to Municipal (City or Village) Government

- **The City Council or Village Board:** This is the elected governing body for Wisconsin cities and villages. City council members (called "alderpersons"), and village board members (called "trustees"), are your representatives and have a great deal of decision making authority in land use issues. Elections are held in the spring.
- **The Planning (or Zoning) Commission (or Committee):** This group is expressly concerned with land use issues that take place in

their city or village. They function primarily in gathering information in order to make recommendations to those with decision making power.

- **The Board of Appeals:** This decision making body has a great deal of authority on issues of interpretation. This board is involved in certain situations where there may be some flexibility in the specific application of a land use regulation or plan.
- **The Mayor or Village President:** Cities and villages generally have an elected executive officer. This individual may sit as the chair of the planning commission and may have the ability to exercise veto power for certain land use decisions. Many smaller cities and villages also have an appointed city or village manager, who can be very influential.

The Decision-Making Process in Cities & Villages

The beginnings of land use planning and regulation are rooted in city life. Because urban development takes place at a high density, careful planning is necessary to make sure that residents have livable and pleasant surroundings. Despite the exodus to the "country" since the 1950's, the majority of Wisconsin's population still resides within the boundaries of its cities and villages. For this reason, cities and villages have been granted the broadest authority for planning and zoning.

Because such broad authority has been granted to cities and villages, the process of land use decision making varies a great deal from one place to the next. The situation also depends on the level of planning intensity and the stage of development. Smaller, developing municipalities may experience land use issues similar to towns - zoning changes, variances and land subdivision. Larger, redeveloping municipalities may deal more with issues like site plan review and development financing.

A Typical Approval Process in Cities and Villages

A common land use situation in municipalities is the approval of development near the edge of its territory.

Step 1 A landowner decides he wants to develop his land, which is adjacent to, but not in a city. His land is in a town. Because his development will be large and relatively dense, he needs to have public water

and sewer services brought in. He goes to the city and asks to have his land annexed (joined) to the city so that water, sewer and other public services such as police and fire protection can be offered to the development.

Step 2 The city decides whether to annex the land. This decision is between the city and the landowner. The town is not involved, except that towns sometimes challenge annexations in court.

Step 3 The next step is to ask the Department of Natural Resources to extend the "urban service area" to include this property. Urban service areas are places where public sewer and water are provided. In some counties the regional planning commission advises the DNR on these decisions. After the RPC holds a public hearing, it votes on the extension request. It forwards its recommendation on to the Department of Natural Resources, which ultimately decides if the urban service area will be expanded. (NOTE: Not all areas of the state need RPC approval because there is no RPC or because the local RPC has chosen not to exercise its authority. These communities can go straight to the DNR.)

Step 4 Next, the city needs to rezone the land from the zoning category that applied in the town to a new category from the city zoning ordinance. The zoning change is referred to relevant city committees where public hearings are held. Eventually, the ordinance is voted on by the full city council.

Step 5 If the zoning is approved, the next step is to plat out the subdivision, decide where streets will go, if there will be sidewalks, how far the buildings must be set back from the street, etc.



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HOW TO ORGANIZE & ARGUE

Once you've collected information and thought about whether you will support or oppose a proposed development or a plan, the next step is to get organized with like-minded people in your community and to present your case to local officials who make the decisions. The point of organizing on a land use issue is to win. Sometimes local groups win by being aggressive and controversial while at other times calm reason prevails. Any organization reflects the personalities of those involved. But always keep in mind that the objective is to be effective, not to pursue any one particular style over another.

Below is a list of principles for organizing and arguing your point. You may not find that you agree with every principle, but you will find it useful to think about how each of them could be employed in your issue.

Build Alliances

Find out who else might already be working on or be interested in working on this issue. Check with other like-minded groups, clubs, and organizations that may share your views on the issue. For example, contact your local neighborhood association, a local chapter of a land use, sportsman, or environmental organization (e.g., the Sierra Club, Audubon, Trout Unlimited, Ducks Unlimited), business groups, and anybody else you can think of. If you don't need to reinvent the wheel, then don't. Sometimes your role can be to energize an already existing sleeping giant. Other times you may need to start a whole new organization or at least a loose group of like-minded people.

Cultivate Managers, Not Leaders

Most land use debates go on for months, sometimes years. You will want to have a core group of people involved who can pick up the slack when others need to pull back because of family commitments, health, moving away, any of the myriad things that happen to people in the course of living their lives. If your organization is built around one strong, charismatic leader, the thing could disintegrate if that person drops out.

Be Cheerful, Patient & Kind (If that doesn't work, serve donuts.) Organizing means meetings. It means complex human interactions. If you're going to be spending intense time with your friends and neighbors, then you'll want to make that time as enjoyable as possible. Life's

too short for the alternative. Most important, you want to keep people happy, excited and engaged. You need to keep things positive even when they are going badly for the fight. When you can manage it, good food always cheers people up and rejuvenates the spirit!

Neutralize Egos (Including your own)

This isn't about you or anyone in the group. The point is to win on the issue. Always keep your eyes on the prize. If someone has a better idea then go with it. If you need to reject an idea, then critique the idea but not the individual who proposed it.

Pace the Troops

If you know where you are in the process, then you'll know when you need to turn people out in big numbers with lots of enthusiasm. Don't burn people out on the trivial.



Timing Can Overcome Technique

If you've read the section on "Catching Up With the Process," then you'll understand how important it is to know where you are in the approval process and when the next opportunity to be heard or to make a decision is coming up. The approval process is like a train going from station to station. If you miss it at one station, it's harder to catch it at the next. The best-organized group with the finest arguments is lost if it doesn't act in time.

Plan Ahead of Your Opposition

Again, here is the crucial need for good information on the approval process and its timing. If a proposal that you oppose is before a plan commission, don't think that you can kill it there and be done with it. Talk to your alderperson, trustee or supervisor even before it goes to the commission. Set the stage to win even before you have won or lost at a previous stop in the process.

Get Out Good Information

If you have done your homework, then you should have your arguments together. Put them on paper. It's a good idea to have a fact sheet which is no longer than one page with a handful of bullet points – something you can hand out at meetings or door-to-door. The idea is to make your

points clearly, simply and with humor if you can – anything to make them memorable. As the process evolves and new facts come to light, change the sheet. But always stick to the same basic theme.

Use the Press

Call up the local paper, explain your issue very briefly and ask to speak with the editor or reporter who would handle it. Always be sure to ask if this is a good time to talk as reporters and editors work on strict deadlines. Use the same practices of information gathering and brevity that you will use with your friends and public officials. Stick to a coherent theme that you can always come back to. Electronic media is not usually as good as newspapers for local land use issues. For one thing, it's hard to get television to cover issues like this and for another, even good coverage is fleeting. Good newspaper stories can be reproduced and passed out to others in your organizations or to policy makers. Make sure you get information to the editorial board and, ideally, go meet with them. A good editorial in the local paper can be a very powerful tool. Always make sure a good story or editorial is copied and gets in the hands of the officials making the decisions. Never assume they've seen it.

Develop Friends Among Policy Makers & Keep Them Briefed

You will soon find out which members of which bodies are inclined to your point of view. Cultivate them. At some point, you might want to invite them to come speak with your group. Make sure they have up-to-the-minute information and that they are prepared to make the right motion when the time comes. Local officials are busy people who usually have full-time jobs in addition to their local government work. Respect their time. Contact them only when you have something to say and then be friendly and polite, but also to the point. Don't assume they know what you know or even that they'll know when they have to act. Make it clear what you need them to do and when. Finally, let them know you'll be there to support them.

Don't Burn Any Bridges

Rarely is it a good idea to openly attack a policy maker during the course of an issue. Election time is when you should let your friends and neighbors know how a candidate performed on issues of concern to you. The vast majority of public officials believe they're doing the right thing even when they go against their constituents. Give them the benefit of the doubt. Don't impugn their motives, but certainly correct any errors they

make based on wrong or incomplete information. You may need their vote later on the same issue or on another one.

Stay in the Fight

Once you have done all that work to get educated and organized, why let it all fade away? Like land itself, land use issues aren't going anywhere. There will always be another issue just ahead. Try to be proactive. Think about serving your community on the plan commission or local governing body. And if that day comes, expect citizens and citizens groups to treat you as well as you treated local officials when you were on the other side of the desk.

A Checklist for Effective Advocacy During Public Hearings on Local Land Use Issues

This checklist was created by 1000 Friends of Oregon. It appears in "The Citizen's Guide to Local Land Use Proceedings," October 22, 1999.

- ☐ Clearly indicate whether you support or oppose the application (for a development project, rezoning, subdivision, comprehensive plan amendment, etc.)
- ☐ Avoid simply reciting written testimony
- ☐ Strive for the greatest possible clarity and simplicity
- ☐ Outline your testimony (to assist yourself, and possibly to use to introduce your presentation)
- ☐ Remember that substance – not length – ultimately determines the value of your testimony
- ☐ Use visual aids (especially clearly labeled color photocopies or photos mounted on sheets of paper with descriptive text), and practice handling them before the hearing
- ☐ Incorporate complex or lengthy information into your oral testimony by summarizing it and requesting that it be made part of the record
- ☐ Repeat key points (but at other times, it is better to endorse – rather than repeat – testimony that has already been given)

- ☐ Respond to questions fully when asked; treat them as opportunities to clarify your position, not as distractions
- ☐ If necessary, ask for permission to submit a letter in response to difficult questions
- ☐ Rehearse your testimony with others and practice speaking with adequate volume and eye contact
- ☐ Recruit as many people as possible to attend the hearing, join you in your presentation, or make their own presentations
- ☐ Elicit written testimony or participation from neighborhood organizations, allied groups, or affected state and local agencies
- ☐ Object to important procedural errors when they occur; don't belabor minor omissions that have no practical effect on the proceedings
- ☐ Think very carefully before asserting bias on the part of the decision maker
- ☐ Clearly state your request for a right to rebut new evidence or arguments
- ☐ Be courteous to decision makers and opponents
- ☐ Avoid any sort of inappropriate clapping, laughter, or speaking out of turn during the hearing
- ☐ Above all, try to remain calm if you perceive hostility



RESPONDING TO COMMON ARGUMENTS

In almost any community across Wisconsin, you can predict the kinds of philosophical arguments that a developer or landowner will make on behalf of his or her development. Aside from the details and the merits of the particular case, there are basically a handful of philosophical arguments that are typically heard.

"It's my land. I can do what I want with it!"

This just simply isn't true. Look at your own situation. Chances are, if you own land and a house, you're restricted as to what you can do with it. If you want to turn your house into a convenience store, you probably would have to get permission from your neighbors who are represented through your city council or village or town board. The same system that keeps you from making a killing by converting your property to a convenience store keeps your neighbor from putting in a porn shop or a pig farm or some other use that would make your home less pleasant to live in. Courts have affirmed this "police power" of local governments to ensure quality of life for everyone by restricting what any one individual might do with his land.

"It's a 'taking'!"

This is a more sophisticated version of the "it's my land" argument. In recent years, developers have found it useful to claim that virtually any government regulation restricting what they can do with their land is a "taking" under the meaning of the Fifth Amendment to the U.S. Constitution and under a similar provision in the Wisconsin Constitution. This is almost never the case. A real taking almost never occurs under the meaning that the courts have given these provisions.

The Fifth Amendment says in part that, "nor shall private property be taken for public use, without just compensation." The question is, what is meant by "taken"? Courts have consistently ruled that "taken" means taking all of the value in the property. So, for example, when the government condemns land for a road or a school, the owner must be compensated. But when government imposes regulations for the common

good, like zoning ordinances, property owners do not have to be paid for regulations that might reduce the value of their land.

How could it be otherwise? Imagine what would happen if your local government had to pay prospective porn shop operators not to put in a shop next to you. Or what would happen if state government had to pay all tavern owners when the state raised the legal drinking age on the premise that a higher age meant fewer drinkers and less business? You can quickly see how any sensible regulation designed to benefit the public could be made too expensive to enact.

In fact, government actions usually protect or even increase the value of property. If your neighbor is prohibited from putting in a junkyard next to your property, your property values are protected. Whenever government extends a road or improves an intersection it makes land more accessible and thus more valuable to developers, but you'll never see a developer clamoring to pay the public for the new value bestowed upon him. Some unscrupulous developers like to sling around misinterpretations of court rulings and to threaten local governments with expensive legal actions unless they capitulate to their development proposals. Many local governments, faced with inadequate resources, give in to these threats. Citizens need to bolster their local governments with the facts.

One useful fact to start with is that a local government's decision to not rezone a property from, for example agriculture, to another zone district like residential, is not a taking. The government is not taking anything. Rather, it's saying the existing regulation is a good one and ought to stay in place. The fact is that it is very unlikely that a developer, no matter how extensive his resources, will make good on a threat to file suit on the basis that a government action is an unconstitutional taking.

Here are the principles of takings law laid down by the Wisconsin Supreme Court, and a recent U.S. Supreme Court decision:

- Private property is held in subordination to the rights of society. Although one owns property, they may not do with it as they please, any more than they may act according to their personal desires. As the interest of society justifies restraints upon individual conduct, so also does it justify restraints upon the uses to which property may be devoted. *State v. Harper* (1923).



- Property owners who are limited in the use of their property find compensation in benefits accruing to them from limitations imposed upon their neighbors. *State v. Harper* (1923).
- A regulation will be upheld if it furthers a public purpose and leaves a property owner with some economically viable use of their property. *Zealy v. City of Waukesha* (1996).
- While property owners have a right to the reasonable use of their property, neither the United States nor Wisconsin Constitutions guarantee the most profitable use. *Just v. Marinette* (1972).
- On the federal level, a recent U.S. Supreme Court decision allows communities to put moratoriums on reviewing and approving new development proposals while they prepare and adopt plans. Temporarily halting new developments does not take property owners' rights away. Lora Lucero and Jeffrey Soule wrote in the June 2002 *Planning Magazine*, "The *Tahoe* decision confirms the importance of planning and validates the moratorium as an essential tool for successful development. It underscores the need for a thoughtful, inclusive planning process that takes into account all stakeholders, property owners and interest groups alike." *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency* (2002).

"It's the farmer's retirement!"

As hard as it is to take on this argument, the rational response is that we need to zone land not people. If we zone land based on personal circumstances there will be no end to the exceptions we make and the land will become carved up with spot zonings that make no sense in the broader context. The answer is for farmers to be able to get better prices for their products and for all landowners to take on the personal responsibility of saving for retirement as



millions of Americans have with the steady reduction in traditional pension plans. Tax-free retirement savings plans are available to give farmers the same opportunities to invest for retirement as anyone else. When landowners say they are basing their retirement

planning on the idea that the community will allow them to develop land in a piecemeal and haphazard fashion, they are asking the community to do something extraordinary.

"There's a market for it!"

There are markets for lots of things in society that we choose not to allow. For example, there is a market for cocaine and heroine, but we don't allow that market to be satisfied legally. In the land use arena, there is a market for homes built on water, but we don't allow our waters to be obstructed. In fact, all zoning ordinances are essentially regulations put in place to prevent some market demand from being fulfilled because that land use is damaging to the broader community. If we were to allow any development simply because there was a market demand for it, we would have to eliminate all zoning regulations.

"You're not from here!"

If you intervene in a development issue and you are not from the immediate vicinity, or you moved in recently, you may be accused of not having standing to raise issues. One response is that citizens have a stake in development no matter where they live. As taxpayers, we are all connected via property taxes and state aid formulas. If communities grow inefficiently, it puts pressure on everyone's taxes. In fact, the largest portion of the state budget goes for aids to local governments. In addition, as Wisconsinites we've all got a stake in how our state looks and feels. The stunning vistas of the Door County landscape, for example, do not belong to Door County developers but to all the citizens of Wisconsin. Another response is to ask where the developer lives. Very often, you will find that the developer has no stake in the community whatsoever. Another response, although not always popular, is to ask who will be there longer to live with the development rather than who has been there the longest enjoying life without it.

"We need the increased tax revenues!"

New developments don't only generate more property tax dollars, they also cost a lot of tax dollars in the form of new or larger roads and road maintenance, emergency services such as police and fire, schools, and more. In fact, many statewide and national studies show that sprawl is by far the most expensive type of development, and costs a lot more to serve than it generates in tax revenues. Low-density residential development rarely pays for itself, and is consistently the most expensive type

of development to serve, while open space and farmland contribute more in tax revenues than they cost to serve. In some cases, it is cheaper for a community to buy the development rights for a property than it is to provide services to it – even for affluent communities. Compact developments, or true urban developments, are almost always cheaper to serve than low-density developments – and they consume far less land that can be used for other open space purposes.

“Let the *free market* decide what land should be developed, where development should occur, and/or what type of development should be built.”

This argument assumes that the government does not play any role in how and when land is developed or preserved. In fact, governmental actions significantly influence how and when land is developed through regulations, subsidies, and the provision of public infrastructure; these actions are contrary to “free market” principles. In many cases, the people using this argument like the current system – the regulations, subsidies, and government services – as they are and do not want them changed. The government influences development through regulations, subsidies, and the provision of services and infrastructure.

- **Regulations:** Government influences development through regulating land uses through local codes, including zoning and subdivision ordinances, which determine the size, type, density and location of land uses.
- **Subsidies:** Money talks, but it screams when it comes to how land is used. All levels of government subsidize land use in different ways – some directly and others indirectly. The use of tax incremental financing (TIF) is a direct subsidy, whereas a mortgage inter-



est tax write-off is an indirect subsidy. The US Environmental Protection Agency claims, “Development patterns have been subsidized and supported by local, state, and federal policies and initiatives since the 1940s and 1950s... Starting in 1934 the Federal Housing Administration began protecting homeowners and home sellers against default by insuring long-term, low down-payment mortgages. These loans were exclusively for homes in areas that were thinly populated, dominated by newer homes, and had few minority or immigrant enclaves nearby. As a result, these loans subsidized growth in ex-urban areas, often at the expense of older communities.”

- **Public infrastructure & services:** Roads, sewers, parks, and schools provided by government significantly influence private investment decisions in land. Developers often choose to build houses close to existing major roads rather than miles away from them because roads are very expensive to build. So, if a government builds a new road through a private forest, residential development will follow if permitted because the developer is spared the high costs of removing the trees, flattening the ground, and pouring the cement or asphalt. All the developer has to provide are drive-ways to access the road.

SECTION 3:

CREATING OR RECREATING A LAND USE PLAN



HOW TO GET STARTED

Before you get started on revising an existing plan or creating a new one, it is important to gather some information and to think through your goals and values, just as you would if you were responding to a development proposal. Here are some good questions to ask yourself and others who might help you.

Does Your Community Have a Plan Now?

Is It Adequate?

Is It Followed?

Many communities have plans that have not been updated in years and that are not used to guide growth and development as they were intended. Sometimes communities have good plans that they simply have not implemented. In some cases, communities have no plan at all. It is important to learn what your community does have in the way of a land use plan, how good that plan is and if it is actually consulted as a guide to growth. The state's Smart Growth law was written specifically to address this issue. The law requires every community in Wisconsin to be covered by a comprehensive plan by 2010, and the law also defines what elements must be addressed in a comprehensive plan. All land use decisions after 2010 will have to be consistent with a community's plan.

Why Plan At All?

Often it is the haphazard accumulation of individual decisions of developers, public officials, business people and school boards that have shaped our communities. Although they may have the best intentions at heart, it is difficult for them to know all of the possible consequences of their decisions. A far better alternative is a well thought-out, consensus based community vision of the future that directs and coordinates the decisions of these individuals.

In general, plans are useful for:

- Gathering land use related information needed to make good decisions.
- Estimating future community needs for schools, roads, fire stations, housing, sewer and water extensions.

- Saving tax money by purchasing land and other resources at today's prices to meet those future needs.
- Coordinating the use of zoning, subdivision regulation, capital improvements and other implementation tools in a consistent manner.
- Giving potential developers, homebuilders, and businesses a predictable and consistent set of guidelines.
- Avoiding duplicate spending within the local government or among surrounding communities.
- Protecting natural, cultural, historic and other community resources.
- Improving the quality of life by making the community a more beautiful and pleasant to live in.

Why Plan Now?

The state's Smart Growth law has a 2010 deadline for the completion of comprehensive plans. But 2010 is still a ways away – and there are good reasons to plan sooner rather than later. There may be a specific issue that has come to a head that prompts you and your community to start thinking about revisiting an existing plan or writing a new one. Perhaps someone has proposed a large-scale development that your community did not know how to react to. Maybe there have been a series of smaller scale projects that are becoming a pattern of development that you find troubling. Or, maybe, your community just has some forward thinking citizens who want to anticipate and get out in front of development problems before they occur.

Whatever the motivation to plan now, it is important for you to understand what that motivation is and who might join you in your planning efforts. You also need to evaluate if your community is ready for a planning effort. If you can point to a specific trend or development in your community as the reason to plan now, it will increase your chances of being successful. People like to have concrete, visible examples of what you are trying to stop or to promote with planning. For example, if there has been a trend toward destroying older buildings in your community, you may want to use historic preservation as the key reason for planning now.

What Results Would You Like To See?

It is important to keep your eyes on the prize. After all, the process is not the point. The point is how your community will end up looking and feeling and functioning. The point to planning is what actually happens on the ground. Plans created through the best process in the world, but that result in sprawl, are nothing more than a waste of everyone's time. There is no point in planning to sprawl. The point should be to plan for a better, more functional, more pleasant and beautiful community.

How Long Does It Take to Craft a Good Plan?

Patience is fundamental to planning. The very point of planning is to look ahead to the long view. Creating a good plan is much like planting a slow growing tree. It needs attention and tending and you may not see its shade for many years. But if your community sticks to a good plan the result will be a community of beauty maybe for yourself, but certainly for future generations. Encourage your community to start the process soon; under the state's Smart Growth law (see Section 6) the 2010 deadline by which comprehensive plans must be in place is just around the corner.



WHAT TO LOOK FOR IN A LAND USE PLAN

The Planning Checklist

If your community already has a comprehensive plan or is in the process of creating one, as an impacted community member, you will want to evaluate it. The comprehensive planning process is well-defined in the Smart Growth law – and it involves both technical/analytical work and ample public participation; but you do not need to be a trained planner to participate. A great deal of planning is common sense and thinking ahead about how you want your community to look, feel and function. Here is a list of issues you and your fellow community members can think about when tackling the comprehensive planning process. Some of these elements are required by the comprehensive planning law, others are just good to think about when looking to the future.

Substance

Vision Statement: Does the plan clearly state what you want your community to become in the next 20 or more years?

History: Does the plan engage the reader with the unique characteristics of their community and how it got to where it is?

Benchmarks to Measure Success: Are the plan's broad goals broken down into smaller objectives that can be measured along the way? Without benchmarks, you will not know if your community is moving toward its goals.

Clear and Objective Language: Is the plan understandable by the average citizen in your community? If you need a planner to explain your community's plan to you, then this criteria hasn't been met.

Range of Issues

Land Use: Does the plan contain an inventory of current land use patterns and make projections for the future? Does it encourage efficient use of land with mixed uses and infill development? Does it discourage land uses that devalue adjacent properties?



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Housing: Does the plan have an inventory of existing housing and does it make projections for future needs? Does it encourage a range of housing types and densities, and include provisions for affordable housing?

Urban Design: Does the plan encourage aesthetic design and human scaled developments with mixed uses (housing, parks, stores and places to work), varying densities, traditional neighborhoods, and attention to the pedestrian?

Rural Character: If there is farmland and open space in the jurisdiction, does the plan encourage its preservation? Does it discourage developments that blur the line between urban and rural land?

Transportation: Does the plan contain an inventory of existing traffic patterns (autos, rail, air, water, bicycles, pedestrians) and make projections of future needs? Does it encourage opportunities for many modes of travel including walking, biking, and transit? Does it take account of the impact of transportation on land use patterns?



Infrastructure and Services: Does the plan encourage developments that are coordinated with the expansion of the sewer, water, roads, police and fire protection, schools, libraries, transit, and any other services that are required to support them? Does it discourage development that further exploits existing systems beyond their capacity?

Growth Management: Does the plan direct new growth to areas that accomplish community goals? Does it encourage the establishment of urban growth areas and urban service areas? Does it stage growth into those areas?

Economic Development: Does the plan assess your community's economic vitality and make projections for the future? Does it encourage the revitalization of main streets and the development of a capital improvements plan?

Land Market Analysis: Does the plan assess the supply and demand forces that are directing the location and quality of new development? Does it encourage realistic land use and growth management based on supply and demand?

Land Resources: Does the plan inventory the productive features that add value to your community like farms, forests, and minerals? Does it encourage their protection and anticipate how their use will affect environmental quality?



Environment: Does the plan inventory the natural features that add value to your community such as lakes, rivers, wetlands, groundwater, and habitat for plants and animals? Does it encourage methods of permanently protecting them and anticipate how their use will impact human health?

Open Space and Recreation: Does the plan strategically preserve vegetated areas that are not built up including forests, prairies, farms and stream corridors? Does it encourage their permanent protection and linking them together with public corridors?

Historic and Cultural Resources: Does the plan encourage the protection of those aspects of your community that are unique and can't be duplicated anywhere else?



Intergovernmental Cooperation:

Does the plan share resources between communities to achieve common goals and encourage coordination and cooperation when it will improve efficiency?

Other Key Community Issues: If the checklist above on the contents of a plan omitted an issue that is predominant in your community, that does not mean it should be excluded from the plan. Every community is different, so every plan needs to be creatively adapted to that place and situation.

Function

Citizen Participation: The new Smart Growth law has significant requirements for public participation. Was citizen input collected and incorporated into every stage of the plan?

Implementation: Plans are only effective if their goals are realized. The primary tools for shaping land use must all work together: Zoning, Subdivision Regulation, Official Mapping, and Capital Improvement Programming. Does the plan call for updating these ordinances and plans?

Public Health, Safety, and General Welfare: These should be the source of all the community goals included in a plan. This is the strongest basis for plans that will withstand a legal challenge. Is it clearly stated in the plan that the promotion of public health, safety and welfare is the purpose behind the plan?

Community Character: Court decisions have added community character to the legal justifications for planning. This gives the public even more influence over the appearance and development pattern of their communities. If the plan were carried out, how would your community look, feel and function?



SOME INNOVATIVE IDEAS

Zoning, subdivision regulation, and official mapping alone often fall short in attempting to accomplish the land use goals of a community. It may be worthwhile to look at some of the innovative tools being used in Wisconsin and in other states. They may be appropriate for your community. Check the "Resources" section at the back of this guide for places to go for more information on these strategies.

Cluster Zoning

Cluster zoning is the concept of taking what would be scattered housing sites and grouping them together in a cluster, a kind of rural hamlet. This idea is catching on in Wisconsin and it has been proposed in many parts of the state. Cluster zoning is a mixed bag. It is by its very nature not contiguous to existing development and it will most likely end up on farmland, a woodlot or in a natural area. Clusters are probably only appropriate for parts of the state where previous development decisions have already seriously fragmented the landscape so that the clusters almost amount to a kind of semi-rural infill development. Also, it is important in any cluster concept to include some mechanism, like transfer of development rights, to make sure that scattered development doesn't happen in addition to the clusters.

Cooperative Boundary Agreements

Some of the most contentious land use debates in Wisconsin are those that arise over changes in municipal boundaries. Cooperative boundary agreements attempt to facilitate problem solving through citizen involvement, negotiation, mediation, and other cooperative methods. In 1996, the city of Stevens Point and the Town of Plover in Portage County became the first communities in Wisconsin to produce such an agreement.



Design Review Standards

A traditional zoning ordinance spells out all of the land use restrictions for new development. A design review ordinance states some

general community goals for new development and gives the developer some flexibility in how to reach them. Residents of the Town of Arbor Vitae in Vilas County were concerned with preserving the northwoods character of their community and adopted a design review ordinance in 1996.

Moratoria

Some communities in Wisconsin have chosen to put a freeze on the approvals of new developments while they develop their land use plan. The idea behind a development moratorium is to prevent developers from getting out ahead of planning by developing areas that they anticipate will be off limits under the plan.

Purchase of Development Rights or Conservation Easements

One way to permanently protect open space and unique environmental resources is to purchase the right to build on that land. While the land owner retains all other rights to the land, the development rights are purchased and held by a land trust or other charitable organization. The Town of Dunn in Dane County and the City of Mequon have enacted purchase of development rights (PDR) programs in recent years.

While PDR programs are becoming popular, some caution is necessary. PDR can work in concert with planning and zoning to permanently protect key areas. However, PDR has three problems as a general strategy. First, it is expensive. Your community will never be able to afford to buy all the property development options necessary to restrain sprawl. Second, it can be used to undermine zoning. If one landowner is being compensated for not developing while his neighbor is simply prohibited from developing under zoning, this could tend to undermine zoning as a tool. Third, PDR is really a misnomer in that legally there is no development "right." Landowners have the abilities to do with their property what the broader society allows through zoning and other regulations. PDR programs tend to reinforce the incorrect notion that development is a "right." PDR is best used as part of a broader community planning approach. In the Town of Dunn, for example, resources are directed to the most productive farmland in the town, which is also subject to the greatest development pressure. The town developed a scoring system to evaluate projects that are brought before them so that purchase decisions are made in a consistent and fair manner.

Traditional Neighborhood Developments (TND)

Traditional neighborhoods mix shops and offices with a variety of housing types. Development is compact and pedestrian friendly. Often, streets are narrower to discourage speeding and to increase safety for children, bicyclists and walkers. Sometimes parks, community centers or retail areas are established as "town centers" to help give the development a sense of being a neighborhood.



Wisconsin's first "TND" is Middleton Hills, just west of Madison. Unfortunately, large lot zoning, minimum setbacks, wide street requirements and other ordinances discourage and practically outlaw this kind of traditional development in many communities.

The Smart Growth Law required the University of Wisconsin Extension to develop a model ordinance for a traditional neighborhood development (TND). In addition, the law requires that every city and village with a population of at least 12,500 enact an ordinance similar to the model traditional neighborhood development ordinance no later than January 1, 2002, although the ordinance does not have to be mapped – or designated for a particular location within a community.

Transfer of Development Rights (TDR)

This new twist on the purchase of development rights can not only preserve open space, but direct growth into strategic areas. Parcels of land are assigned levels of development rights which can be bought or sold. "Receiving" areas are designed to encourage growth, and "sending" areas are set aside to preserve a natural landscape. No such program has yet been initiated in Wisconsin, but Jefferson County has recently proposed a TDR system and Dane County is exploring it.

Urban Growth Boundaries

One of the most progressive attempts to manage growth and prevent sprawl, the urban growth boundary has yet to see service in Wisconsin. The state of Oregon has had a system of urban growth boundaries in place for nearly 30 years. In Oregon, every city has a boundary containing a 20 year supply of developable land. Development is restricted outside of this boundary. As a result, it is estimated that about 93,000 acres

of land have been saved from development in the Portland metro area alone. Urban growth boundaries are not yet authorized under Wisconsin law, but there is no reason why cities and villages cannot adopt hard and fast long-term boundaries that act very much like UGBs. In fact, many communities around the country create similar boundaries without being required by state law to do so. The cooperative boundary agreement law provides a good framework for development of those kinds of boundaries.

While UGBs are excellent tools for directing growth and development in and immediately around urban areas, they are most effectively used when communities carefully plan the areas inside these boundaries. Without good urban planning, UGBs can be meaningless.

WISCONSIN BY THE NUMBERS

Natural Resources

Total Acres: 34.7million
Lakes: 15,000
Miles of River: 40,000
Forested Acres: 16 million
Threatened & Endangered Species of Plants & Animals: 239

Population & Growth

Population (2000): 5.36 million
Increase (1990-2000): 9.6%
Fastest Growing County by Population: Dane
Fastest Growing County by Percentage: Marquette
Projected State Population (2020): 6.05 million

Farmland

Farm Acres (2000): 16.2 million
Farm Acres (1950): 23.6 million
Number of Farms (2000): 77,000
Number of Farms (1950): 174,000
Average Farm Size (2000): 210 Acres
Average Farm Size (1950): 135 Acres

Outdoor Recreation

Number of State Parks, Forests, Trails & Recreation Areas: 86
Acres of Conservation & Recreation Land: 5.4 million
Acres of State Park Per Visitor (1960): 20
Acres of State Park Per Visitor: 15
Increase in Annual Park Admission Stickers Sold (1992-97): 12%

Transportation

Miles of Federal, State & Local Roads: 111,905
Vehicle Miles Traveled (1999): 57 billion
Registered Vehicles (2001): 4.9 million
Increase in Registered Vehicles (1990-2000): 22%
Mean Travel Time to Work: 20.8 minutes

Government

Number of Counties: 72
Number of Cities: 190
Number of Villages: 395
Number of Towns: 1265
Number of Regional Planning Commissions: 8
Percentage of Governments with Land Use Plans (1998): 29%

*More data on Wisconsin land use trends can be found in
The Land Use Institute's Benchmarks 2002 report.
You can get a copy by calling (608) 259-1000
or visiting www.1kfriends.org.*

SECTION 4:

A GUIDE TO THE SMART GROWTH LAW

This section on the Smart Growth law includes a description (regular text) and commentary (provided by 1000 Friends in italicized text) on the law. These commentaries are provided to give readers an idea of the intent of the law's authors and to provide background information that might increase understanding of the law. Please note, however, that they are clearly marked "commentary" to distinguish interpretive information from the straightforward description of the law.



HISTORY OF SMART GROWTH

In late 1999, the State of Wisconsin enacted the most far-reaching overhaul of our land use laws in over a generation. It's called "Smart Growth For Wisconsin." The law came about in response to three major problems.

First, only 29% of all Wisconsin communities had any kind of land use plan in place at all as of 1998. Further, these plans varied widely in their content, quality and age. Some communities had de tailed p lans that covered a wide range of issues and that were frequently updated. Other communities had spotty, poorly thought out or old plans. Finally, many communities that did take the time and invested the resources to write good plans ignored those p lans when a ctual l and use de cisions are made.

There was little direction or support from the state on how to make the situation better. Wisconsin's land use laws had been adopted before World War II and they were based on models written in the 1920's. Clearly, something had to be done. In 1995, Governor Tommy Thompson created a Strategic Growth Task Force, which identified dozens of problems with our land use laws and with on-the-ground issues, like loss of farmland, lakeshore development and congested roads. That set the stage for change, but little happened for two years.

Then in 1996, 1000 Friends of Wisconsin was formed to work for land use policy reform. In 1998, a coalition of widely diverse groups was convened under the sponsorship of 1000 Friends and the Wisconsin Realtors Association and chaired by University of Wisconsin Urban and Regional Planning (URPL) Professor Brian Ohm. The "Ohm Group" worked for almost a year to arrive at a unanimously accepted definition of what a comprehensive plan should contain. That definition and some state funding for local planning efforts was included by the Governor in his 1999-2001 state budget proposal.

In the meantime, 1000 Friends was working with State Senator Brian Burke on more reforms, which we called Smart Growth For Wisconsin. 1000 Friends worked with members of the Ohm Group to craft legislation that built on the comprehensive plan definition, but went farther to assure that virtually every community would have a quality plan in place by

2010. That package of reforms was incorporated in the 1999-2001 budget passed by the Democratic-controlled Senate and by the Republican-controlled Assembly, and signed into law by Governor Thompson on October 27, 1999. It became 1999 Wisconsin Act 9.



THREE PHASES OF THE SMART GROWTH LAW

One useful way to think about the law is to break it into three phases.

Phase One: State Aid for Planning

In 2001, the state began providing funds to help communities write comprehensive plans. In order to get these funds communities must apply to the state Land Council. An official body made up of state agency heads and citizens appointed by the Governor, the Land Council is staffed by the state Department of Administration. The first requirement is that communities must commit to a plan that will address all nine elements of a comprehensive plan. Grants will be awarded through a competitive process and communities will rank higher if they:

- Agree to write a plan that will address the interests of overlapping or neighboring jurisdictions. So, joint planning efforts among overlapping (counties and towns, for example) and neighboring jurisdictions (cities and towns, for example) score higher than single unit planning proposals.
- Describe how they plan to meet the broad land use goals set out in the new law.
- Agree to designate smart growth areas to which state and local infrastructure will be directed. Smart growth areas are defined as areas that can be redeveloped (an old warehouse district, for example) or that have existing municipal services (like sewer, water and roads that have already been extended to an area that has not yet been built out) or that are contiguous to existing development and can be developed at densities that have relatively low government and utility service costs.
- Commit to developing the necessary ordinances to actually execute the plan.
- Commit to finishing the planning process within two-and-a-half years.
- Commit to providing opportunities for public participation throughout the planning process.

For more information on the planning grants program contact the state Office of Land Information Services at (608) 267-2707 or visit the web at www.doa.state.wi.us/olis.

1000 Friends Commentary: These requirements apply only to communities that seek state planning aids. However, almost all communities will need to have a complete comprehensive plan by January 1, 2010 (see Phase 3). So, if a community chooses to go without state aid for planning, it could avoid some of these requirements, but the full nine element comprehensive plan requirement and certain public participation requirements would still apply regardless of whether the community receives state planning aid.

Phase Two: Smart Growth Dividend

Beginning in 2005, the state may offer a new state aid payment, which is intended to be an incentive for local governments to write comprehensive plans and to actually grow in a compact way.

Here's how the dividend *might* work:

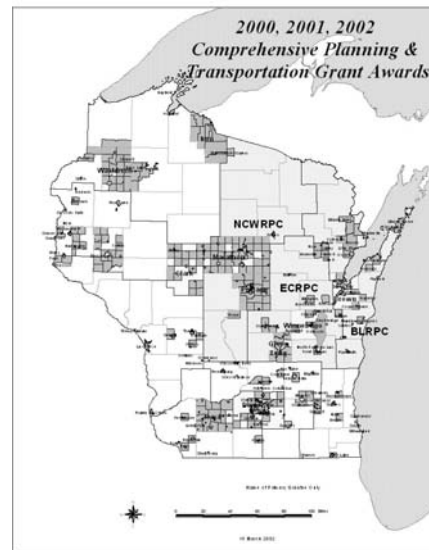
Communities that have adopted a comprehensive plan in compliance with the law, may be able to accumulate "credits" for each new unit of housing constructed in the previous year that is built on lots of one quarter acre or less. In addition, they may receive a bonus credit for each unit of affordable housing created. "Affordable" is defined as selling at 80% or less of the county median sales price. Each credit would be worth the amount in the credit program (which has not been determined yet) divided by the total number of credits claimed by local governments in the state.

1000 Friends Commentary: The dividend program is intended to reward communities for growing compactly and for providing affordable housing. The formula above is a suggested method for distributing the dividend, but final legislation isn't due until 2005. There has been a concern raised that because most compact development takes place in cities and villages, towns might not do well under the formula. We're exploring ways to reward rural governments for taking actions that preserve rural landscapes.

Phase Three: Consistency

Beginning on January 1, 2010, all local land use actions must be consistent with a comprehensive plan. This applies to zoning, annexations, official mapping, subdivision regulation, etc. Furthermore, any ordinance, plan or regulation that relates to land use must be consistent with the comprehensive plan.

1000 Friends Commentary: This means that unless a community intends to take no official actions whatsoever regarding land use, it should have a comprehensive plan in place by January 1, 2010. That date (a full ten years from passage of the legislation) was selected to give communities enough time to complete their plans.



DEFINITION OF A COMPREHENSIVE PLAN

The foundation of the new law is a definition of what a comprehensive plan should contain. This definition is broken down into nine elements as follows:

- **Issues and opportunities element.** Background information on the local governmental unit and a statement of overall objectives, policies, goals and programs of the local governmental unit to guide the future development and redevelopment of the local governmental unit over a 20-year planning period. Background information shall include population, household and employment forecasts that the local governmental unit uses in developing its comprehensive plan, and demographic trends, age distribution, educational levels, income levels and employment characteristics that exist within the local governmental unit.
- **Housing element.** A compilation of objectives, policies, goals, maps and programs of the local governmental unit to provide an adequate housing supply that meets existing and forecasted housing demand in the local governmental unit. The element shall assess the age, structural, value and occupancy characteristics of the local governmental unit's housing stock. The element shall also identify specific policies and programs that promote the development of housing for residents of the local governmental unit and provide a range of housing choices that meet the needs of persons of all income levels and of all age groups and persons with special needs, policies and programs that promote the availability of land for the development or redevelopment of low-income and moderate-income housing, and policies and programs to maintain or rehabilitate the local governmental unit's existing housing stock.
- **Transportation element.** A compilation of objectives, policies, goals, maps and programs to guide the future development of the various modes of transportation, including highways, transit, transportation systems for persons with disabilities, bicycles, walking, rail-

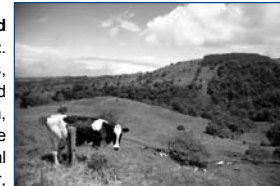


roads, air transportation, trucking and water transportation. The element shall compare the local governmental unit's objectives, policies, goals and programs to state and regional transportation plans. The element shall also identify highways within the local governmental unit by function and incorporate state, regional and other applicable transportation plans, including transportation corridor plans, county highway functional and jurisdictional studies, urban area and rural area transportation plans, airport master plans and rail plans that apply in the local governmental unit.

- **Utilities and community facilities element.** A compilation of objectives, policies, goals, maps and programs to guide the future development of utilities and community facilities in the local governmental unit such as sanitary sewer service, storm water management, water supply, solid waste disposal, on-site wastewater treatment technologies, recycling facilities, parks, telecommunications facilities, power-generating plants and transmission lines, cemeteries, health care facilities, child care facilities and other public facilities, such as police, fire and rescue facilities, libraries, schools and other governmental facilities. The element shall describe the location, use and capacity of existing public utilities and community facilities that serve the local governmental unit, shall include an approximate timetable that forecasts the need in the local governmental unit to expand or rehabilitate existing utilities and facilities or to create new utilities and facilities and shall assess future needs for government services in the local governmental unit that are related to such utilities and facilities.

- **Agricultural, natural and cultural resources element.**

A compilation of objectives, policies, goals, maps and programs for the conservation, and promotion of the effective management, of natural resources such as groundwater, forests, productive agricultural areas, environmentally sensitive areas, threatened and endangered species, stream corridors, surface water, floodplains, wetlands, wildlife habitat, metallic and nonmetallic mineral resources, parks, open spaces, historical and cultural resources, community design, recreational resources and other natural resources.



- **Economic development element.** A compilation of objectives, policies, goals, maps and programs to promote the stabilization, retention or expansion, of the economic base and quality employment opportunities in the local governmental unit, including an analysis of the labor force and economic base of the local governmental unit. The element shall assess categories or particular types of new businesses and industries that are desired by the local governmental unit. The element shall assess the local governmental unit's strengths and weaknesses with respect to attracting and retaining businesses and industries, and shall designate an adequate number of sites for such businesses and industries. The element shall also evaluate and promote the use of environmentally contaminated sites for commercial or industrial uses. The element shall also identify county, regional and state economic development programs that apply to the local governmental unit.
- **Intergovernmental cooperation element.** A compilation of objectives, policies, goals, maps and programs for joint planning and decision making with other jurisdictions, including school districts and adjacent local governmental units, for siting and building public facilities and sharing public services. The element shall analyze the relationship of the local governmental unit to school districts and adjacent local governmental units, and to the region, the state and other governmental units. The element shall incorporate any plans or agreements to which the local governmental unit is a party under s. 66.023, 66.30 or 66.945. The element shall identify existing or potential conflicts between the local governmental unit and other governmental units that are specified in this paragraph and describe processes to resolve such conflicts.
- **Land-use element.** A compilation of objectives, policies, goals, maps and programs to guide the future development and redevelopment of public and private property. The element shall contain a listing of the amount, type, intensity and net density of existing uses of land in the local governmental unit, such as agricultural, residential, commercial, industrial and other public and private uses. The element shall analyze trends in the supply, demand and price of land, opportunities for redevelopment and existing and potential land-use conflicts. The element shall contain projections for 20 years with detailed maps, in 5-year increments, of future residential, agri-

cultural, commercial and industrial land uses including the assumptions of net densities or other spatial assumptions upon which the projections are based. The element shall also include a series of maps that show current land uses and future land uses that indicate productive agricultural soils, natural limitations for building site development, floodplains, wetlands and other environmentally sensitive lands, the boundaries of areas to which services of public utilities and community facilities will be provided in the future, and the general location of future land uses by net density or other classifications.

- **Implementation element.** A compilation of programs and specific actions to be completed in a stated sequence, including proposed changes to any applicable zoning ordinances, official maps, sign regulations, erosion and storm water control ordinances, historic preservation ordinances, site plan regulations, design review ordinances, building codes, mechanical codes, housing codes, sanitary codes or subdivision ordinances, to implement the objectives, policies, plans and programs. The element shall describe how each of the elements of the comprehensive plan will be integrated and made consistent with the other elements of the comprehensive plan, and shall include a mechanism to measure the local governmental unit's progress toward achieving all aspects of the comprehensive plan. The element shall include a process for updating the comprehensive plan. A comprehensive plan under this subsection shall be updated no less than once every 10 years.

1000 Friends Commentary: The authors of this law intended that each plan would address each element, but a community or group of communities can address them in ways that are appropriate to that jurisdiction. So, for example, a city with no remaining farmland within its borders could simply note that fact and move on without having to write a plan to save farmland that does not exist. Also, the law requires that land use decisions must be consistent with a full nine-element comprehensive plan by January 1, 2010. This means that a community may adopt elements separately if it chooses at any time between now and then, so long as it has a complete nine element plan in place by January 1, 2010. It is usually good planning practice to adopt the entire plan as one package or at least to compare new elements to existing ones as they are adopted so that the community thinks about how one element relates to the others.

PLANNING GOALS

The new law provides fourteen goals that state agencies are asked to consider when taking actions and that communities must consider when writing a comprehensive plan with state planning aids:

- Promotion of the redevelopment of lands with existing infrastructure and public services and the maintenance and rehabilitation of existing residential, commercial and industrial structures.

Goal 1: Redevelopment



Photographs courtesy of The Congress of the New Urbanism.

- Encouragement of neighborhood designs that support a range of transportation choices.
- Protection of natural areas, including wetlands, wildlife habitats, lakes, woodlands, open spaces and groundwater resources.
- Protection of economically productive areas, including farmland and forests.
- Encouragement of land uses, densities and regulations that promote efficient development patterns and relatively low municipal, state governmental and utility costs.
- Preservation of cultural, historic and archaeological sites.
- Encouragement of coordination and cooperation among nearby units of government.
- Building of community identity by revitalizing main streets and enforcing design standards.

- Providing an adequate supply of affordable housing for individuals of all income levels throughout each community.
- Providing adequate infrastructure and public services and an adequate supply of developable land to meet existing and future market demand for residential, commercial and industrial uses.
- Promoting the expansion or stabilization of the current economic base and the creation of a range of employment opportunities at the state, regional and local levels.
- Balancing individual property rights with community interests and goals.
- Planning and development of land uses that create or preserve varied and unique urban and rural communities
- Providing an integrated, efficient and economical transportation system that affords mobility, convenience and safety and that meets the needs of all citizens, including transit-dependent and disabled citizens.

Public Participation

The new law provides **specific minimum standards that all local planning efforts must follow**, whether the planning effort receives state funding or not. Here are the major procedures that local governments must follow:

- They must adopt written procedures designed to foster public participation throughout the planning process. These procedures must provide for wide distribution of alternative elements of a comprehensive plan and provide the opportunity for public hearings and written comments from the public.
- If plans and plan amendments are recommended by a vote of the local planning commission, copies of the recommended plan must be sent to overlapping jurisdictions, all adjacent communities and the Land Council.

- Final plans must be adopted by ordinance by the local governing body. It is not sufficient for plans to be adopted by a plan commission alone.
- Local governments must hold at least one public hearing before a plan is adopted. Once adopted, the plan must be filed with the local library and the adjacent local governments.

Traditional Neighborhood & Conservation Subdivision Model Ordinances

The new law requires the University of Wisconsin Extension to develop model ordinances for traditional neighborhood developments and for conservation subdivisions.

- Traditional neighborhood developments are compact, mixed-use neighborhoods where residential, commercial and civic buildings are within close proximity to each other.
- Conservation subdivisions are housing developments in rural settings that are characterized by compact lots and common open space, and where the natural features of the land are maintained to the greatest extent possible.

The Extension was required to draft these model ordinances by January 1, 2001. By January 1, 2002 every city, village and town in Wisconsin above 12,500 in population should have adopted an ordinance similar to the model traditional neighborhood ordinance. The conservation subdivision model ordinance is not required to be adopted by any government. Local governments that are required to adopt a traditional neighborhoods ordinance are not required to approve any specific development proposals.

1000 Friends Commentary: The traditional American neighborhood with its porches, sidewalks, corner stores, small neighborhood parks and schools that kids can walk to is



virtually never built any more. One reason for this is that local codes require large lots and strictly separated uses and don't require sidewalks and other public amenities. Yet, traditional neighborhoods are better for the environment because they use less land per house and because they allow their residents to drive less. This section of Smart Growth is designed to reduce the barriers to building new traditional neighborhoods. It gives developers a template under which to propose new neighborhoods that use some of these traditional features. However,



since the law specifically does not require that the zoning category be mapped, it is not forcing local communities to accept traditional neighborhoods if they do not want them. Conservation subdivisions are a rural corollary to the urban traditional neighborhood. Conservation subdivisions work around the outstanding natural features of a parcel of land rather than destroying them. They often incorporate trails, greenways, smaller lots and more common open space. The law only requires that a model conservation subdivision ordinance be developed, but it does not require adoption by any local governments.



FREQUENTLY ASKED QUESTIONS

My community already has an adopted plan. Does Smart Growth make it null and void?

No, Smart Growth does not affect any existing plan. However, by 2010, any land use decisions your community makes must be based upon a comprehensive plan with the nine elements defined in the law. So, by 2010 your community will want to update its plan to make sure that it meets the definition of a comprehensive plan in the state law.

My community is currently working on a land use plan. Will we have to start again from scratch?

No, but it would be wise to compare the work that has been done so far with the requirements for a comprehensive plan in the new law. While communities have until 2010 to comply with those requirements, it makes sense to get as close as possible as soon as possible.

I have heard that there is state money available to help communities write their plans. How can my community get that assistance?

They should contact the state Department of Administration's Office of Land Information Services office at (608) 261-6605 for information on application procedures.

A big issue in my area is intergovernmental cooperation on issues like annexations and town and county zoning. How does Smart Growth affect those relationships between local governments?

Smart Growth makes no changes to annexation law or to the relationship between towns and counties or, for that matter, between any units of government. The laws that applied to those situations before Smart Growth are still in effect. However, Smart Growth does encourage communities to plan together with their neighbors by giving them a preference for planning grants if they do so.

SECTION 5: PUBLIC PARTICIPATION

*"Tell me the landscape in which you live,
and I will tell you who you are."*

—Jose Ortega y Gasset



INTRODUCTION

The decisions we make about our community's growth and development have as much impact on our landscapes as they do on us as individuals. It is for this reason that decisions about a community's growth and development should incorporate input from all its residents. As discussed in the previous chapter, Wisconsin's comprehensive planning law requires communities to create comprehensive plans that will guide and shape these decisions.

Public participation is a hallmark of the Smart Growth law. Citizens must be involved in making local comprehensive plans. Each community will create a public participation program that describes how and when citizens can participate in each phase of the planning process. The importance of a well thought-out approach to public participation for the overall effectiveness of this process cannot be overstated.

The purpose of this chapter is to:

- Introduce citizens to the public participation requirements in the Smart Growth law;
- Explain why it is important for citizens to be involved in the comprehensive planning process;
- Describe how citizens can learn about and become involved in this process; and,
- Provide specific citizen involvement strategies for each stage of the planning process.

Although this guide was written with the average citizen in mind, this chapter should also be useful to local government officials, regional planning commissions, planning consultants and anyone else involved in creating public participation programs.

SMART GROWTH LAW: PUBLIC PARTICIPATION REQUIREMENTS

The Smart Growth Law provides minimum standards that all local planning efforts must follow, whether the planning effort receives state funding or not. The law, Wisconsin Statutes Chapter 66.1001(4)(a), specifically states the following:

The governing body of a local government unit shall adopt written procedures that are designed to foster public participation, including open discussion, communication programs, information services and public meetings for which advance notice has been provided, in every stage of the preparation of a comprehensive plan. The written procedures shall provide for wide distribution of proposed, alternative or amended elements of a comprehensive plan and shall provide an opportunity for written comments on the plan to be submitted by members of the public to the governing body and for the governing body to respond to such written comments.

What does this mean?

It means that local governments must allow and encourage citizens to help create a comprehensive plan for their community. This is a big change in planning for Wisconsin communities. In the past, the public has generally only had an opportunity to comment on a plan at a public hearing *after* local officials have created the document. Now, community leaders and staff must think of different ways to include residents in the process to create a plan. And, locally elected leaders (i.e., city council, village or town board) must formally approve a resolution outlining how citizens will be included in preparing a plan *before* the process begins.

Here are the additional major procedures that local governments must follow:

- If plans and plan amendments are recommended by a vote of the local planning commission, copies of the recommended plan must be sent to overlapping jurisdictions, all adjacent communities and the Wisconsin Land Council.

- Final plans must be adopted by ordinance by the local governing body. It is not sufficient for plans to be adopted by a planning commission alone.
- Local governments must hold at least one public hearing before a plan is adopted. Once adopted, the plan must be filed with the local library and adjacent local governments.

Are there different requirements for communities applying for General Planning Grants?

Not really. Communities applying for the grants must briefly describe in their grant application how they will provide opportunities for citizen input at every stage of the planning process. What is important is that the state will give funding preference to those communities that suggest "creative and thorough efforts" for "broad public participation," among other things. Specifically, the state encourages interesting public involvement techniques. These techniques might include informational and plan document working sessions throughout the process, citizen surveys, design charrettes, and visioning sessions. Therefore, a community will be much more likely to receive a planning grant if it proposes a public participation program that exceeds the minimum standards.

Why is public participation an important part of the planning process?

Citizens must be involved in creating a vision for their community's future and in determining how and when that vision will be implemented. They will experience the plan's costs and benefits on a daily basis for many years because the plan will, in part, determine where and how residents live, work and play, and how they get from one place to another. They will also be the main implementers and enforcers of the plan.

Citizen participation in the planning process is "essential if the plan is to gain widespread public support," according to University of Wisconsin-Madison Urban and Regional Planning Professor Brian Ohm in *Guide to Community Planning in Wisconsin*. "Enlisting the aid of citizens may bring new and important information to the attention of policy makers and provide a different perspective to the planning process."

Citizen involvement is important for several reasons, including the following:

- Opens up the decision-making process. Public participation is a means to ensure that citizens have a direct voice in public decisions, which increases the democratization of the process.
- Produces better decisions. Citizens can provide important input and contribute valuable skills to the planning process. For example, residents may propose creative solutions to complex issues that local officials or consultants have not thought of or believed to be unacceptable by the community.
- Supports and adds credibility to the decision making process. All of the participants in a decision making process are more likely to support a decision – even if they question certain aspects of it – if they have had an active role in influencing the decision. Everyone will have a much better understanding of how and why decisions were made, increasing the credibility of the process. "Participation gives citizens pride of authorship and the knowledge that local priorities and concerns have been addressed," Professor Ohm writes.
- Provides opportunities to disseminate information, enhances communication both ways. Involving the public in making a plan opens the door for an exchange of information and ideas between the local government and citizens on a wide range of issues affecting a community.
- Strengthens relations between local governments and the public. By working together, government officials and citizens can learn more about each other, the way decisions are made and the reasons for different opinions. This increased understanding may result in stronger relations.
- Helps to avoid protracted conflicts and costly delays. Involving a wide range of people and groups in the planning process from the start can help avoid long, drawn-out conflicts at the end of the process when people learn about the proposed plan for the first time. These conflicts can become expensive if opposing sides decide to go to court or if consultants are needed for extended periods of time.

to complete a plan. In addition, the high political and financial costs incurred by making the plan in this way may leave only a few remaining resources to implement the plan.

- Develop shared vision for a community's future. The outcome of a comprehensive planning process – a comprehensive plan – will affect everyone who lives, works, visits, or goes to school in a community. It is important that all of a community's diverse citizens and groups work together to reach consensus on a vision for the community's future.

It is important to note that while there are many reasons the public must be involved in the comprehensive planning process, public participation can slow down and add to the cost of the planning process. It is therefore important for communities to carefully create a public participation program before beginning the planning process.



HOW CITIZENS CAN BECOME INVOLVED IN COMPREHENSIVE PLANNING

Citizens can become involved in and learn more about comprehensive planning in several ways.

- Contact your community leaders or staff. Call your local government to see if it has a comprehensive plan, is creating or updating a plan, or is preparing to start the planning process. If a planning process is underway or a community is about to start the process, ask how you can become involved.
 - Will there be citizen advisory committees or plan committees with citizen members, and how can someone join a committee?
 - Has the local governing body adopted public participation procedures yet? If so, ask for a copy. If not, when might they consider such procedures?
 - Get involved with citizen-based land use planning, conservation, and development and monitoring groups at the local, regional or statewide level.
 - Get involved with your local planning commission and its advisory committees or working groups.
- Review local comprehensive plans. Each community's library and city, village or town hall is required by law to have a copy of its own and its neighbors' comprehensive plans available to the public. Every five years communities are required by law to evaluate their plans, so there will be additional opportunities to get involved. Become familiar with the planning issues and background now so that you are prepared when the update process begins. Until then, ask your local officials about how the plan is being implemented.
- Review background information and resources on planning and smart growth using the 1000 Friends website (www.1kfriends.org). The "links" page allows you to see what other organizations and states are doing with regard to smart growth and planning.

- Find out what current planning tools and techniques are working to create and maintain healthy communities across the country by contacting the Wisconsin Chapter of the American Planning Association (www.wisconsinplanners.org) and the national American Planning Association (see Links at the 1000 Friends web site).



Photograph courtesy of Vandewalle & Associates

KEY INGREDIENTS FOR EFFECTIVE PUBLIC PARTICIPATION

What makes a good public participation program? This section provides some useful tips on what communities should consider as they create public participation programs and it gives citizens some ideas of what to encourage their local governments to do to ensure the process is effective.

The three key ingredients in any public participation program are creativity, inclusiveness, and persistence. These ingredients can be described in the following ways:

- **Creativity:** the use of innovative, unique, and thoughtful ways to encourage people to participate and to maximize the effectiveness of public participation.
- **Inclusiveness:** involving everyone with a stake in the outcome of a comprehensive plan in the process of creating the plan.
- **Persistence:** patient and diligent efforts to successfully bring a wide range of citizens – people with different income levels, races, ages, and occupations within a community – into the planning process at all stages of the plan development, rather than minimal efforts that concede to low levels of public input early in the planning process.

Ask your local leaders or government staff how your community will creatively involve the public in the planning process, include everyone in the process that will be affected by the plan, and make sure that a wide range of citizens have a variety of opportunities to participate.

Creative, Inclusive Citizen Participation Strategies

If your community needs ideas about how to creatively involve the public, or if your community has proposed some public participation methods but you are not sure what they mean, this section describes a number of proven, successful public participation strategies. The strategies below are excerpted and slightly modified from the *Guide to Community Planning in Wisconsin*, by Brian Ohm, Department of Urban and Regional Planning, University of Wisconsin-Madison/Extension.

- *The General Survey.* A community-wide survey can be an excellent way to gather information and attitudes from citizens.
- *The Consensus Model.* This technique compares the survey responses of community leaders, elected officials and citizens to see where there is community-wide agreement.
- An "Open House." This is a community or consultant-sponsored event at which the public is invited to review alternative development scenarios or other products of the planning process. It is generally used to get citizen response to the development and/or planning alternatives.
- *Key Community Contact Interviews.* This approach uses informal interviews to get information from citizens about how they view policy issues. Each interview is an individual expression that should not be generalized to the entire community unless enough people are interviewed so that trends emerge.
- *The Focus Group.* Focus groups are small groups of 7-8 people who share similar backgrounds (i.e., lifestyles, opinions, or occupations) brought together and interviewed in a non-threatening environment to allow them to give perceptions and different points of view. Members can influence each other by responding to comments, a more effective process than will occur in surveys or key informant interviews. Focus groups can be used at all stages of a project. They work best to uncover information on perceptions, feelings and opinions.
- *Nominal Group Process.* These small groups of 8-12 people are widely used as a means of identifying and prioritizing concerns, goals, or community issues. All respondents have an equal voice in the process. This process typically includes each group member stating his or her response to a question, which is then recorded on a flip chart or chalkboard. Once all responses are recorded, the group briefly discusses the responses and then votes to prioritize the responses.

- *The Futures Workshop or Retreat.* Usually a fairly large group (25-40 people) of diverse community residents are brought together for a day or longer to work on an issue. Futures workshops typically review the community's history, detail the community's present situation, and determine action plans for the community's future.
- *The Citizen's Advisory Committee.* These committees meet over a period of time to assist planners with specific issues. Such committees can gather information, make recommendations and communicate planning items to a broader group of citizens.
- *Simulation Games.* Computer models and photographic imaging can be used to engage citizens by showing how an area may look after it is developed. However, modeling can be expensive. Other less expensive techniques may involve placing and moving colored dots on a map of the community to help understand different development scenarios.
- *"Community Photo" or "Visual/Image Preference" Survey.* These types of surveys allow citizens to compare and contrast pictures, illustrations or images to help them define what they like and dislike about their community. For example, citizens may take photographs of those features which depict what is important for community identity and which features detract from a community's sense of place.
- *Design Charrettes.* Design charrettes involve an intensive effort over a short period of time (a day or a week) to develop design-related solutions to particular issues. These efforts need to be facilitated by an experienced design-oriented individual.
- *Guided Tours.* Tours of community areas that illustrate the planning issues driving the planning process are an important way to educate local officials and citizens about those issues.
- *Newsletters and Informational Meetings.* Newsletters and information meetings are important ways to keep citizens informed about the progress of the planning process. A continuous flow of information is crucial for successful planning process.

Inclusiveness and persistence require communities to make every effort possible to ensure everyone has an opportunity to participate in the planning process, including groups that are typically underrepresented in planning processes. These groups often include lower income citizens, students, the elderly, persons with physical limitations, and single-parent households. Every effort must be made to encourage these residents to get involved in the process. The good news is that many communities around Wisconsin are already making a wide range of efforts through a variety of actions, including the following:

- Hold both daytime and evening meetings to allow citizens to participate when their work schedules permit.
- Provide childcare facilities for citizens attending public meetings as a way to encourage families, especially those with single parents, to attend and participate.
- Provide food and refreshments at meetings.
- Hold a meeting on a farm or another rural place to ensure that farmers and others working in natural resources jobs can easily participate.
- Involve local students in the process through such actions as appointing a student to the Steering Committee, or holding a special meeting specifically designed to gain students' input.
- Conduct a meeting designed to gather input from non-resident, seasonal home/cabin owners and workers during the seasons when these people will likely be at their second home or seasonal job.
- Provide meeting locations that are easily accessible by a variety of transportation means to serve the needs of all residents. Hold meetings outside town, village or city halls; people may feel more comfortable attending and participating in the discussions in neutral places such as at a school or senior center.
- Make accommodations for residents with sight, hearing or mobility impairments.

- Provide a wide range of communication channels to and from the local government leaders, staff, and/or consultants and the public to facilitate the exchange of ideas, opinions and information. For example, communities can:

- Send information on the planning process along with tax bills;
- Use the Internet to announce upcoming planning events, or to display maps and information about plan elements, and accept comments via e mail from residents or groups that may not be able to attend a meeting, open house, workshop, or focus group. If this approach is used, it is important to make sure there are public places such as libraries equipped with computers and Internet service for the public to access and respond to this information;
- Post information on municipal websites;
- Mail surveys and questionnaires;
- Accept and respond to citizen comments on the planning process or draft plan elements via email;
- Advertise in local newspapers, sending letters to the editor, or work with local journalists on newspaper columns explaining the planning process;
- Advertise on local radio and/or take part in call-in radio shows;
- Display information in non-traditional places such as community centers and social gathering places (banks, churches and grocery stores); and
- Hold office hours when citizens can call or stop in at a town, village or city hall or county courthouse to talk with local officials involved in the process;
- Televise planning meetings and encourage residents and stakeholder groups to mail or email their comments about the meeting; and
- Send personal invitations to community leaders to encourage their involvement.

CASE STUDIES

What are other communities' experiences with public participation under the new law? In this section we briefly share two stories about communities that significantly involved – or at least tried to involve – the public in the planning process. But the stories have different endings.

Our first story takes place in a small rural community where local leaders commenced a comprehensive planning process to identify and protect the community's natural resources while also providing for economic growth and development. The planning process allowed for public involvement throughout the process, including community surveys, special meetings around the community to discuss specific topics, informational meetings, draft plans for citizen input months before the final hearings, and more. The community exceeded all public notice requirements for all the planning events.

Unfortunately, despite efforts to inform the community of the comprehensive planning activities and to solicit public input, one influential group was left out of the process. The community did not specifically invite this group to the meetings to create the plan. Consequently, the group launched an aggressive campaign in opposition to the plan at the very end of the process. Opposition group members admitted that they had not read the plan and did not know what the plan proposed to accomplish. They simply didn't feel they were a part of the process so they strongly objected to its adoption.

The plan was eventually adopted, but at a high price. The community's elected leaders were not re-elected, all of the planning committee members resigned, and plan implementation remains questionable today.

How could this process have been improved?

A key former participant in this process advises communities to make special efforts to invite all groups to participate in the process – in particular, those you think are opposed to the plan or planning in general – at the beginning and then make sure they stay involved. If a group leader decides not to join the process, then try to bring other group members to the table. It is critical that all key stakeholders – people who have a stake in how the plan is implemented – participate in making the plan.

* * *

Our second story takes us to a Wisconsin county that jointly created a comprehensive plan with about 90% of the communities within its boundaries.

In the late 1990s, a recurring theme began to emerge as people began gathering in old schoolhouses, metal storage buildings and rural fire stations to talk about the conversion of farms and open space into subdivisions, and the fragmentation of forests into private hunting grounds. Scattered development was changing the county's character. Many residents and landowners believed it was time to start thinking, talking, sharing, and visualizing what the future of the county should look like through a comprehensive planning process.

Not long after these people started gathering, the county launched a "bottom-up" approach to create a comprehensive plan to better manage the development pressure by planning for the anticipated growth. The county started by creating a 14-member citizens advisory committee to oversee the planning process; the citizens represented a wide range of interest groups. In addition, nearly all of the towns and the only municipality participated in the process.

Most importantly, however, was the county's implementation of an extensive public participation program – both at the county and local levels. Activities such as youth vision forums, a shoreland property owners' survey, growth scenarios open houses, an educational forum series on different issues, and much more were successfully carried out to bring the public into the planning process.

Each community created its own land use plan through local planning committees. The committees worked directly with the county and consultants on the plan, including conducting a variety of public involvement activities to identify key issues and opportunities facing each community. After all of the communities' land use plans were drafted and adopted, they were compiled to form a mosaic of the desired land development pattern throughout the county, becoming the county's land use map.

In the end, the county adopted the comprehensive plan with "little or no debate, because the plan had such widespread public support from the

local town officials and the general public who were involved in the process," according to a county planner. He further added, "The more time we took to listen to different opinions, the better the end product became."

Since the plan's adoption, county staff members have noticed the results of the comprehensive planning process. Land use decisions "seem to have some systematic review and basis for the decision rather than just who is applying and whether the proposal gets a lot of complaints or not," another staff member said. In addition, the planning process seems to have built a new trust between the county and town governments.

SECTION 6:

RESOURCES



ORGANIZATIONS

Basic Information On Land Use & Planning

1000 Friends of Wisconsin

Ph: (608) 259-1000; Fx: (608)259-1621

Web: www.1kfriends.org; Email: friends@1kfriends.org

16 N. Carroll St., Ste. 810, Madison, WI 53703

1000 Friends is the state's only nonprofit that focuses exclusively on land use issues. They can provide information, studies and leads on people, organizations and communities addressing a wide variety of land use challenges and opportunities and they have a clearinghouse of information for members and concerned citizens.

University of Wisconsin Extension Local Government Center

Ph: (608) 262-9960; Fx: (608)265-8662

Web: www.uwex.edu/lgc; Email: lgc@uwex.edu

Lowell Center, Room 229; 610 Langdon St; Madison, WI 53703

This site provides a wealth of information on growth management issues and techniques and it contains dozens of links to other relevant web sites.

Regional Planning Commissions

Note: Sauk, Columbia, Dodge, Jefferson and Rock counties currently are not covered by a regional planning commission.

Bay-Lake RPC

Ph: (920) 448-2820; Fx: (920) 448-282; Web: www.baylakerpc.org

Suite 211, Old Fort Square; 211 N. Broadway; Green Bay, WI 54303

Counties: Brown, Door, Florence, Kewaunee, Manitowoc, Marinette, Oconto and Sheboygan

Dane County RPC

Ph: (608) 266-4137; Fx: (608) 266-9117; Web: www.danecorpc.org

30 W. Mifflin St; Madison, WI 53703

Counties: Dane

East Central Wisconsin RPC

Ph: (414) 751-4770; Fx: (414) 751-4771; Web: www.eastcentralrpc.org

132 Main Street; Menasha, WI 54952

Counties: Calumet, Fond du Lac, Green Lake, Marquette, Menominee, Outagamie, Shawano, Waupaca, Waushara and Winnebago

Mississippi River RPC

Ph: (608) 785-9396; Fx: (608) 785-9394; Web: www.mrrpc.com

1707 Main Street, Suite 240; LaCrosse, WI 54601

Counties: Buffalo, Crawford, Jackson, LaCrosse, Monroe, Pepin, Pierce, Trempealeau and Vernon.

North Central Wisconsin RPC

Ph: (715) 849-5510; Fx: (715) 261-6566; Web: www.ncwrpc.org

210 McClellan St, Suite 210; Wausau, WI 54403

Counties: Adams, Forest, Juneau, Langlade, Lincoln, Marathon, Oneida, Portage, Vilas and Wood.

Northwest Regional RPC

Ph: (715) 635-2197; Fx: (715) 635-7262; Web: www.nwrpc.com

1400 South River Street; Spooner, WI 54801-1390

Counties: Ashland, Bayfield, Burnett, Douglas, Iron, Price, Rusk, Sawyer, Taylor and Washburn.

Southeastern Wisconsin RPC

Ph: (414) 547-6721; Fx: (414) 547-1103; Web: www.sewrpc.org

P.O. Box 1607; Waukesha, WI 53187-1607

Counties: Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington and Waukesha.

Southwestern Wisconsin RPC

Ph: (608) 342-1214; Fx: (608) 342-1220; Web: www.swwrpc.org

Room 426, Karmann Library; 1 University Plaza; Platteville, WI 53818

Counties: Grant, Green, Iowa, Lafayette and Richland.

West Central Wisconsin RPC

Ph: (715) 836-2918; Fx: (715) 836-2886; Web: www.wcwrpc.org

Mail Box 9, 800 Wisconsin St, Suite D2-401, Eau Claire, WI 54703

Counties: Barron, Chippewa, Clark, Dunn, Eau Claire, Polk, St. Croix.

Farmland Preservation Organizations

American Farmland Trust — Upper Midwest Region

Ph: (608) 848-7000; Fx: (608) 848-7040;

Web: www.farmland.org/upper_midwest

135 Enterprise Dr, Suite AFT; Verona, WI 53593

AFT works to stop the loss of productive farmland and to promote farming practices that lead to a healthy environment.

Historic Preservation Organizations

Wisconsin Historical Society

Ph: (608) 264-6500; Web: www.wisconsinhistory.org
816 State St; Madison, WI 53706

The Historic Preservation Division assists communities, organizations, agencies and individuals with identifying and protecting archaeological sites, burial places and historic buildings in Wisconsin.

Downtown Business District Improvement

Main Street Program

Ph: (608) 266-7531

Web: www.commerce.state.wi.us/CD/CD-bdd.html

Bureau of Downtown Development, Department of Commerce
201 West Washington Ave, P.O. Box 7970, Madison, WI 53707

This State of Wisconsin program helps small and moderately sized downtown business districts save and promote their historic buildings as an asset. The program uses a broad array of strategies to improve the health of central business districts.

Land Trust Organizations

The Nature Conservancy — Wisconsin Chapter

Ph: (608) 251-8140; Web: www.nature.org
633 West Main Street, Madison, WI 53703

The Conservancy focuses on the protection of key natural areas and biological diversity. It does not generally buy land outside of its defined preserve areas.

Gathering Waters Conservancy

Ph: (608) 251-9131; Fx: (608) 663-5971
Web: www.gatheringwaters.org

211 S. Patterson St, Ste 270, Madison, WI 53703

Gathering Waters is your link to the dozens of local land trusts around the state. These land trusts protect land by buying it or the rights to develop it. They have a variety of criteria for purchase and resources. Gathering Waters can give you advice and help you contact the right people. They can also help develop your own local land trust if that's needed in your area.

Traditional Neighborhood Developments

Congress for the New Urbanism (CNU)

Ph: (415) 495-2255; Fx: (415) 495-1731

Web: www.cnu.org; Email: cnuinfo@cnu.org

5 Third Street, Suite 725, San Francisco, CA 94103-3296

CNU is a San Francisco-based non-profit organization that works with architects, developers, planners, and others involved in the creation of cities and towns, teaching them how to implement the principles of the New Urbanism. These principles include coherent regional planning, walkable neighborhoods, and attractive, accommodating civic spaces.

Water Resource Issues

Wisconsin Association of Lakes

Ph: (608) 662-0923; Web: www.wisconsinlakes.org

One Point Place, Suite 101; Madison, WI 53719

WAL has been active on a variety of issues of importance to lake property owners including shoreline protection, boating issues and water quality concerns.

River Alliance of Wisconsin

Ph: (608) 257-2424; Fx: (608) 260-9799; Web: www.wisconsinrivers.org

306 E. Wilson St., #2W; Madison, WI 53703

The Alliance focuses on river issues such as dam removal and community planning to achieve better water quality.

Environmental Organizations

The Sierra Club — John Muir Chapter

Ph: (608) 256-0565; Web: wisconsin.sierraclub.org

222 S. Hamilton St., #1; Madison, WI 53703

The Sierra Club — Midwest Field Office

Ph: (608) 257-4994; Email: mw.field@sierraclub.org

214 N. Henry St., #203; Madison, WI 53703

The Midwest Regional Office has written an analysis of the costs of development, called "Sprawl Costs Us All". You can get a copy by calling their office.

GLOSSARY

Definitions from the following terms have appeared in full or in part in the following sources:

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- Davidson, M. and F. Dolnick (eds.). 1999. *A Glossary of Zoning, Development, and Planning Terms*. Chicago: American Planning Association Publications.
- Holveck, Timothy A. 2001. *Land-Use Lingo: A Glossary of Land-Use Terms*. Madison: Wisconsin Department of Natural Resources.
- Macris, N. 2000. *Planning in Plain English*. Chicago: Planners Press, American Planning Association.
- Moskowitz, Harvey S. and Carl G. Lindbloom. 1997. *The New Illustrated Book of Development Definitions*. New Brunswick: Center for Urban Policy Research.
- Watermolen, D.J. and S.M. Fenner, 1995. *Common Ground: Report of the DNR Land Use Task Force*. Madison: Wisconsin Department of Natural Resources.

Accessory Structure or Building A building or other structure that is supportive, secondary and subordinate in use and/or size to the principal building or structure on the same parcel or lot. Example: if a house in the principal use of a lot, a shed for yard tools might be an accessory structure or building.

Accessory Use A use that is supportive, secondary and subordinate to the principal use of a lot, parcel, building or structure. Example: if the principal use of a lot is residential, a home occupation might be an accessory use.

Affordable Housing Housing that has its mortgage, amortization, taxes, insurance, and condominium and association fees constituting no more than 30% of the gross household income per housing unit. If the unit is rental, then the rent and utilities constitute no more than 30% of the gross household income per rental unit. See s. COMM 202.01, Wis. Admin. Code.

Agricultural Protection Zoning A method for protecting agricultural land use by stipulating minimum lot sizes or limitations on non-farm use.

Allowable Use A land use that is specifically permitted or allowed by a zoning ordinance for an area designated by a zoning map.

Amendment A local legislative act changing a zoning ordinance, subdivision ordinance, or comprehensive plan to make changes or updates, to correct errors, or to make clarifications.

Annexation The process by which city and village boundaries are expanded. Under Wisconsin law, annexations can take place only with the consent of the landowner.

By Right A use that complies with all zoning regulations and other applicable ordinances and that is permitted or allowed without the consent of a review board.

Capital Improvement A major, infrequent expenditure, geared toward systematically constructing, maintaining, and upgrading a community's infrastructure.

City Under Wisconsin law, an incorporated area with a population of at least 10,000. Cities are divided into the four following classes for administration and the exercise of corporate powers:

- a. Cities of 150,000 population and over - 1st class cities.
- b. Cities of 39,000 and less than 150,000 population - 2nd class cities.
- c. Cities of 10,000 and less than 39,000 population - 3rd class cities.
- d. Cities of less than 10,000 population - 4th class cities.

See ch. 62, Wis. Stats.

Conservation Easement A recorded legal agreement between a landowner and a qualified conservation agency that transfers development rights from the owner to the agency to protect natural or historic features. See s. 700.40, Wis. Stats.

Cluster Development Zoning (Clustering) Concentrating the total allowable dwelling units on a tract of land into higher densities on a smaller portion of the tract, leaving the remaining land as open space. For example, in a five-acre minimum lot zoned area, 10 units would be constructed on 50 acres; however, 10 units could also be "clustered" on 5 acres, leaving the remaining 45 acres as common open space. An incentive to encouraging cluster developments would be to allow even more units than normally permitted, such as 12 or 15 units on the 5 acres. This is sometimes called a "density bonus."

Comprehensive Plan A plan intended to guide the growth and development of a community or region, and that relates and coordinates the physical, social, land use, and economic aspects of a community or region. County development plan or city, village, town, or regional planning commission master plan prepared under and meeting the content requirements outlined in s. 66.1001, Wis. Stats. Comprehensive plans provide a vision and general idea of how land should be used to assure public health, safety, and welfare.

Conditional Use A land use that may become an allowable use if certain conditions laid out in a zoning ordinance are met. A land use, construction activity, or structural development, that must be tailored to the site conditions and adjacent property uses through a public and technical review process, which is listed as a conditional use in a zoning district.

Density The number of housing units per unit of land. Example: 10 housing units per one acre of land (called "high density") is a much higher density than one housing unit per 10 acres of land (called "low density").

Design Guidelines A set of standards that define general parameters to be followed in site and/or building design. Such standards do not prescribe architectural style or exact site layout. In many cases, design guidelines are used to preserve the historic or architectural character of an area. They may also be used to preserve important scenic corridors by requiring development to be integrated into the landscape.

Development The use or alteration of land or land uses and improvements inclusive of, but not limited to: 1) the creation, division, alteration or elimination of lots; or 2) mining, drilling (excepting to obtain soil samples or to conduct tests) or the construction, erection, alteration, or demolition of buildings or structures; or 3) the grading, excavation, clearing of land, or the deposit or fill in preparation or anticipation of future development, but excluding landscaping.

District A part, zone, or geographic area within the municipality where certain zoning or development regulations apply.

Down Zoning A change in zoning classification that permits development that is less dense, intense, or restrictive. Example: changing zoning on a parcel from permitting multi-family developments like a apartments to one single-family residence.

Eminent Domain The right of a government unit to take private property for public use with appropriate compensation to the owner. See ch. 32, Wis. Stats.

Environmentally Sensitive Areas Areas such as wetlands, steep slopes, waterways, underground water recharge areas, shores, and natural plant and animal habitats that are easily disturbed by development.

Exclusionary Zoning Zoning regulations that exclude affordable housing and/or minority households from a community, neighborhood, or subdivision. For example, a zone district that requires a minimum of 5-

acre lots and a minimum of 2,500 square foot single family homes would exclude low- to moderate income households.

Extraterritorial Zoning A local government's authority to zone areas outside its boundaries. Under Wisconsin law, the extraterritorial zone for 1st, 2nd, and 3rd class cities extends 3 miles beyond the corporate limits. The limit extends 1-½ miles beyond the municipal boundary for 4th class cities and villages. See s. 62.23(7a), *Wis. Stats.*

Floating Zone An unmapped zoning district that is described in an ordinance and on the zoning map only when an application for development is approved.

Growth Management The pacing of the rate, controlling of the location, and determining the type of development via law enactment to manage a community's growth.

Hamlet A predominantly rural, residential settlement that compactly accommodates development.

Impact Fees Cash contributions, contributions of land or interests in land, or any other items of value that are imposed on a developer by a political subdivision to offset the community's costs resulting from a development. See s. 66.0617, *Wis. Stats.*

Inclusionary Zoning Zoning regulations that provide more housing choices by establishing requirements and providing incentives to build affordable housing in or near market rate housing developments. For example, communities may require that a certain percentage of a residential housing development be affordable to low- and moderate-income households.

Infill The development of the remaining lots in an existing developed area, the new development within an area already served by existing infrastructure and services, or the reuse of already developed, but vacant properties.

Infrastructure Public utilities, facilities, and delivery systems such as sewers, streets, curbing, sidewalks, and other public services.

Incorporated Area Territory within city and village boundaries.

Land Trust A non-profit organization created for the holding of land or conservation easements. Land trusts also usually have an educational programming function.

Land Use A description of how land is used.

Land Use Inventory A study, cataloging the types, extent, distribution, and intensity of current and future uses of land in a given area.

Large Lot Zoning A requirement that each new house be constructed on a minimum number of acres (generally, five or more acres). Developments that feature large-lot zoning may include the dispersal of some impacts, less efficient infrastructure, and greater areas of land use.

Leapfrog Development New development separated from existing development by substantial vacant land like a farm or forest.

Lot A parcel of land that is occupied or intended for occupancy, including one main building and any accessory buildings, open spaces, or parking spaces.

Mixed Use Development A development that allows multiple compatible and integrated uses either in the same building or in close proximity to one another in order to minimize transportation infrastructure impacts and to create a compact, efficient neighborhood; for example, single family, multifamily, commercial, and industrial uses are located within a reasonable proximity to each other.

Moratorium A temporary development freeze or restriction pending the adoption or revision of related public policies or provisions of public infrastructures or services.

Municipality A city or village, an incorporated area.

Neo-traditional Development A land-use approach that promotes neighborhoods with a variety of housing and architectural types, a central gathering point, and interconnecting streets, alleys, and boulevards edged with greenbelts.

New Urbanism An approach to development that includes the reintegration of components such as housing, employment, retail, and public facilities into compact, pedestrian-friendly neighborhoods linked by mass transit.

Nonconforming Use A land use that does not conform with a zoning ordinance, but which is not illegal. Usually, nonconforming uses predated the establishment of a zoning ordinance or a zoning change and so they were "grandfathered", meaning that they were allowed to continue even though they do not comply with the new ordinance. A use (or structure) that lawfully existed prior to the adoption or amendment of an ordinance but that fails to conform to the standards of the current zoning ordinance.

Official Map A map adopted by a local government showing where planned public improvements, like roads, will be built. The map can be used to prevent development in an area mapped for a public project. Communities are not required to adopt official maps.

Open (Green) Space A substantially undeveloped area, usually including environmental features such as water areas or recreational facilities.

Ordinance A local law; a legislative enactment of a local governing body.

Overlay Zone An additional land-use or zoning requirement that modifies the basic requirements of the underlying designation.

Plan A document that results from developing a vision for the future of a community and deciding on a course of action to reach that desired future state.

Planned Unit Development Land under unified control to be developed in a single development or a programmed series of phases. A planned development includes the provisions, operations, maintenance, facilities, and improvements that will be for the common use of the development districts, but which will not be maintained at general public expense.

Purchase of Development Rights (PDR) A public or private government initiative that acquires the development rights of property to limit development and protect natural features or open space.

Quasi-judicial Decisions "Resembling a court;" quasi-judicial decision making must follow rules of due process and is midway between legislative and administrative functions. Examples of quasi-judicial decisions include variances, appeals, and conditional-use permits.

Redevelopment Any proposed replacement of existing development.

Regional Plan A plan that covers multiple jurisdictions, often within the administrative area of a regional planning commission, and that can be prepared jointly by cooperating municipalities, regional planning commissions, state agencies, or other entities.

Rezoning An amendment to a zoning map or zoning ordinance that changes the zoning-district designation and use or development standards.

Rights (The Bundle of Rights Concept of Property) Government and private owners each hold portions of the bundle of rights in real property. Owner property rights include: *Right to Use:* the right to improve, harvest, cultivate, cross over, or not to use; *Right to Lease:* the right to lease for cash or the right to hold a cash, including a share lease or third or fourth lease, a crop share lease, a one year lease, or a perpetual lease; *Right of Disposition:* the right to sell, to bequeath, to mortgage, or to establish trusts on all or part of a property. Government property rights include: *Eminent domain:* the right to purchase land for public use; *Escheat:* the right for the succession in title where there is no known heir; *Regulation; Taxation.*

Spot Zoning Rezoning of one or a few lots of land to benefit a property owner for a use that is generally regarded as incompatible, undesirable or illegal because it violates equal treatment and sound planning principles. Spot zoning often occurs when a small parcel is given special treatment by being rezoned, the rezoning is against the public interest, and the action conflicts with a comprehensive plan.

Sprawl Low-density, automobile-dependent, single-use, and land-consumptive outward growth of a city, village or town hamlet; the spread of congestion and development into suburban and rural areas adjoining urban areas or undeveloped areas.

Steep Slope Generally, land areas where the slope is more than 12 percent.

Strip Commercial Development Commercial development in a one story high, one store deep building, with a large parking lot separating the structure from a major street or highway. Usually these developments have no or minimal architectural features leaving them without any character, and are mostly occupied by chain stores. And, they are often only accessible by cars.

Subdivision The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels or other divisions of land. At a minimum, the creation of 5 or more lots of 1½ acres or less in 5 years or less. May be locally defined more strictly (fewer lots, larger size, less time).

Takings Government actions that violate the Fifth Amendment to the U.S. Constitution, which reads in part, "nor shall private property be taken for public use, without just compensation." Such actions include regulations that have the effect of "taking" property. The Supreme Court has established four rules that identify situations that amount to a taking and one rule that defines situations that do not. The court has found "takings" in the following circumstances:

1. Where a landowner has been denied "all economically viable use" of the land;
2. Where a regulation forced a landowner to allow someone else to enter onto the property;
3. Where the regulation imposes burdens or costs on a landowner that do not bear a "reasonable relationship" to the impacts of the project on the community; and
4. Where government can equally accomplish a valid public purpose through regulation or through a requirement of dedicating property, government should use the less intrusive regulation, for example, prohibiting development in a floodplain property.

The Supreme Court has also said that where a regulation is intended merely to prevent a nuisance, it should *not* be considered a taking.

Town The unit of local government for unincorporated areas.

Township A six-mile square survey area bearing no significance to municipal boundaries. Not to be confused with a town, although their boundaries may coincide.

Transfer of Development Rights A technique, involving the designation of development (receiving) zones and protected (sending) zones, for guiding growth away from sensitive resources and toward controlled development centers by transferring development rights from one area to another via local law authorization such as a deed or easement.

Traditional Neighborhood A compact, mixed-use neighborhood where residential, commercial, and civic buildings are within a close proximity.

Undevelopable an area that cannot be developed due to topographic or geologic soil conditions.

Unincorporated Territory outside of cities and villages.

Up Zoning Changing the zoning designation of an area to allow higher densities or less restrictive use. Example: rezoning land that was designated for single family residential development to a new zoning classification that allows multi-family and commercial development.

Urban Service Area An area designated to receive services such as sewer, water and police and fire protection from a municipality.

Variance A type of zoning appeal that may allow a developer or landowner an exception to a provision of a zoning ordinance.

Village Under Wisconsin law, an incorporated area with a population of at least 1000 and a land area of at least one square mile.

Zone An area designated by an ordinance where specified uses are permitted and development standards are required.

Zoning The division of land into districts for the purpose of imposing limitations on the land use in those districts in the interest of public health, safety, and welfare.



The Land Use Institute
16 North Carroll Street, Suite 810
Madison, WI 53703-2726
Ph: 608.259.1000; Fx: 608.259.1621
Website: www.1kfriends.org
Email: friends@1kfriends.org



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