

Fundamentals of Zoning and Land Use Decision Making



Rebecca Roberts
rroberts@uwsp.edu
715-346-4322



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



Extension
UNIVERSITY OF WISCONSIN - MADISON



What is your role?

- Elected Official
- Plan Commission / Zoning Committee
- Zoning Board of Adjustment / Appeals
- Planning and Zoning Staff
- Clerk, Administrator, Other



Key Takeaways

- Major land use tools and decisions
 - Planning
 - Zoning
 - Subdivision
- Roles and responsibilities
- Future directions

Three Most Common Land Use Tools



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



Subdivision Ordinance regulates the division of land, street and lot layout, and public improvements.



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

Compare two neighborhoods
5 miles apart
10-15 minute drive



What do you see?

1 mile

40 acres

160 acres
(quarter section)

640 acres
(section)

1000 ft



What do you see?



40 acres

1000 ft

Density Comparison

75,000 sq ft (1.7 acre) lots

70 lots x \$225,000

2.85 miles road

7,500 sq ft (0.17 acre) lots

700 lots x \$150,000

11 miles road



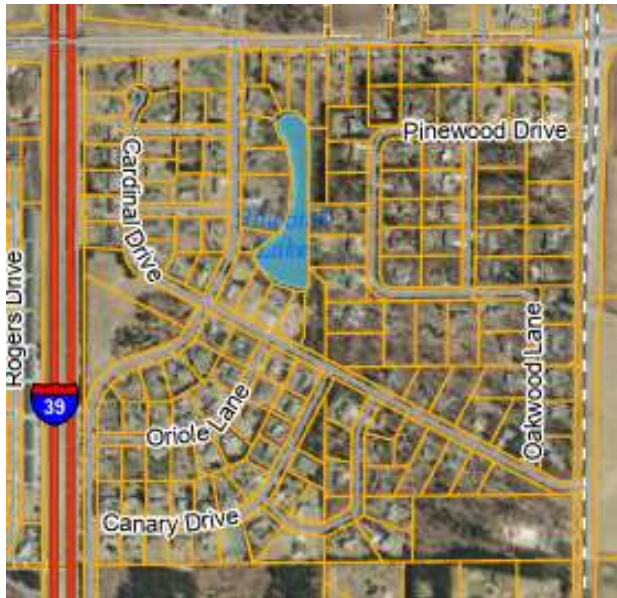
160 acres



160 acres

Portage County Rural Land Division

160 acres



154 lots, 1 acre
3.75 miles road
5-acre park, 3-acre pond

160 acres



27 lots, 2-10 acres
1.95 miles road

160 acres



24 lots, 1.5+ - 40 acres
1 mile road
7 parcels without road access

Pros/cons of these development patterns?

How were they created?

Three Most Common Land Use Tools



What do you want to protect, restore, enhance, encourage within your community? Who do you need to work with? What tools will you use?



How will you shape new development? How does this relate to existing development? What infrastructure will you provide?



How do you harmonize uses within your community? How do you deal with issues of growth, change, infill, densification?

The background features a series of concentric, overlapping curved lines in shades of gray, some solid and some dashed, creating a sense of depth and movement. A large, solid blue speech bubble is centered on the page, pointing downwards. The text "Comprehensive Plan" is written in white, sans-serif font inside the speech bubble.

Comprehensive Plan



Town Comprehensive Plans

County Comprehensive Plan

County Wide Bicycle and
Pedestrian Plan

Safe Streets & Roads For All
Grant

Home › Departments › Planning & Zoning › Planning Section › County Comprehensive Plan

County Comprehensive Plan

- [Portage County Comprehensive Plan \(PDF\)](#)

County Comprehensive Plan Update

- [Portage Co Comp Recommended Draft 4.18.2024](#)

Portage County, with assistance from North Central Wisconsin Regional Planning Commission, is currently undertaking an update of its Comprehensive Plan, which was first adopted in 2006. This Plan is a guide for how the County will develop over the next ten to twenty years, and how to address issues and opportunities as they arise. A Comprehensive Plan Steering Committee, made up of members from each community in the County, was assembled to carry out this update. Six meetings were held throughout 2023 to review and edit the Plan's chapters, and an online public survey was distributed, returning 680 total responses.

On December 7, 2023, the Steering Committee recommended the Draft Plan to the County Planning and Zoning Committee. The Committee held a public hearing to receive comments on the updated Portage County Comprehensive Plan on Tuesday, March 26, 2024. At a meeting immediately following the public hearing, the Committee recommended adoption of the Comprehensive Plan Update by resolution. The Portage County Board will meet on April 16, 2024 to make a final decision on the updated Comprehensive Plan.

A copy of the proposed Comprehensive Plan update may be viewed above, as well as www.ncwrpc.org, or in-person 8:00AM thru 4:30PM Monday thru Friday, at the Portage County Planning & Zoning Department within the County Annex. For additional information on the proposed Comprehensive Plan, contact Kristen Johnson, Portage County Planner, by phone at 715-346-1338 or email at johnsokr@co.portage.wi.gov.



When we plan, we're deciding how we want our community to look, function, and feel. We create a comprehensive plan, but this is not just the title of a document, it's the description of a process, too.

– Village of Little Chute

Comprehensive Plan

- Statement of community's long-term vision
- Includes goals, objectives, policies, data and maps
- Recommendations to implement plan (i.e. regulations, design guidance, funding, voluntary programs, etc.)

(Wis Stat. 66.1001)



The Legal Definition

Wisconsin's Comprehensive Planning Law provides structure for the plan and process:

- Address 9 elements
- Include written public participation procedures
- Distribute plan for review and comment
- Plan commission recommends plan
- Governing body adopts plan by ordinance
- Update at least once every 10 years

Nine Required Elements



Issues & Opportunities



Housing



Transportation



Utilities & Community Facilities



Agricultural, Natural & Cultural Resources



Economic Development



Intergovernmental Cooperation



Land Use



Implementation

Consistency Requirement

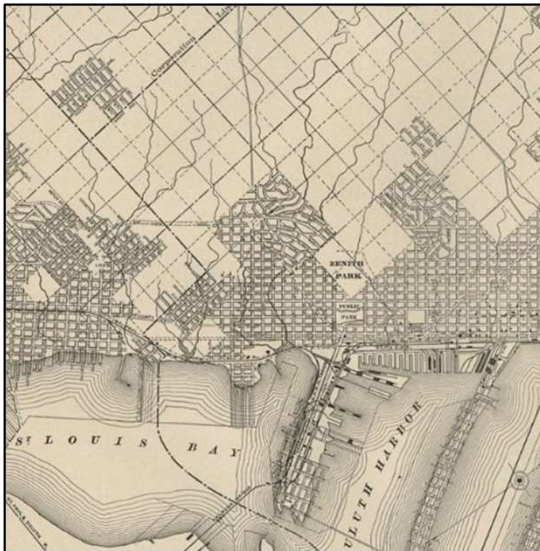
- New or amended zoning, land division, and official mapping ordinances must be consistent with an adopted comprehensive plan
- Consistent means “furthers or does not contradict the objectives, goals and policies contained in the comprehensive plan”

Guiding Document



Comprehensive Plan

Regulatory Tools to Implement the Plan



Official Map



Subdivision Ordinance



Zoning Ordinance

Guiding Document



Comprehensive Plan

Non-Regulatory Tools to Implement the Plan



Specific Plans



Programs



Funding

Questions

- Do you have a copy of your plan?
- How are you using your plan?
- When did you last update it?

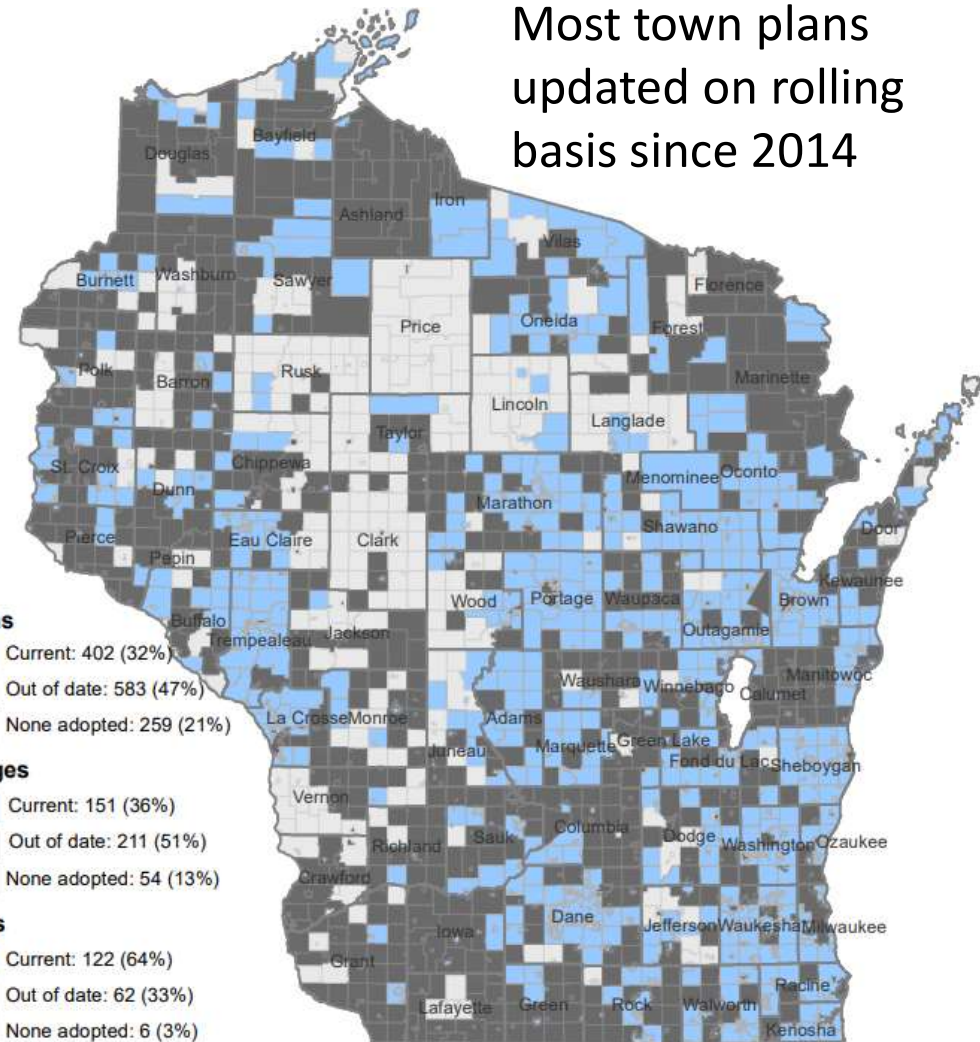
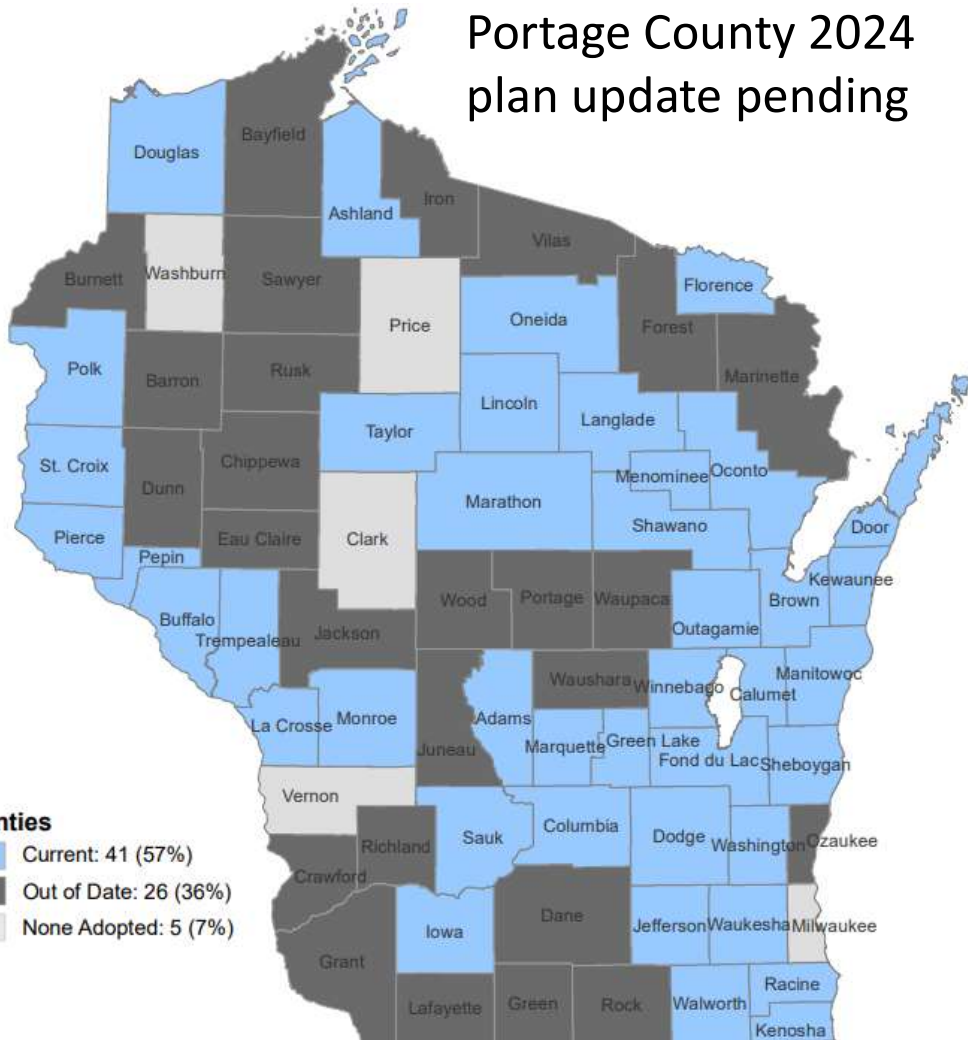
Common Answers

- Consult when making development decisions
- Provide input on county zoning (rezones)
- Prioritize capital spending/road improvements
- Support for grant applications

Comprehensive Plan Status

Portage County 2024 plan update pending

Most town plans updated on rolling basis since 2014



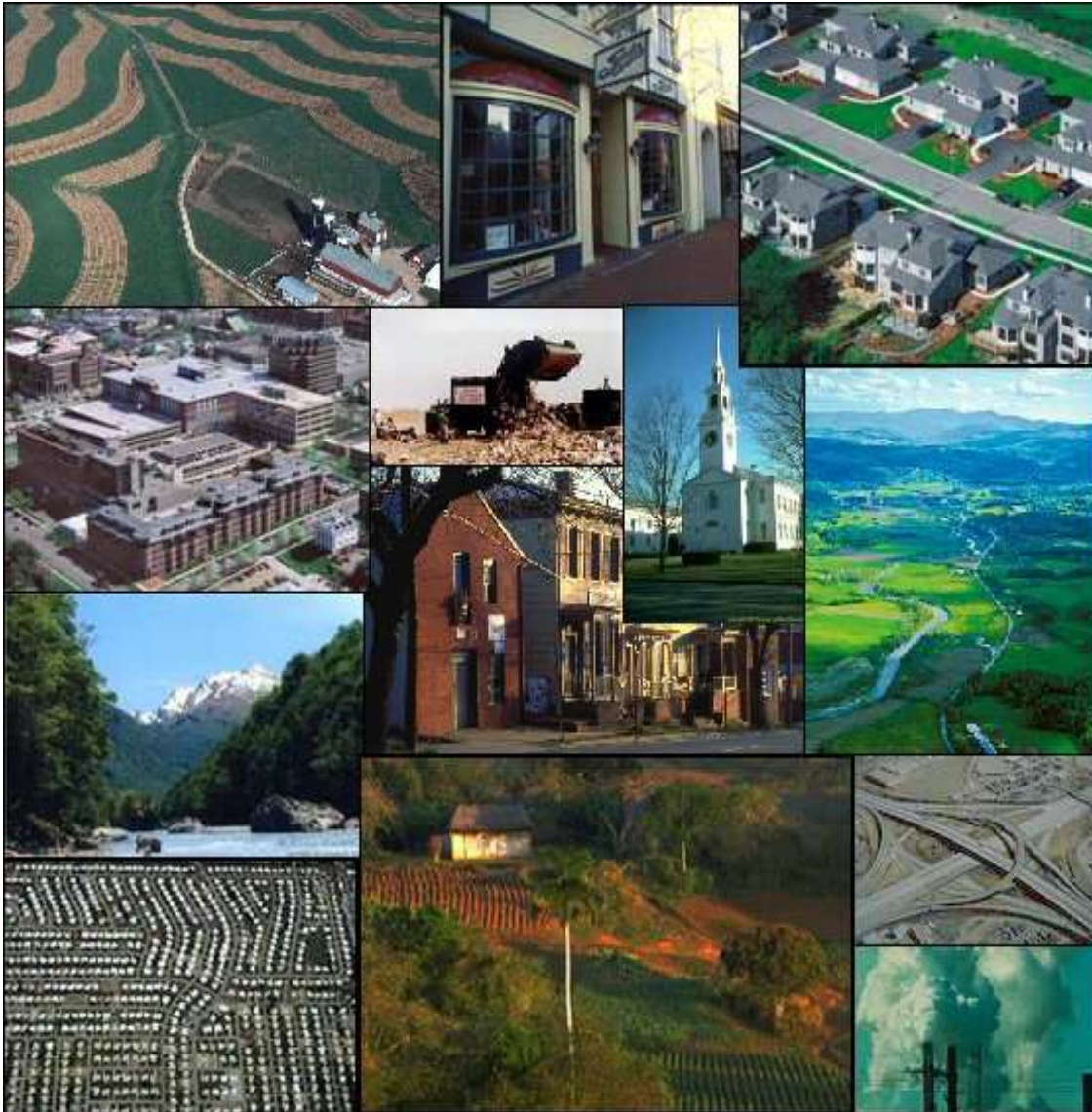
2023 Wisconsin Comprehensive Plan and Local Land Regulations Inventory Report

<https://doa.wi.gov/DIR/2023-Comp-Plan-and-Land-Regs-Inventory-Report.pdf>



Zoning

Why do we have zoning?



Zoning is one tool to achieve community goals such as:

- Public health, safety, and welfare
- Natural resource protection
- Community character and aesthetics
- Protection of public and private investments

Zoning

Counties

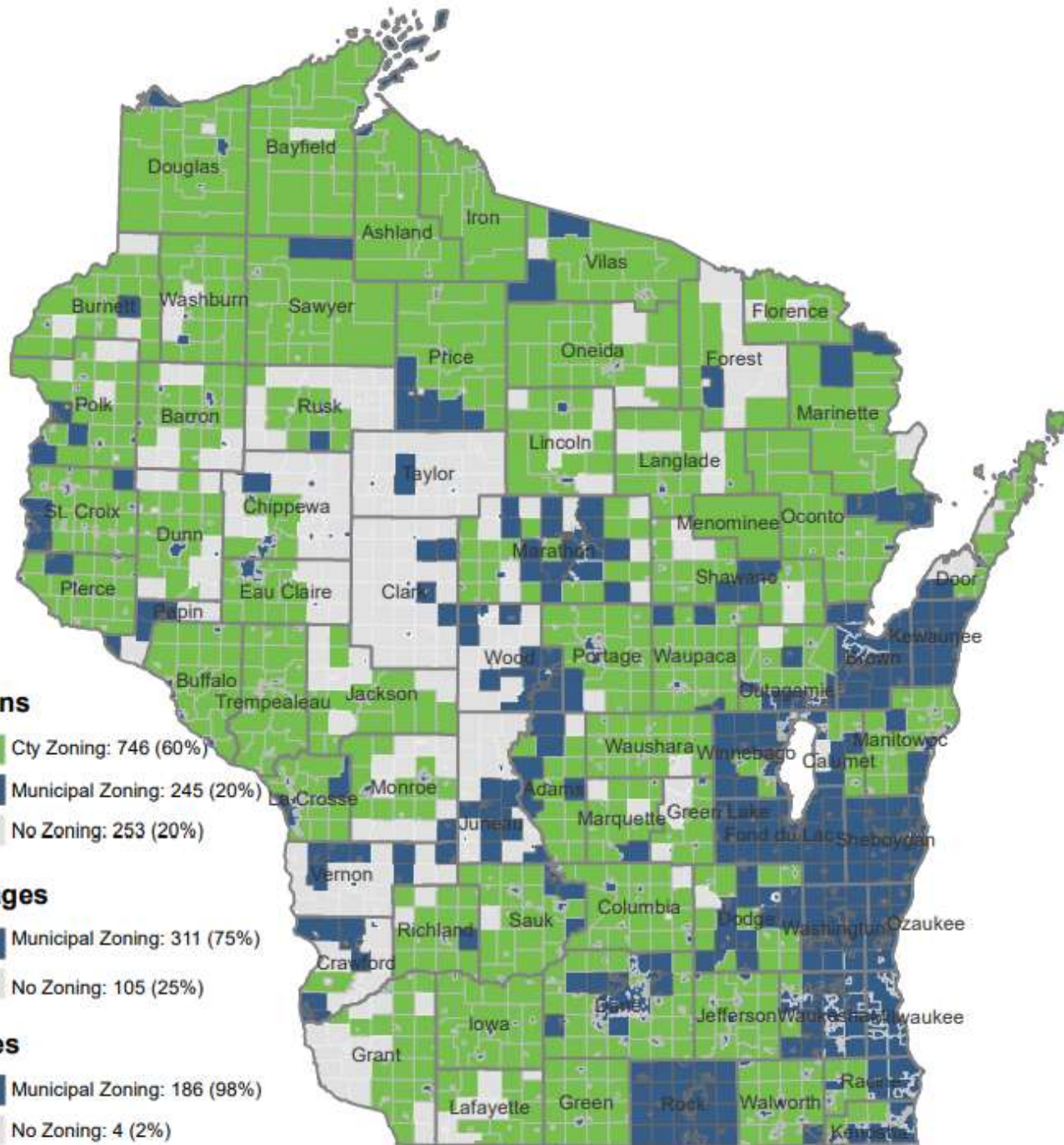
- May adopt general zoning in unincorporated areas
- Required to administer shoreland, wetland and floodplain zoning

Towns

- May adopt general zoning (if no county zoning, or with county approval following adoption of village powers)

Cities and Villages

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

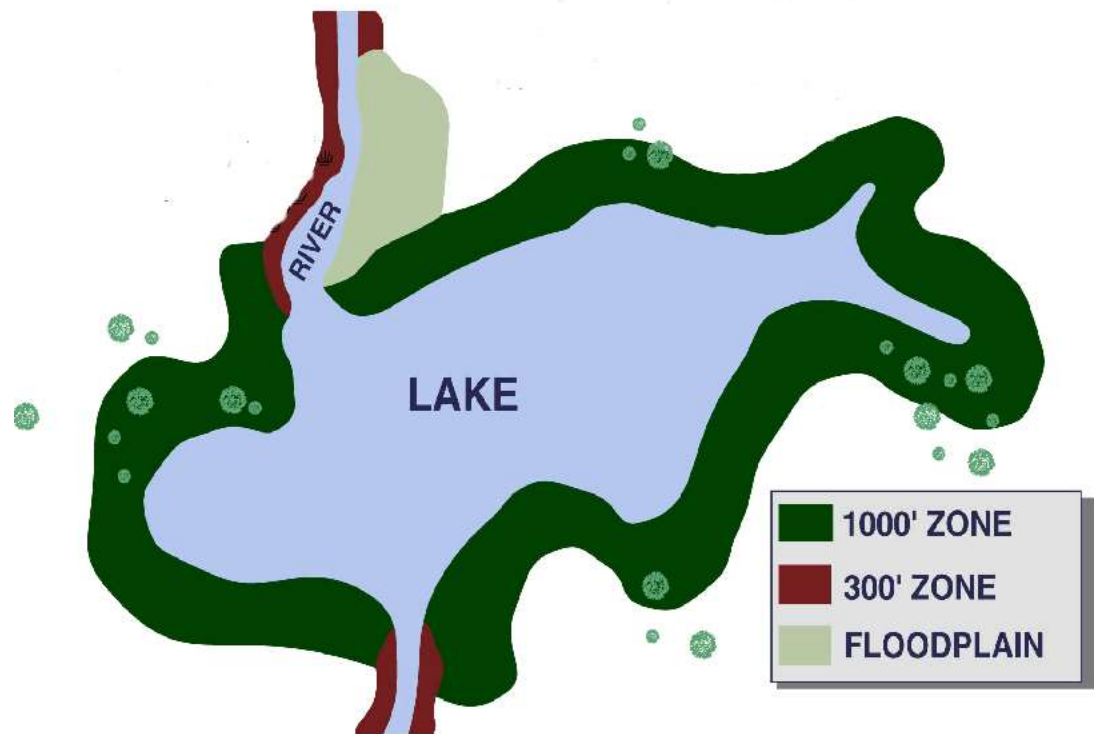


Cities, villages, and towns adopt general zoning ordinances under s. 62.23(7), 60.61 or 60.62. Counties and towns adopt county general zoning under s. 59.69. Those seeking the most current data may consult the [Comp Plan and Land Regs Inventory spreadsheet](#), which continues to be updated. They may also visit the local government website or contact the clerk for information on its comp plan and land regulations. Please email comp.planning@wisconsin.gov with any corrections.

Special Types of Zoning

Standards may be created to protect specific resources. Rules from a “base” zoning district often apply together with rules from an “overlay” district.

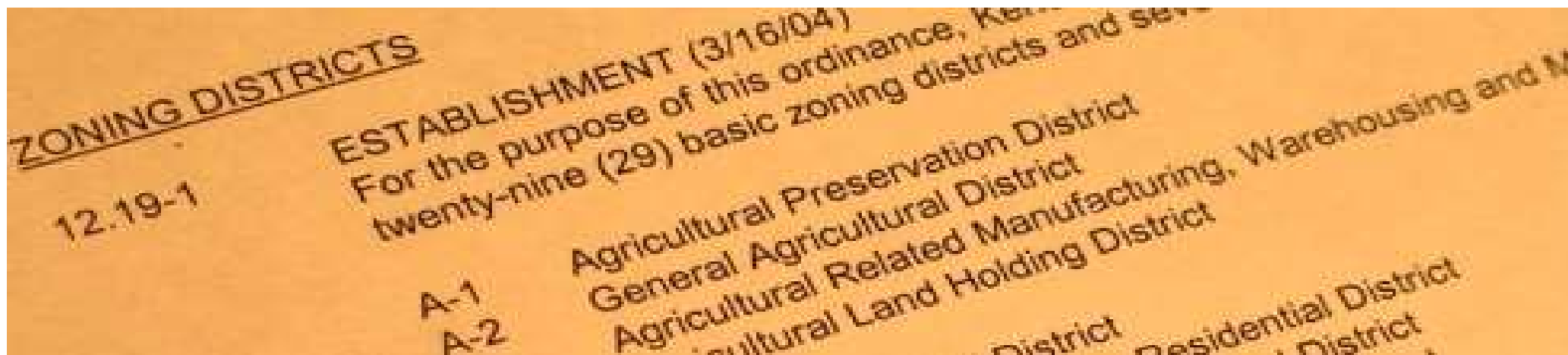
- Shoreland zoning
- Floodplain zoning
- Wellhead protection
- Airport protection
- Historic overlay
- Bluff or steep slopes
- Farmland preservation



Who administers general zoning in your community?

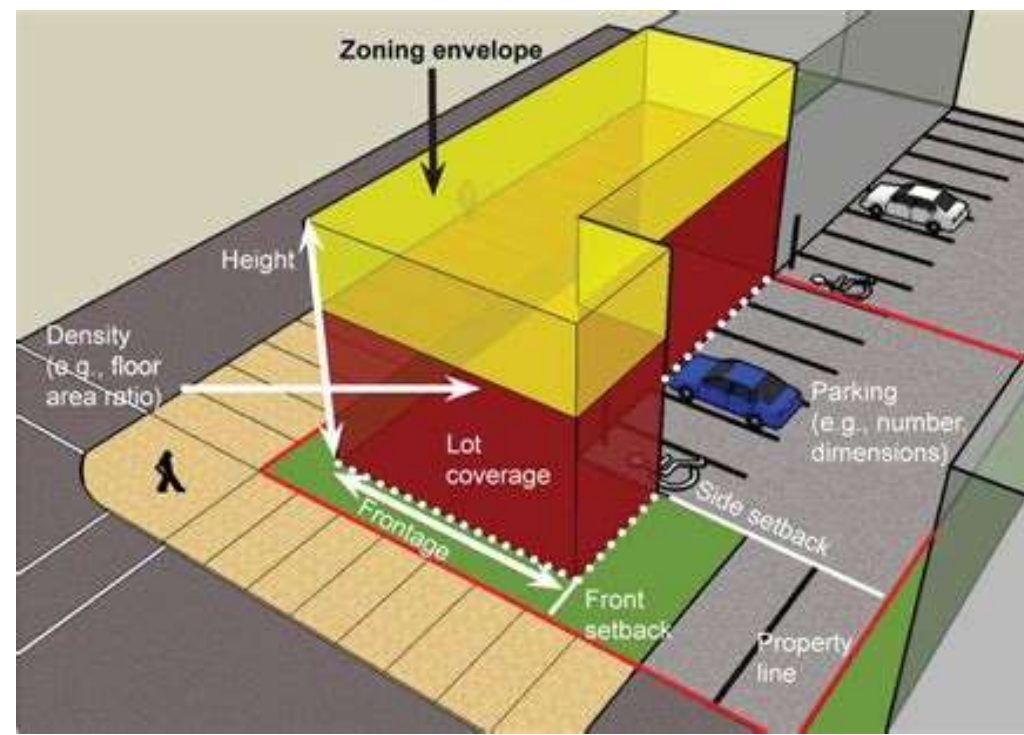
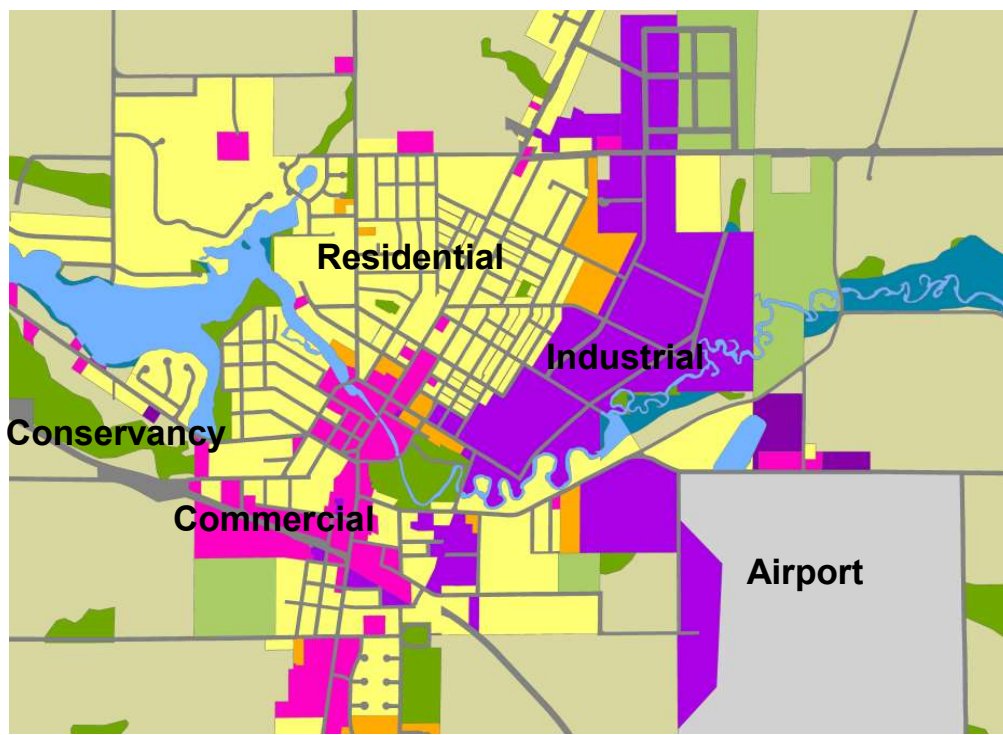
- City, village, or town zoning
- County zoning
- No zoning





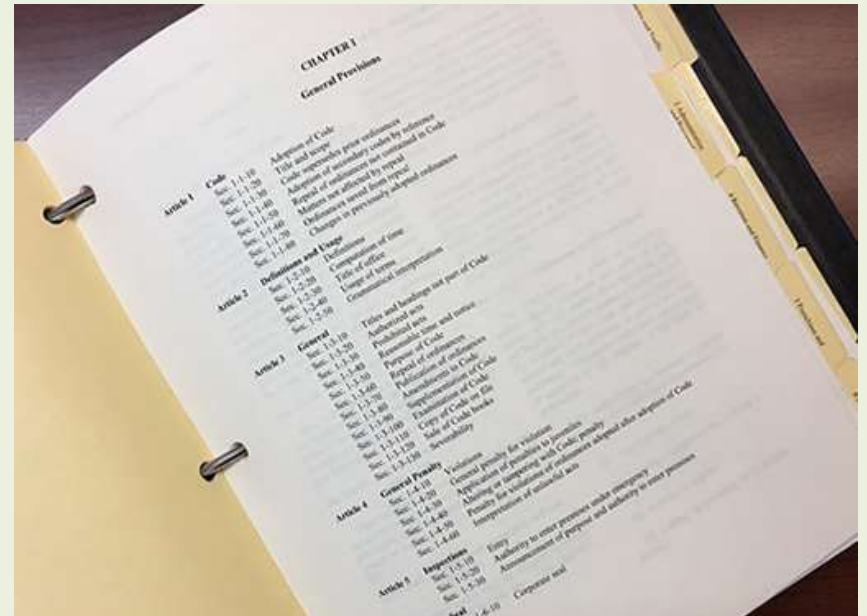
Map – Divides the community into zoning districts

Text – Describes regulations that apply community wide or within each district



Basic Elements of Zoning

- Purpose statements
- Zoning districts
- Allowed uses
- Dimensional standards
- Development standards
- Administrative procedures



Section 1.1 Section Heading

A. Subsection Heading

1. Paragraph heading.

a. Subparagraph heading.

(1) Clause.



Purpose Statements

- Purpose statements provide justification for regulations
- Help elected and appointed officials, zoning staff, and courts interpret and apply regulations
- Statements may be found in several locations throughout ordinance

LEGAL BASIS:
PROTECT HEALTH, SAFETY,
WELFARE OF CITIZENS



Zoning Districts



Residential

	R-1	One Family
	R-2	1-2 Family
	R-3	1-3 Family/Townhouse
	R-4	Multifamily Low-Rise
	R-5	Multifamily Mid-Rise
	R-6	Multifamily High-Rise

Commercial

	C-1	Neighborhood
	C-2	Community
	C-3	Regional

Industrial

	I-1	Light
	I-2	Medium
	I-3	Heavy

Mixed-Use

	MX-1	Low-Density RES/COMM
	MX-2	Med-Density Res/Comm/Ind
	MX-3	High-Density Res/Comm/Ind

Other

	INST	Institution
	PARK	Parks/Open Space
	CEM	Cemetery
	EWR/S	Aiport/Airport Support
	PORT	Port Industrial
	RDV	Redevelopment Zone



Allowed Uses

Town Center, Permitted Uses

- adult day-care homes
- bakery
- barber shop or salon
- bed and breakfast inn
- bicycle shop
- bookstore
- candy, pastry, ice cream, or snack shop
- child day-care homes
- copy center
- delicatessen
- financial institution
- florist
- fruit and vegetable market
- general office
- gift shop
- hardware/garden supply store
- health and fitness facility
- hotel/motel
- instructional services
- laundry and dry cleaning
- medical clinic
- neighborhood retail establishments
- multi-family dwelling units
- pharmacy
- place of worship
- plant nurseries, sales & greenhouses
- police, fire or rescue station
- post office
- printing and publishing
- restaurants
- retail sales
- single-family, attached dwelling unit
- single-family, detached dwelling unit
- theaters
- video rental store

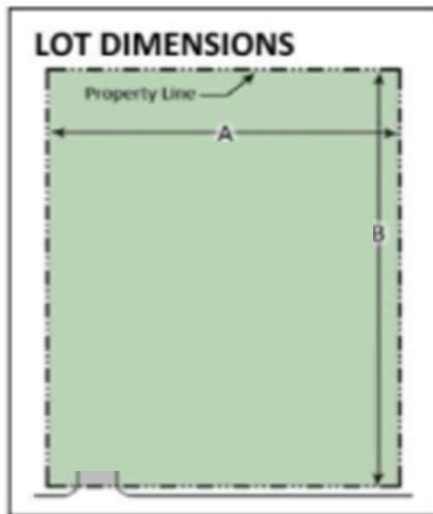
Town Center, Conditional Uses

- automobile service station
- car wash
- motor vehicle repair
- retail gasoline sales
- veterinary

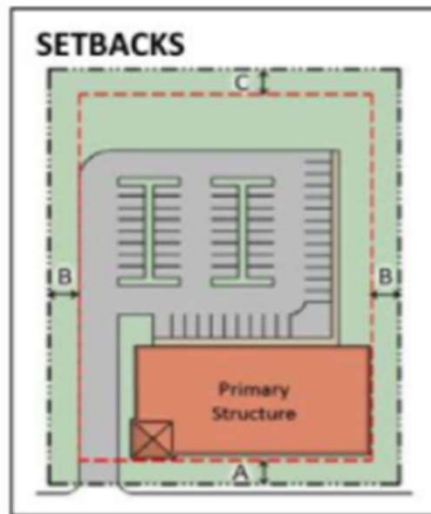
D

Dimensional Standards

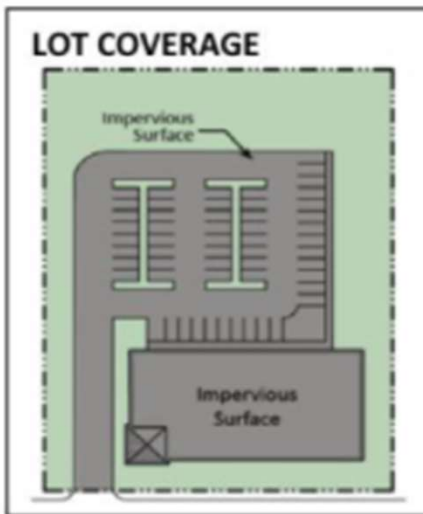
Dimensional Standards



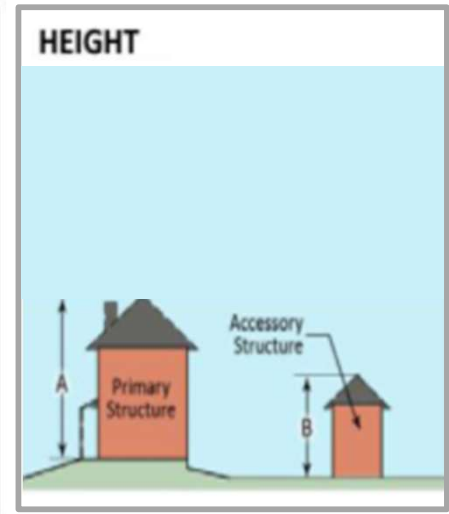
- A. Minimum Lot Width:**
60 feet
- B. Minimum Lot Depth:**
100 feet



- A. Maximum Front Building Setback:** Min. 25' setback from 441, max. 15' setback from internal street
- B. Minimum Side Building Setback:** 5 feet
- C. Minimum Rear Building Setback:** 10 feet



- Maximum Impervious Surface Coverage:**
80%
- Maximum FAR (Floor Area Ratio):** 2.0
- Minimum Common Open Space:** 15%



- Maximum Structure Height:**
- A. Primary:** 45 feet*
- B. Accessory:** 35 feet*



Development Standards

Development Standards

Dumpster Enclosures	Sect. 6.3
Utility Equipment	Sect. 6.4
Exterior Lighting	Sect. 6.5
Landscaping	Sect. 6.6
Buffers	Sect. 6.7
Fences	Sect. 6.8
Stormwater Mgmt.	Sect. 6.9
Bldg Material & Color	Sect. 7.1
Building Height	Sect. 7.2

Building Massing	Sect. 7.3
Building Façade Character	Sect. 7.4
Roof Form & Articulation	Sect. 7.5
Rooftop Equipment	Sect. 7.6
Franchise Architecture	Sect. 7.7
Architecture Unity	Sect. 7.8
Signage	Article 8
Viewshed Protection	Article 9
Parking	Article 10



Administrative Procedures

Division IV: Administration and Permits

Chapter 17.30	Planning Authorities	Division IV, Page 1
17.30.010	Purpose	Division IV, Page 1
17.30.020	City Council	Division IV, Page 1
17.30.030	Planning Commission.....	Division IV, Page 1
17.30.040	Community Development Director.....	Division IV, Page 2
17.30.050	Zoning Administrator	Division IV, Page 3
17.30.060	Summary of Review Authorities for Decisions and Appeals.....	Division IV, Page 4
Chapter 17.31	Common Procedures	Division IV, Page 5
17.31.010	Purpose	Division IV, Page 5
17.31.020	Application Forms and Fees.....	Division IV, Page 5
17.31.030	Pre-Application Review.....	Division IV, Page 6
17.31.040	Review of Applications.....	Division IV, Page 6
17.31.050	Environmental Review	Division IV, Page 7
17.31.060	Public Notice	Division IV, Page 7
17.31.070	Conduct of Public Hearings.....	Division IV, Page 8
17.31.080	Timing and Notice of Action and Findings Required	Division IV, Page 9

Figure 90-550-1
Conditional Uses



Common Zoning Decisions

1. **Permitted Use** – use that is listed and allowed by-right within a given zoning district
2. **Conditional Use** – use that is listed and may be allowed, subject to local ordinance requirements and conditions
3. **Rezone or Zoning Amendment** – change to zoning ordinance map or text
4. **Variance** – relaxation of an ordinance standard that may be allowed by zoning board when state standards are met
5. **Administrative Appeal** – contested decision or interpretation of zoning ordinance

The background features a series of concentric, overlapping curved lines in shades of gray, some solid and some dashed, creating a sense of motion or a ripple effect. A large, solid blue callout box is centered on the page, containing the text.

Let's Review!

Role of Local Officials

Who Does What?

Planning and Zoning Staff



Plan Commission / Zoning Committee



Governing Body



Zoning Board of Adjustment / Appeals



Drafting, review and technical support



Recommendation



Ordinance adoption or amendment
(Includes rezones)

Permitted use

Conditional use

or

Conditional use

or

Conditional use

Variance

Administrative appeal

Types of Decisions



Legislative

Exercise broad discretion in making policy.

Example:

- Plans
- Ordinances
- **Amendments**
- Rezones

Responsibility of governing body, with recommendation of plan commission.



Quasi-Judicial

Exercise limited discretion in evaluating proposals and applying policy.

Example:

- **Conditional Use**
- Variance
- Administrative Appeal

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



Administrative

Apply clear and objective standards while handling routine ministerial duties.

Example:

- Permitted Use

Handled by the zoning administrator or staff.



Legislative

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

Broad discretion

- Must be reasonable and constitutional.
- Broad public participation encouraged.
- Very little concern about discussion outside of hearing.

vs. Quasi-Judicial

Apply ordinance standards to a specific land use proposal.

Limited discretion

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

Who Does What?

- Legislative
- Quasi-judicial
- Administrative

Governing Body



Ordinance adoption or amendment (including rezones)

Conditional uses

Plan Commission



Ordinance recommendations (including rezones)

Conditional uses

Planning and Zoning Staff



Permitted uses

Zoning Board of Adjustment / Appeals



Conditional uses

Variances

Administrative appeals

The background features a series of concentric, overlapping curved lines in shades of gray, some solid and some dashed, creating a sense of depth and movement. A prominent blue callout box with a white border and a downward-pointing tail is centered on the page. Inside this box, the text "Rezones and Zoning Amendments" is written in a clean, white, sans-serif font.

Rezones and Zoning Amendments

Zoning Amendments

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

Map amendment – change to district boundaries (often called a “rezone”)

Legislative decision

- Must be reasonable and constitutional
- Consistent with comprehensive plan
- Rezone standards may be listed in zoning ordinance

Sample Rezoning Standards

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

Rezone Process

Petition for ordinance amendment

Notice of public hearing & notice to affected towns

Public hearing on map and/or text amendment

Zoning committee recommendation to county board

Governing body vote to modify, adopt or deny

Amendment goes into effect and is published

Towns under county zoning:

Recommended:

Towns provide recommendation to county prior to public hearing.

Within 10 days of public hearing:

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

Within 40 days of county vote:

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

Town Recommendation

- Look at town comprehensive plan – describe how the rezone is consistent with or contrary to the plan
- Look to see if there are rezoning standards found in the county ordinance – base your recommendation on these standards
- Provide facts and information, not just opinions
- Work with county to develop process for town input (notice, timeline, checklist, form)

Recommendation Form

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

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

Town Recommendation Form

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

Applicant/Agent:

Name _____

Site Address (if applicable) _____

Property Description: _____ ¼ of the _____ ¼, Section _____, T _____ N, R _____ W, Lot _____, Block _____,

Subdivision _____ Town of _____

Computer # _____ - _____ - _____ Parcel # _____

Zoning District _____ Acreage _____

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

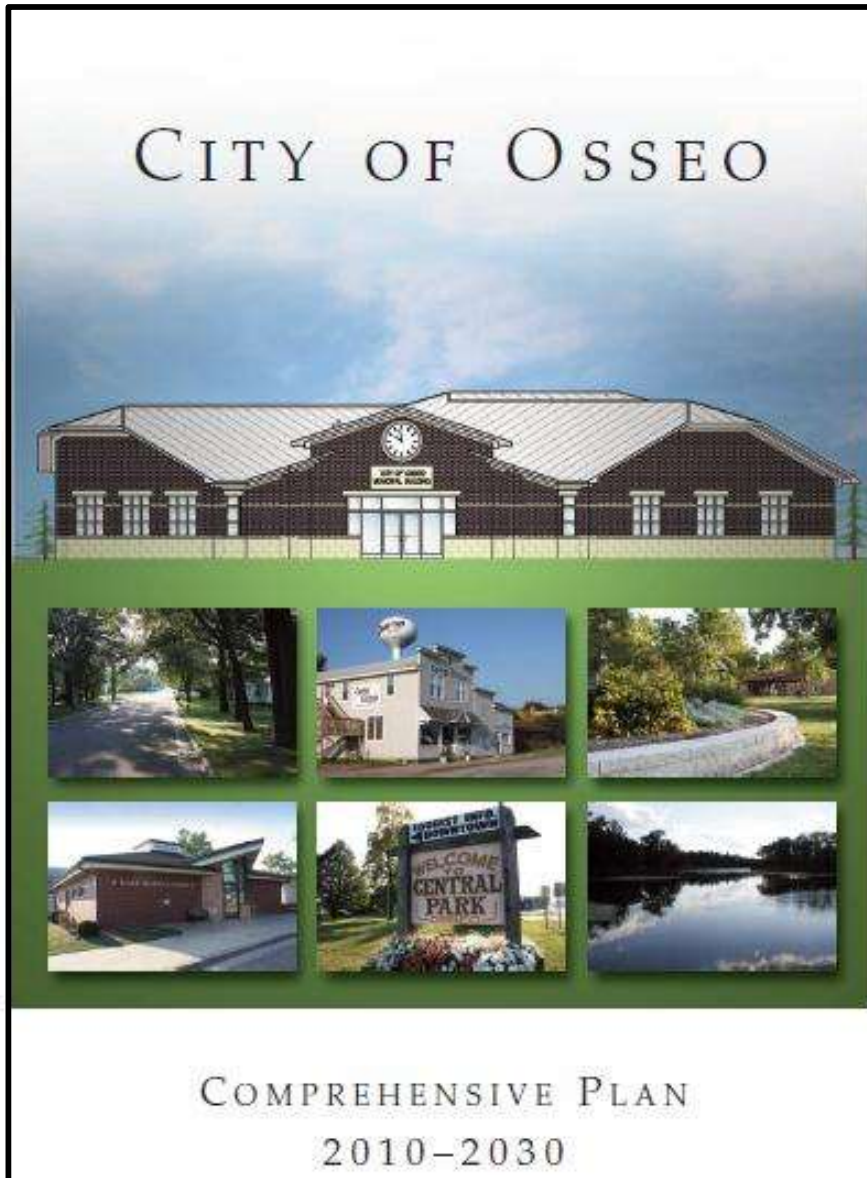
Consistency Requirement

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

(Wis Stat. 66.1001)

Plan does not translate directly to ordinance

Comprehensive Plan



Zoning Ordinance

Chippewa County Code of Ordinances

ARTICLE I. IN GENERAL

Sec. 70-1 Authority

The provisions of this chapter are adopted by the County Board under the authority granted by Wis. Stats. §§ 59.69 and 59.694.

(Code 1980, § 17.01)

Sec. 70-2 Purpose

The purpose of this chapter is to promote and protect the health, safety, morals, prosperity, aesthetics and general welfare of this county.

(Code 1980, § 17.02)

Sec. 70-3 Intent

It is the general intent of this chapter:

- (a) To regulate and restrict the height, number of stories and size of all buildings and other structures, the percentage of lot which may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence and other purposes.
- (b) To lessen congestion in and promote the safety and efficiency of the streets and highways, secure safety from fire, flooding, panic and other dangers; provide adequate light, air, sanitation and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect values; further the appropriate uses of land and conservation of natural resources; preserve and promote the beauty of the community; and implement the community comprehensive plan or plan components.
- (c) To provide for land in the county to be divided into districts of such number, shapes and areas as are deemed best suited to carry out such purposes and the use of the land in the various districts are limited to those specifically listed and enumerated in this chapter.
- (d) To provide for the administration and enforcement of this chapter and to provide penalties for its violation.

(Code 1980, § 17.03)

Sec. 70-4 Abrogation and Greater Restrictions

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, other existing county ordinances, rules, regulations or permits previously issued under existing ordinances and regulations. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Code 1980, § 17.04)

Plan does not translate directly to ordinance

Comprehensive Plan

Visionary/Guiding

Future-oriented

Inventory of existing
resources

Vision, goals, objectives,
policies, tools

Generalized future land
use and other maps



Zoning Ordinance

Regulatory

Force of law
applies today

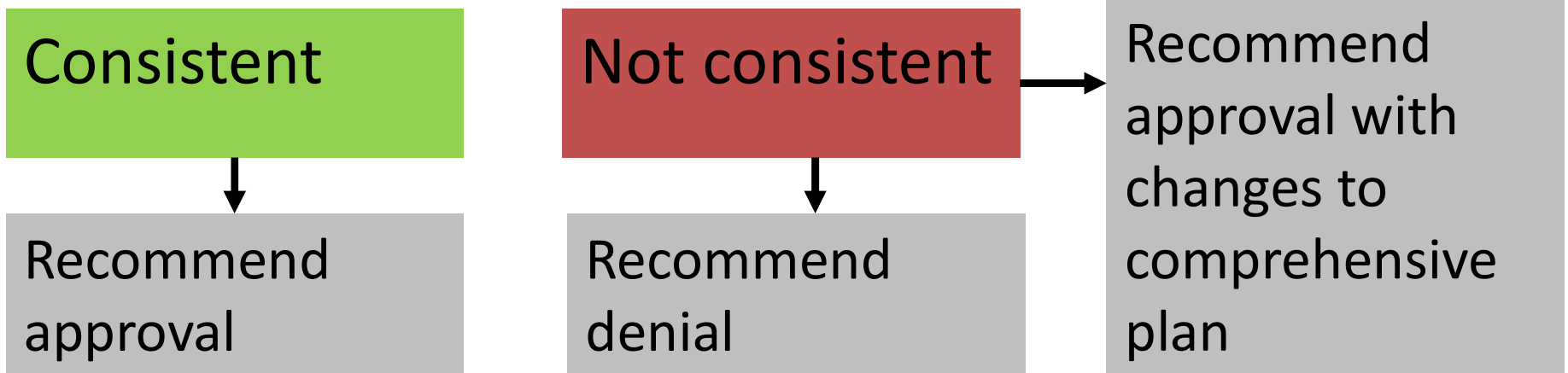
Detailed regulations
control location,
density, use, etc.

Zoning map with
detailed zoning
districts

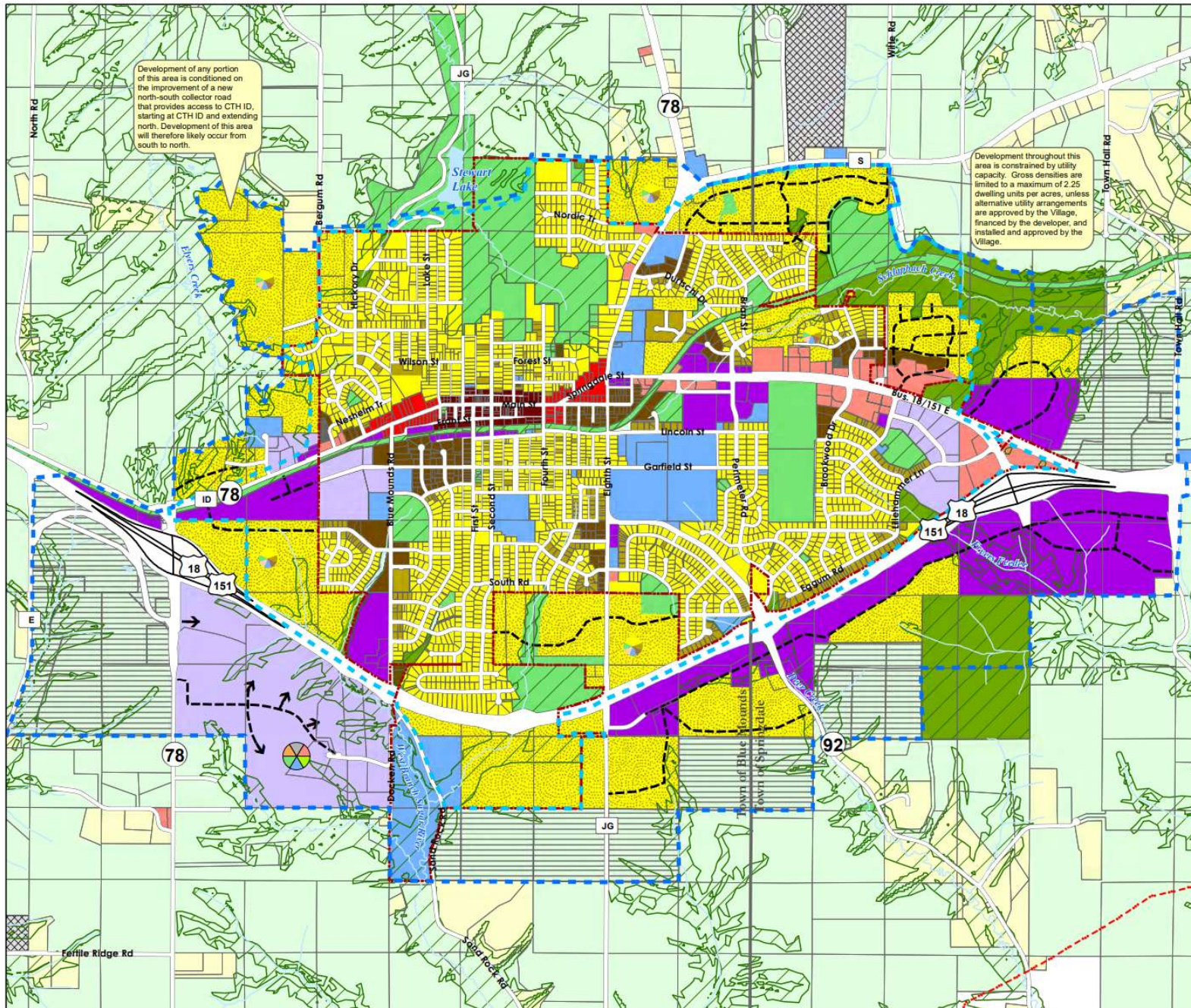
Determining Consistency

Rezone Example:

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



1. Look to future land use map



Future Land Use Village View

4b

Mount Horeb Comprehensive Plan

- Village of Mount Horeb Boundary
- Town Boundaries
- Extraterritorial Jurisdiction Boundary
- Current Urban Service Area Boundary
- Potential Future Urban Service Area Boundary

- Right of Way
- Potential Future Roads
- Surface Water

Land Use Categories

- Agriculture
- Single-Family Residential (Unsewered)
- Single-Family Residential (Sewered)
- Two-Family Residential
- Multi-Family Residential
- Mobile Home Residential
- Planned Neighborhood
- Central Mixed Use
- Main Street Mixed Use
- Neighborhood Mixed Use
- Planned Business
- Planned Mixed Use
- General Industrial
- Heavy Industrial
- Extraction
- Planned Business Park/Planned Industrial
- Parks and Recreation
- Government and Institutional
- Conservancy
- Environmental Corridor
- Rights-of-Way
- Surface Water
- Long-Term Growth Area

Planned Neighborhood may include:

1. Single Family (Sewered)
2. Two-Family Residential
3. Multi-Family Residential
4. Government and Institutional
5. Neighborhood Mixed-Use
6. Parks and Recreation

Planned Mixed Use may include:

1. Planned Business
2. Planned Business Park
3. Multi-Family Residential
4. Government and Institutional
5. Park and Open Space

Business Park may include:

1. Light Industrial
2. Planned Business
3. Government and Institutional
4. Park and Open Space

0 2,100 4,200 Feet

Adopted: March 30, 2022
Data Source: Dane County LID, CARPC, MATPB, WI DNR, FEMA, USDA

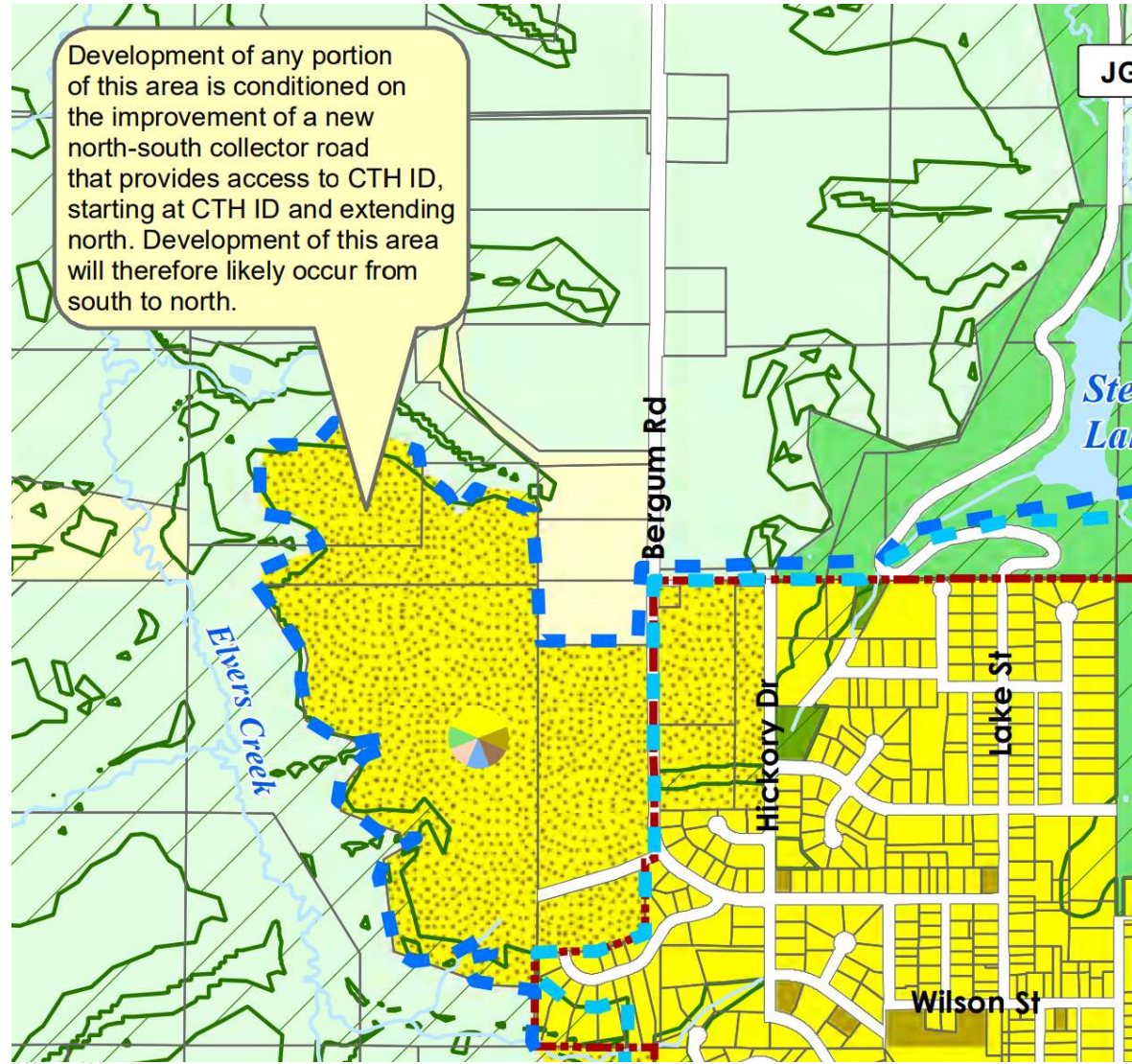
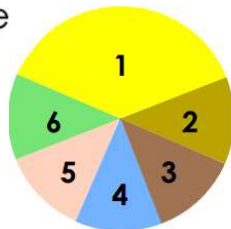
Ex. Village of Mount Horeb – Future Land Use Map

Plan specifies conditions under which growth may occur:

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

Planned Neighborhood may include:

1. Single-Family (Sewered)
2. Two-Family Residential
3. Multi-Family Residential
4. Government and Institutional
5. Neighborhood Mixed-Use
6. Parks and Recreation



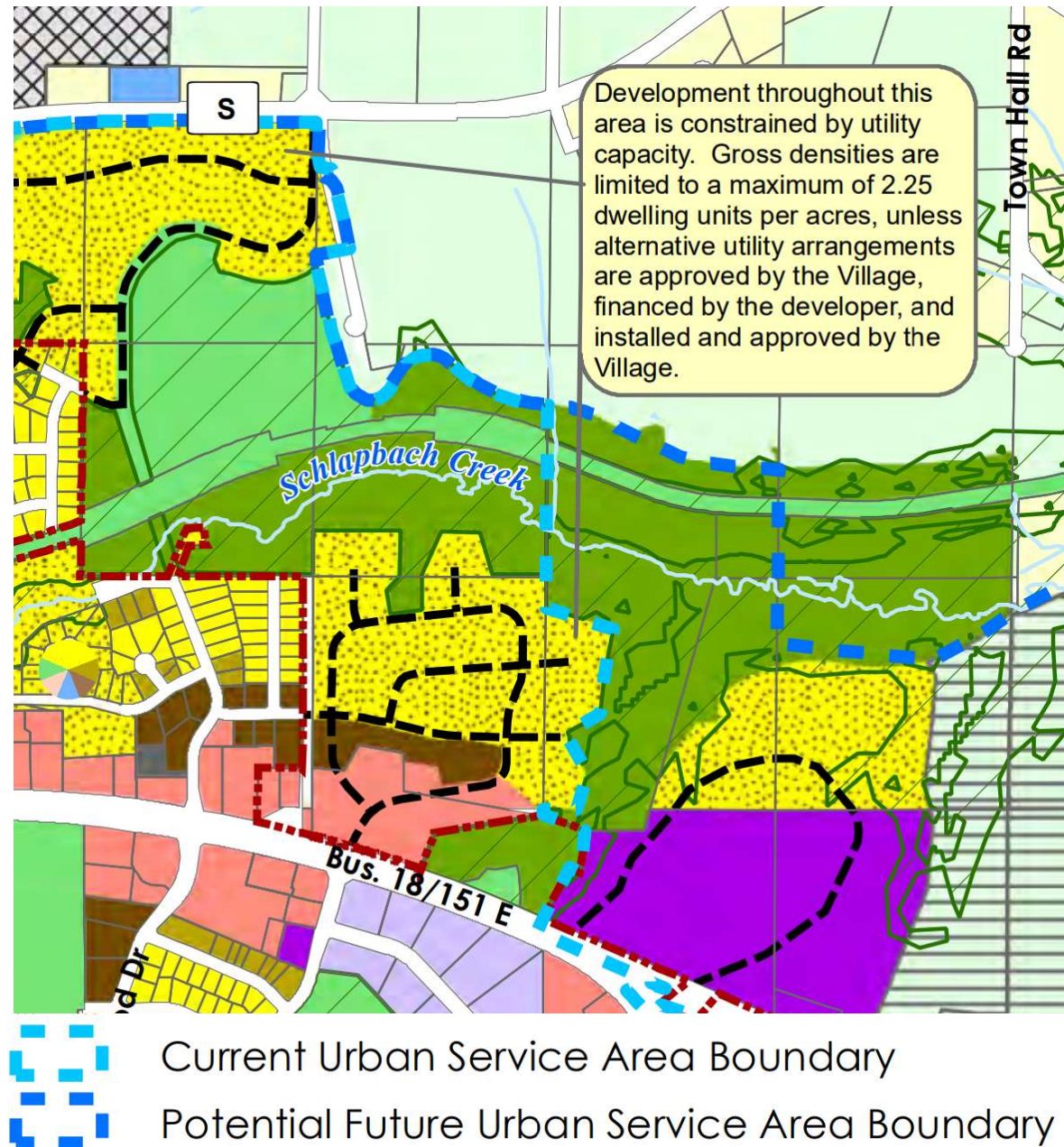
-  Current Urban Service Area Boundary
-  Potential Future Urban Service Area Boundary

Ex. Village of Mount Horeb – Future Land Use Map

Plan specifies conditions under which growth may occur:

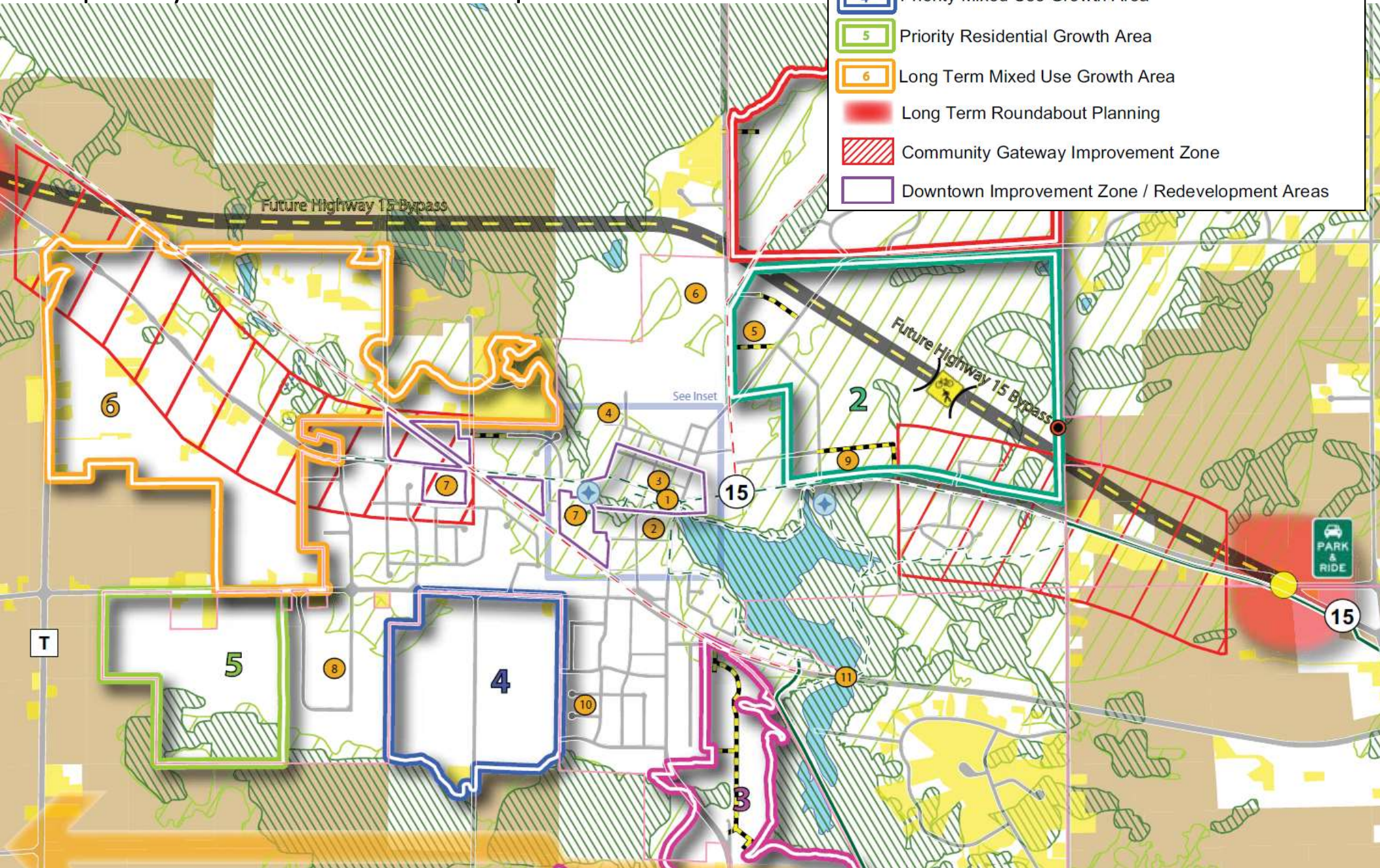
“development of this area is constrained by utility capacity...”

“gross density is limited to 2.25 dwelling units per acre unless alternative utility arrangements are made”



Ex. Village of Hortonville




Map drawn in “bubble” fashion showing priority areas for future development



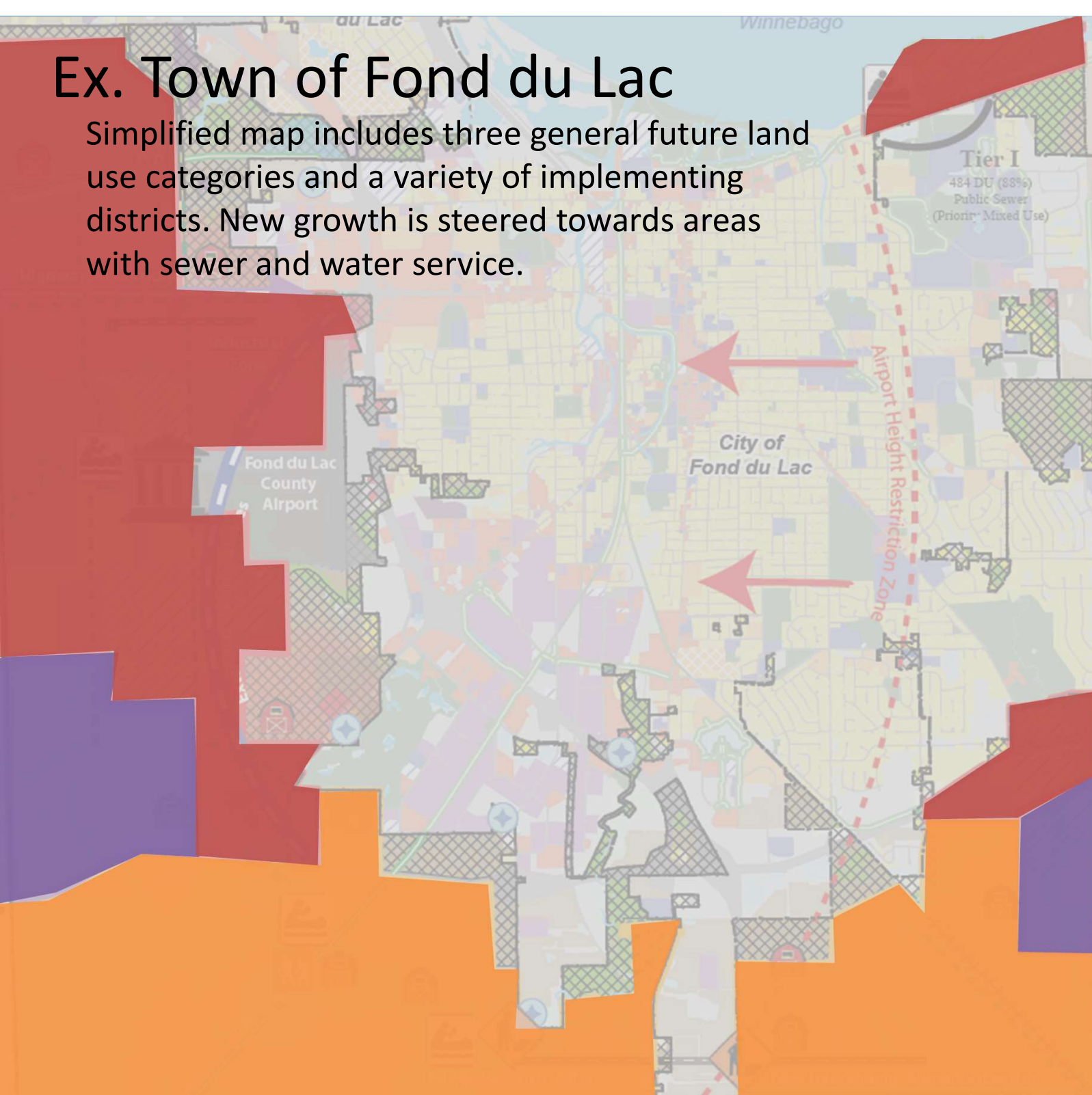
Ex. Town of Fond du Lac

Simplified map includes three general future land use categories and a variety of implementing districts. New growth is steered towards areas with sewer and water service.

Future Land Use, 2040

-  **Priority Mixed Use**
(88% growth)
Single-family
Multi-family
Commercial
Industrial
Sewer/Water
-  **Rural Residential**
(8% growth)
Single-family
Well/Septic
-  **Farmland Preservation**
(4% growth)
Limited residential
Large lots

 Growth Agreement Areas

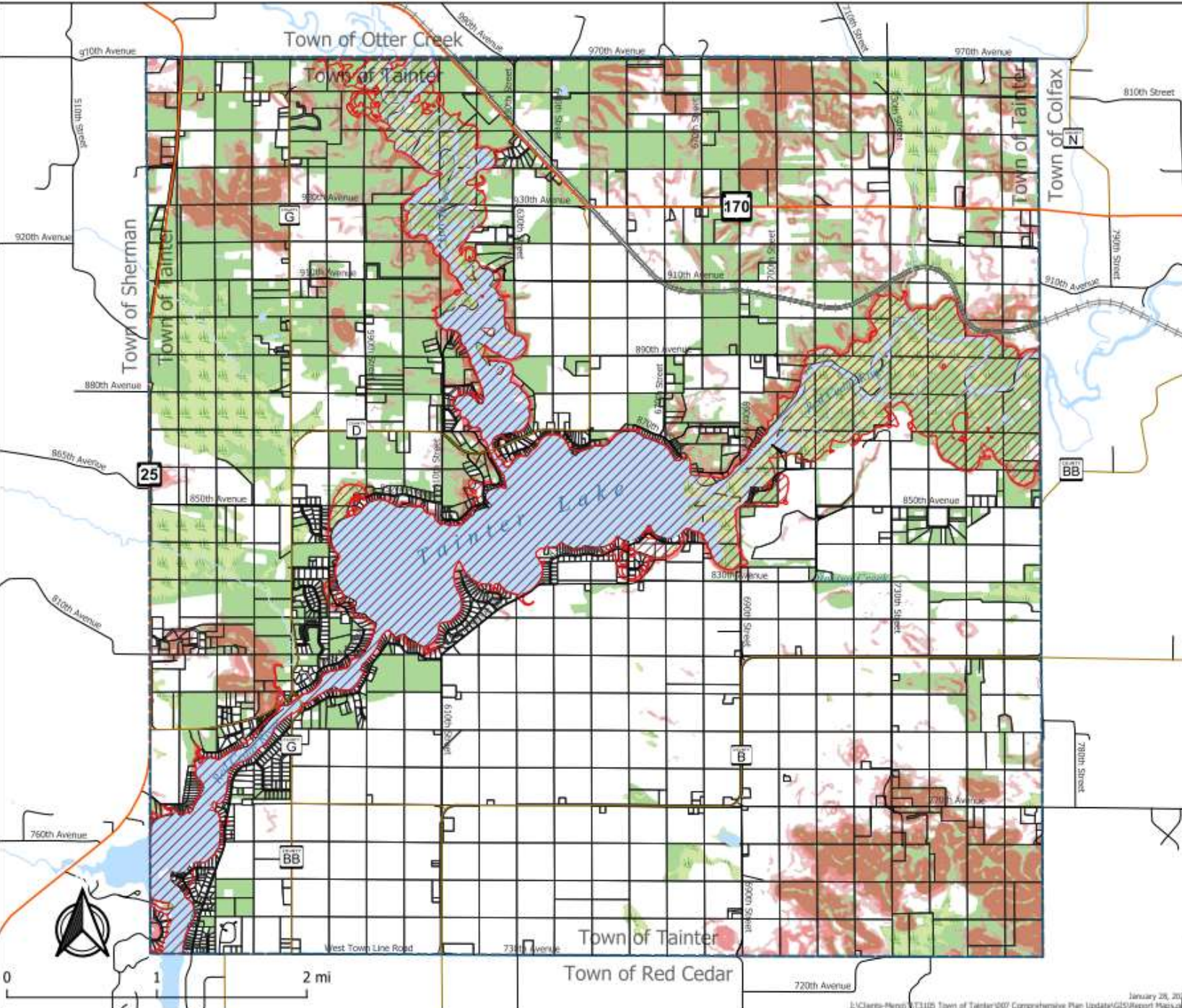


Ex. Town of Tainter

Environmentally Sensitive Areas

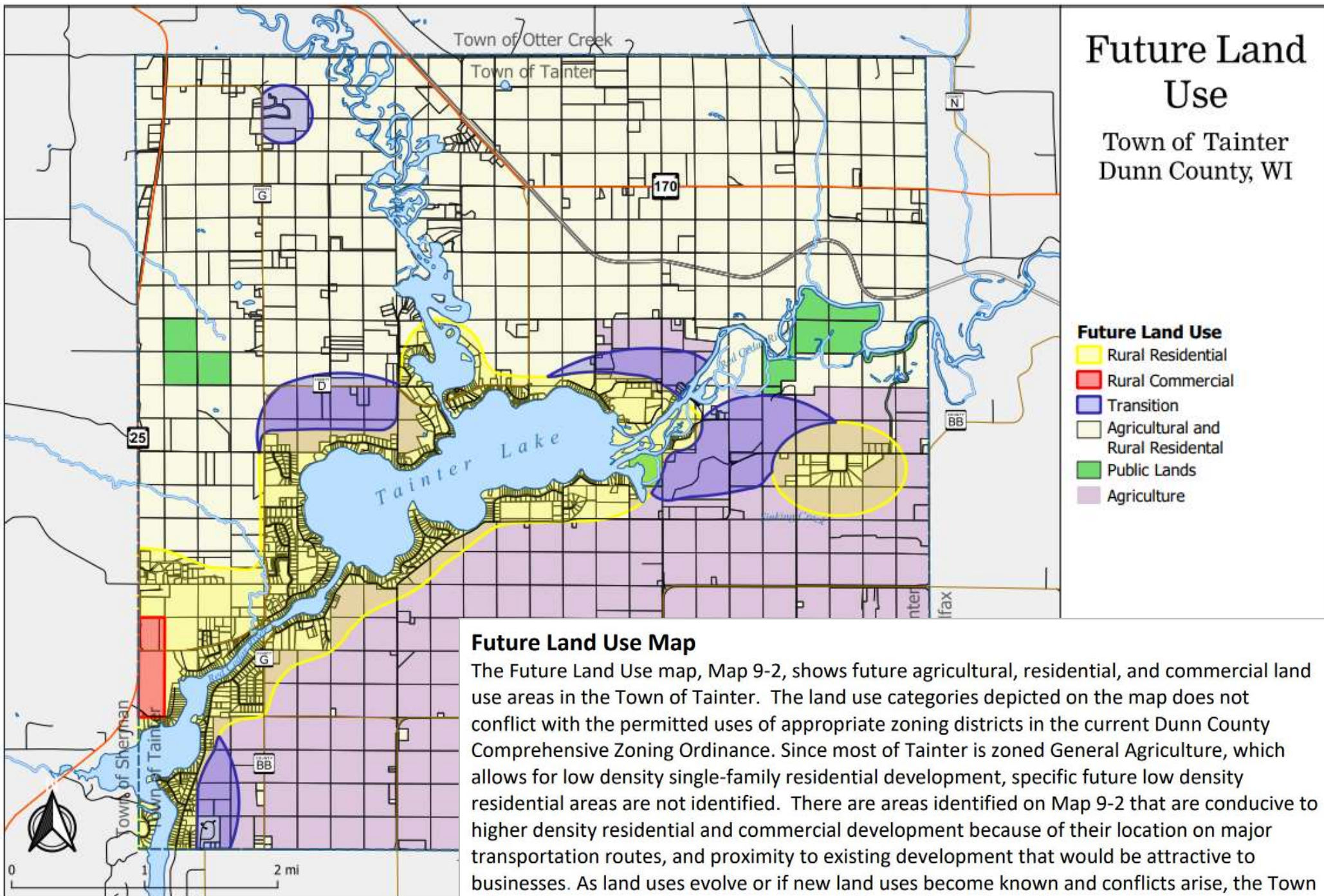
Town of Tainter
Dunn County, WI

- WIDNR Delineated Wetlands
- FEMA Floodplains
- 12-20% Slope
- 20% or Higher Slope
- Forest



Map 6-4

Ex. Town of Tainter






Future Land Use

Legend

Future Land Use

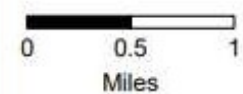
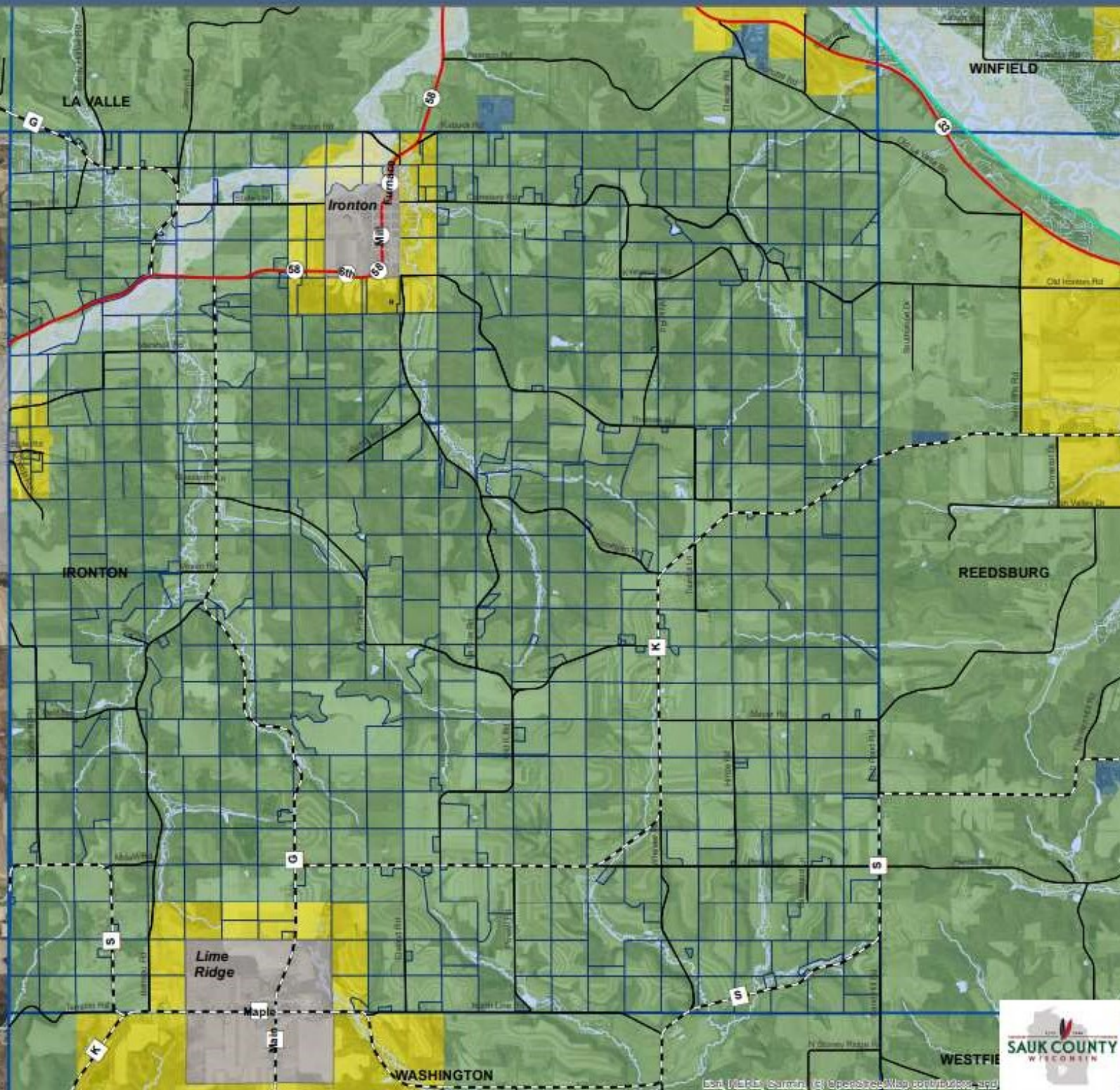
-  Farmland Preservation Area
-  Future Development Transition Area
-  Federal/State/County Lands
-  Unincorporated Development Area
-  FEMA Floodway
-  DNR Wetlands

Municipal Boundaries

-  Village
-  Tax Parcels
-  Town Boundary

Transportation

-  County Highway
-  U.S. Highway
-  Municipal Streets
-  State Highway
-  Town Roads
-  The "400" State Trail



2. Look to text of comprehensive plan

Land Use Objective-4: Encourage the placement of new buildings which preserve productive agricultural lands, forested areas and the overall appearance of the town.

LUP-4A Utilize the following pictorial guide when siting new lots and homes, which represent the Vision, Goals, Objectives and Policies in the Plan. These pictorials represent the 'preferred' location and layout of new residential construction.

To coincide with the pictorial policies, utilize the following site-specific strategies, as a checklist, when considering the location of new homes.

- Optimize the shape and configuration of farmable parcels;
- Minimize visual impact of development from roadsides and existing neighbors;
- Integrate development with existing landscape patterns (fields, fencerows, farmsteads, natural features);
- Use existing vegetation to screen new development;
- Use new landscaping to screen and enhance development;
- Minimize the visual impact of development through sensitive home siting on hillsides and limiting placement of development on hilltops;
- Retain wooded areas;
- Minimize number of driveways, and regulate placement and grade;
- Integrate development with existing topography and vegetation pattern.

Land Use Policy-4A Development Adjacent to the Villages



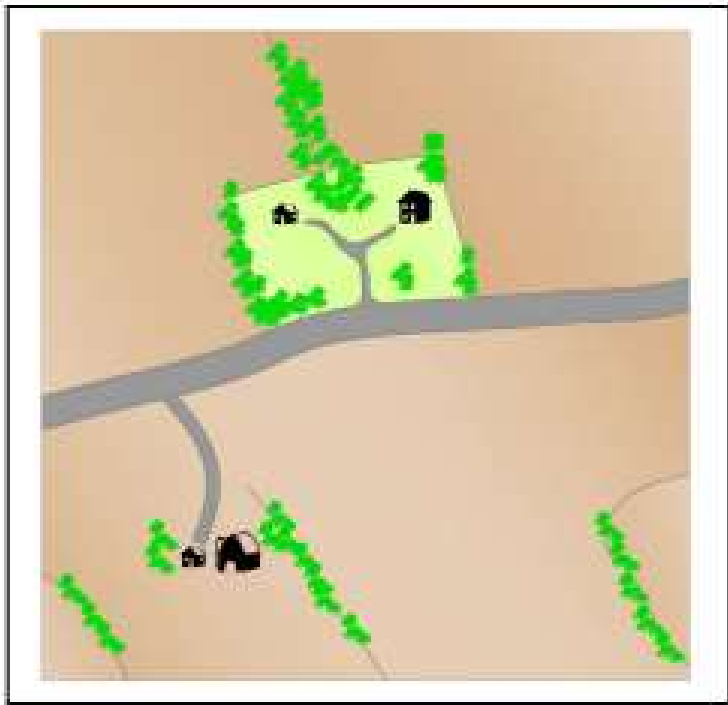
Preferred



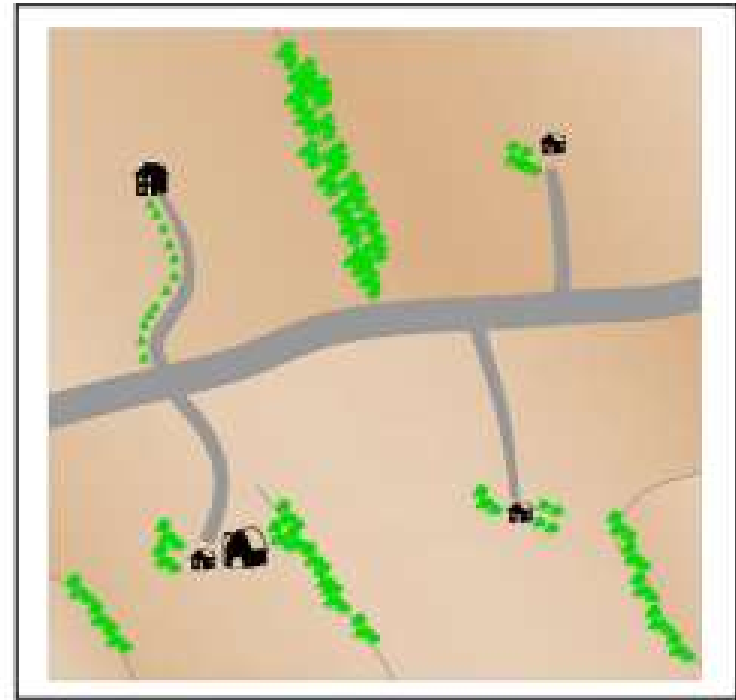
Less Desired

- Interconnected roads enhancing mobility;
- Inclusion of sidewalks connected to the Village;
- Secondary road connections to the Village;
- Dedicated park space for the residents of the neighborhood;
- Development directly adjacent to the Village thereby avoiding the 'leap frog' effect;
- Community septic system;
- Smaller lots typical of the average lot size in the Village;
- Housing architecture and layout typical of current Village development.

Land Use Policy-4A Multiple Lot Residential (Ag Fields)



Preferred



Less Desired

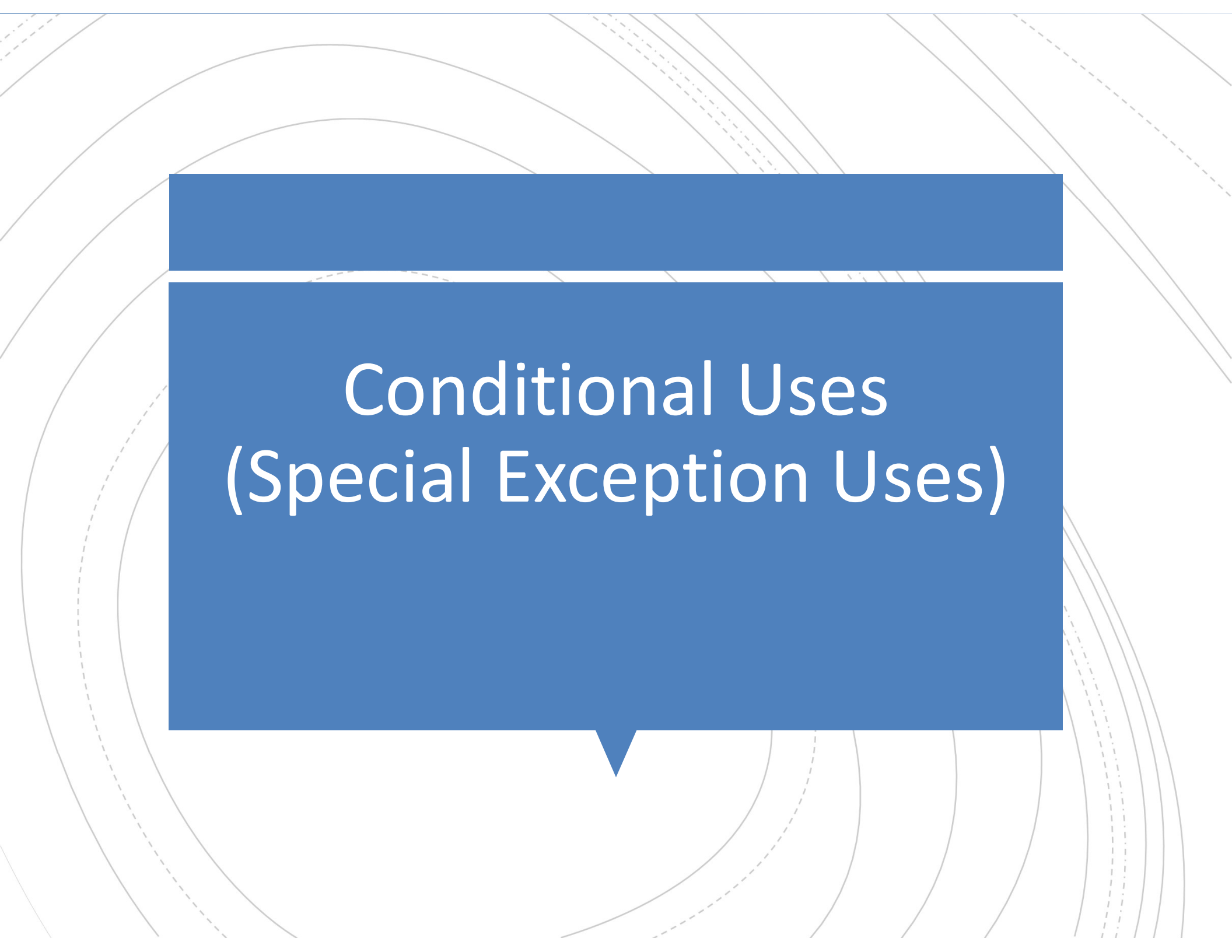
- Homes placed along existing fence row;
- Minimal land taken out of agriculture production;
- Driveways shared by residences;
- Some screening provided;
- Homes placed away from farm lot/barnyard;
- Reduction in Town road access points;
- Cohesive agricultural fields.

- Implemented through county zoning and subdivision ordinance:
- Exclusive Ag district
 - Min lot size
 - Max density
 - Cluster development

2. Look to text of comprehensive plan

Ex. Village of DeForest – Future Land Use Categories and Policies

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

The background features a series of concentric, overlapping curved lines in shades of gray, some solid and some dashed, creating a sense of depth and movement. A prominent blue callout box is centered on the page, containing the text.

Conditional Uses (Special Exception Uses)

Uses for each district:

Permitted Use

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

Granted by zoning administrator

Conditional Use

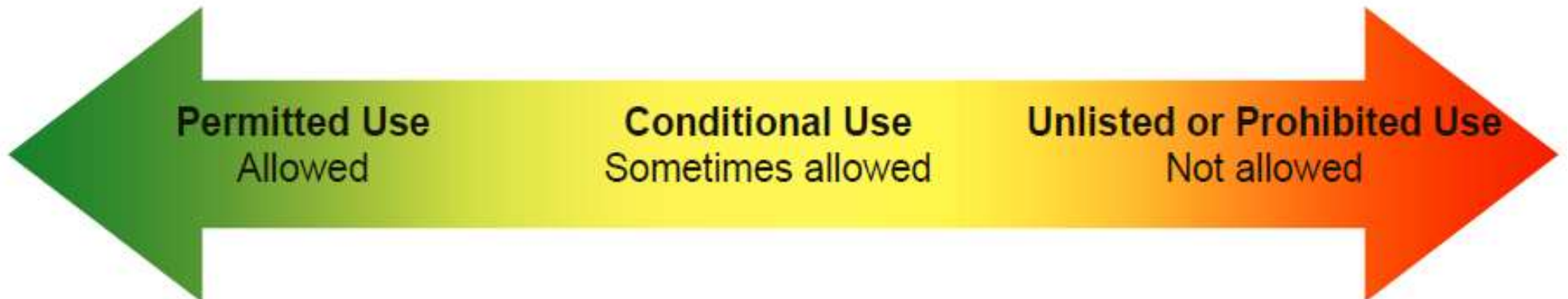
Use is listed for the district and may be allowed if suited to the location

Decided by zoning board, plan commission, or governing body

Prohibited Use

Use is not listed for the district or is expressly prohibited

May apply for rezone or use variance, if allowed



Ex. Residential District

Permitted Uses



Conditional Uses



Prohibited Uses



Sample Use Table

P Permitted
 C Conditional
 - Prohibited

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

Which types of conditional uses are most controversial in your community?



Gravel pits or quarries



Frac sand operations



Large livestock farms



Solar or wind farms



Shooting ranges



Campgrounds



Other

Which body has final authority to decide conditional uses in your community?



Plan commission or zoning committee



Governing body



Zoning board

How familiar are you with the conditional use standards in your ordinance?



Not familiar. What are conditional uses?



Somewhat familiar. I've seen the list of uses and know we have standards.



Very familiar. We use the standards regularly when making conditional use decisions.

Conditional Uses

New law!
2017 Wis
Act 67

2017 Wisconsin Act 67
created new rules for
conditional use permits

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



Conditional Uses

New rules!
2017 Wis
Act 67

A use allowed under a conditional use permit, special exception, or other special zoning permission

- Class 2 notice and public hearing
- Ordinance must list specific uses allowed in each district and measurable criteria for judging application
- May grant or deny based on ability to meet ordinance standards
- May attach reasonable conditions related to ordinance purpose
- Local government and applicant must both provide “substantial evidence” supporting decision
- If applicant meets or agrees to meet all requirements and conditions, the local government must grant conditional use

Conditional Uses

New rules!
2017 Wis
Act 67

“Substantial Evidence” means:

- facts and information, other than merely personal preferences or speculation
- directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit
- that reasonable persons would accept in support of a conclusion

Common Ordinance Standards

No harm to public health or safety

Compatible with surrounding uses

Site access and traffic safety

Consistent with comprehensive plan

Adequate utilities and public facilities

Drainage and stormwater management

No harm to environment

Neighborhood character

Property values

Aesthetics

Review standards to make sure they are reasonable and measurable

Consider adding specific standards for commonly granted uses

See Portage County Zoning Section 7.1.3(5)(d)-(e) for Special Exception standards

Specific Standards

Ex. Sawyer County Zoning Ordinance

- Kennel allowed by conditional use in RR-2, A-1 and A-2 zoning districts

Consider adding specific standards for commonly granted uses

6.8 KENNEL FOR SMALL DOMESTIC ANIMALS

A kennel for small domestic animals shall meet the following minimum requirements:

6.81 Lot size - five (5) acres.

6.82 Lot width - 200 feet.

6.83 Side yard setback - 50 feet.

6.84 Back yard setback - 50 feet.

6.85 Front yard setback-Section 4.21 Setback Requirements on Highways and Roads.

6.86 Sanitary facilities provided for under Section 2 of the Sawyer County Private Sewage System Ordinance.

6.87 Perimeter fencing. Minimum height of five (5) feet with minimum depth underground of twelve (12) inches; minimum fence gauge of eleven (11).

6.88 Living quarters on same premises as kennel; occupancy restricted to property owner-operator.

6.89 Subject to the provisions of Chapter 174 of the Wisconsin Statutes.

Application Packet



**Waupaca County
Planning & Zoning Office**
811 Harding St
Waupaca WI 54981-2087
Phone: 715-258-6255 Fax: 715-258-6212
www.co.waupaca.wi.us

Provide criteria,
instructions, and
examples to help
applicant

Conditional Use Permit Application Packet

Conditional Use Packet Includes:

- Checklist
- Conditional Use Application
- Town Recommendation Form for Conditional Use (2 pages)
- Conditional Use Standards and Diagram of Plans

PRIOR TO SUBMITTING YOUR CONDITIONAL USE PERMIT APPLICATION:

- Consult Planning & Zoning Staff regarding your proposal
- Complete the Conditional Use Permit Application with the Waupaca County Planning & Zoning Office and submit the following along with the Application:
 - Detailed explanation and plans showing the location of the proposed area of use. Plans must be drawn to scale showing all dimensions necessary to determine compliance with standards. (i.e. parking spaces, driveway area, building size(s), building height(s), and setbacks from all property lines)
 - Where the property is not owned by the applicant, a letter must be attached giving consent of the owner to apply for the Conditional Use Permit.
 - Application Fee (payable to Waupaca County) "After the Fact" fee is double ** Check with your Township to see if they require an additional fee. *
 - Once the Conditional Use Permit application is complete, the Waupaca County Planning & Zoning Office will forward it to the Town.
- Attend Town Planning Commission Meeting
 - Have Plan Commission complete applicable portions of the Town Recommendation Form

Recommendation Forms

TOWN RECOMMENDATION FORM

For Waupaca County Conditional Use Application

THIS TOWN RECOMMENDATION FORM MUST BE SUBMITTED TO THE PLANNING & ZONING OFFICE WITH THE CONDITIONAL USE APPLICATION. INCOMPLETE APPLICATIONS MAY BE DELAYED.

Is the proposal consistent with the Town vision statement as found in the Town Comprehensive Plan? Yes No

Explain:

Is the proposal consistent with the Town Goals, Objectives & Development Strategies as found in the Town Comprehensive Plan? Yes No (Please give detailed information including page numbers from the comprehensive plan supporting the recommendation) Explain:

If Applicable, please list recommended conditions for the Waupaca County Planning & Zoning Committee to consider.

Please attach any additional comments, minutes, or information further supporting the recommendation.)

Town Plan Commission

Recommend Approval

Recommend Denial

Use form to seek input from town or other review bodies

Recommended conditions must relate to purpose of ordinance

Staff Report

Staff can provide relevant facts, analysis, and recommendations

Memo

To: Plan Commission, Village Board

Fr: Trevor Fuller, Planning and Zoning Administrator

Re: ACTION RE: CONDITIONAL USE REQUEST FROM SKB TERRACE LLC TO ALLOW FOR TWO 9-UNIT APARTMENT BUILDINGS AT 3241-3245 RIVERSIDE DRIVE

Date: 03 January 2020

A Conditional Use Permit (CUP) has been requested by SKB Terrace LLC to allow for apartment buildings on parcel AL-125-8, located at 3241-3245 Riverside Drive. The parcel is currently zoned Commercial District, which allows for multi-family residential use as a conditional use.

Included is an exterior picture, an aerial photograph of the existing property, and a conceptual site plan. The property owner intends to construct two, nine-unit apartment buildings on the vacant lot. The residential development cannot proceed without being granted a conditional use permit.

Any site improvements (i.e. building plans) and future additions will have to go through the Site Plan and Design Review process and be consistent with the applicable zoning requirements for "Commercial District" and "High-Density District."



In Summary

Ordinance must list:

- ✓ Purpose of regulations
- ✓ Specific uses allowed in each district
- ✓ Measurable criteria for judging conditional uses
- ✓ Body responsible for making permit decisions

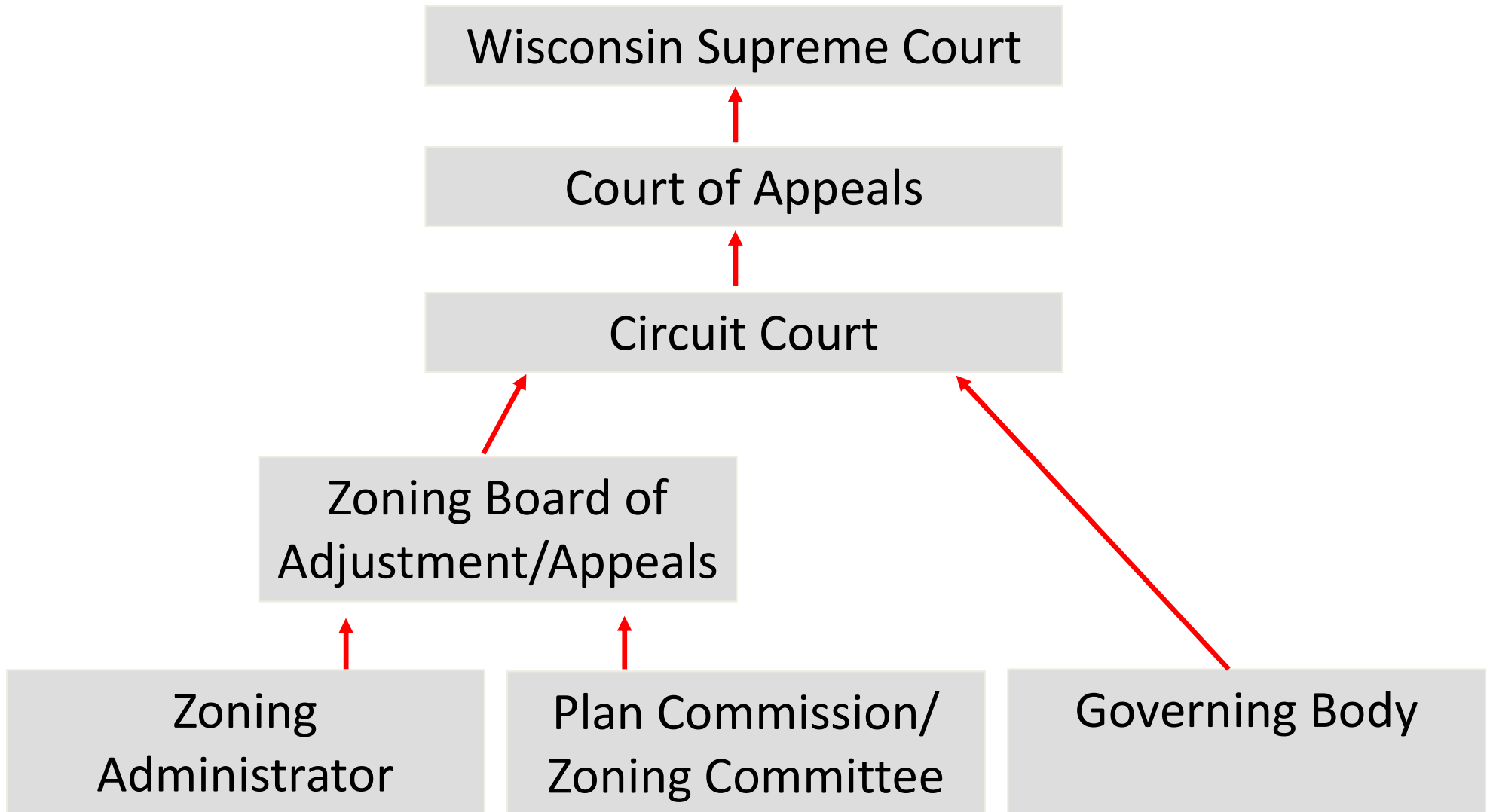
Discretionary decision:

- ✓ Permit may be granted or denied based on ability to meet ordinance standards
- ✓ Local government may attach reasonable conditions that relate to ordinance purpose
- ✓ Conditions may limit permit duration, transfer, or renewal

The background features a series of concentric, overlapping curved lines in shades of gray, some solid and some dashed, creating a sense of depth and movement. A prominent blue callout box is centered on the page, containing the main title text.

Appeals and Legally Defensible Decisions

Appeal of Zoning Decisions



Legally Defensible Decisions

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



Authority

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



Proper procedures

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



Proper standards

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



Rational basis

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



Evidence

Do facts in the record support your decision?

The background features a series of concentric, overlapping curved lines in shades of gray, some solid and some dashed, creating a sense of depth and movement. A large, solid blue speech bubble is centered on the page, pointing downwards. The text "Subdivision Ordinance" is written in white, sans-serif font inside the speech bubble.

Subdivision Ordinance



- Legal process for dividing land and recording property
- Review for physical layout of new development, connections with existing development, public safety, utilities, other improvements

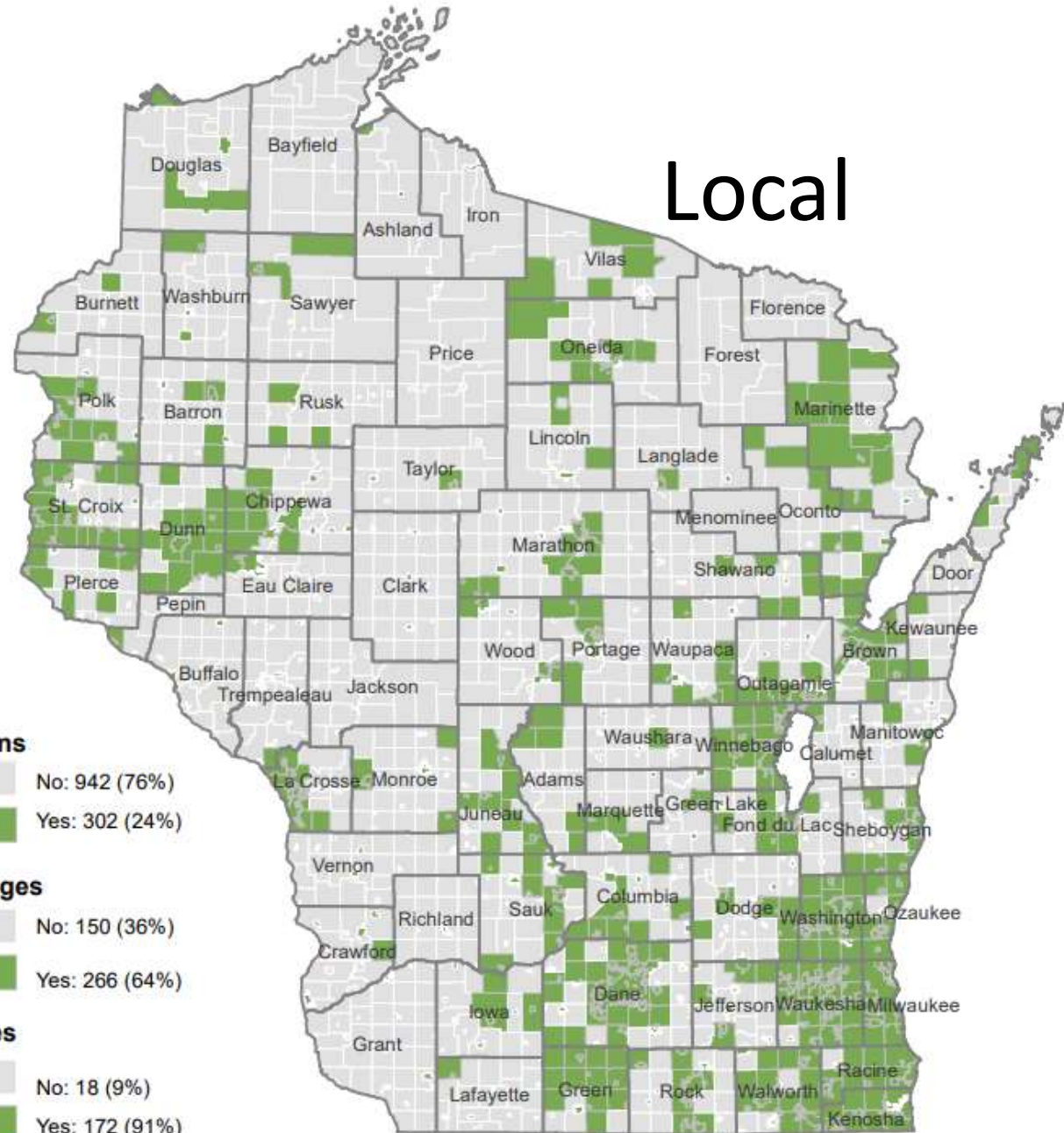


Three Levels of Review

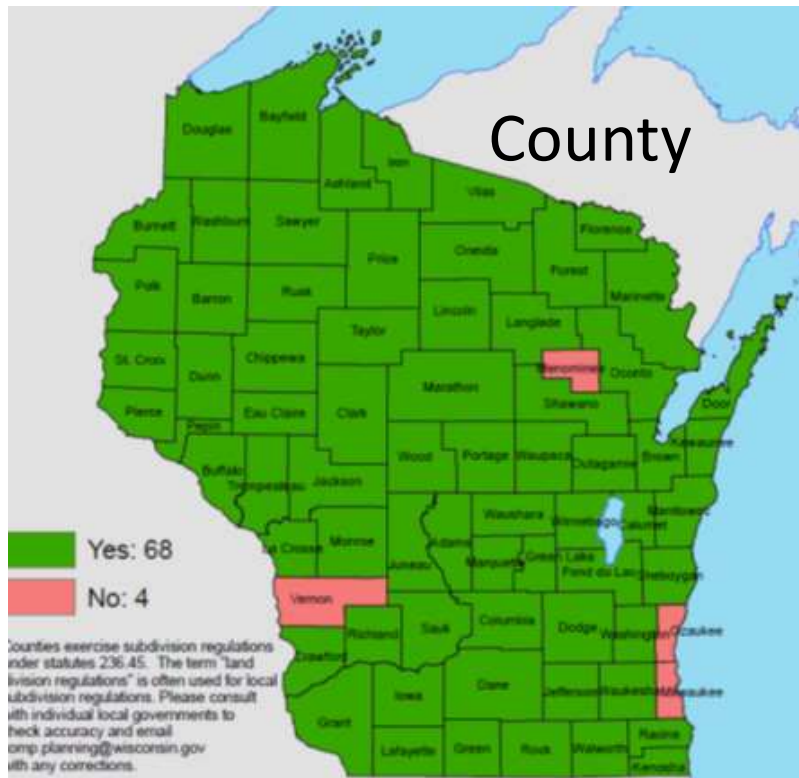
State



Local



County



State Subdivision Law



- State provides minimum standards for subdivisions
 - Subdivision = creation of 5 or more parcels of 1½ acre or less within 5-year period
 - State reviews for surveying, layout, mapping and plat submittal requirements



(Wis Stat. ch 236)

Approving Authorities

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

Objecting Authorities

- The following agencies have authority to certify or “object” to state-defined subdivision plats:
 - [Department of Administration](#) – all state-defined subdivisions are reviewed for compliance with surveying, layout, mapping and plat submittal requirements. (Wis. Stat. 236)
 - [Department of Transportation](#) – subdivisions that abut a state trunk or connecting highway are reviewed for public safety issues and preservation of public interests/investments. (Trans 233)
 - [County Planning Agency](#) – 18 counties review plats located in cities/villages for conflicts with parks, highways, airports, schools, and other planned public developments. (Wis. Stat. 236.12(2)(b))

Local Subdivision Regulations



- Local ordinances may impose additional requirements
 - Ex. public improvements in a town, village or city ordinance (does not apply to extraterritorial jurisdiction)
- Local ordinances may define subdivision differently
 - Ex. 4 or more parcels
 - Ex. 5 acres or less
- When review authority overlaps, the most restrictive provision applies

(Wis Stat. 236.45)

Local Subdivision Regulations

- Public improvements and design standards related to:
 - Roads
 - Sewer and water
 - Fire hydrants
 - Drainage systems
 - Sidewalks
 - Street signs, lighting
 - And more...

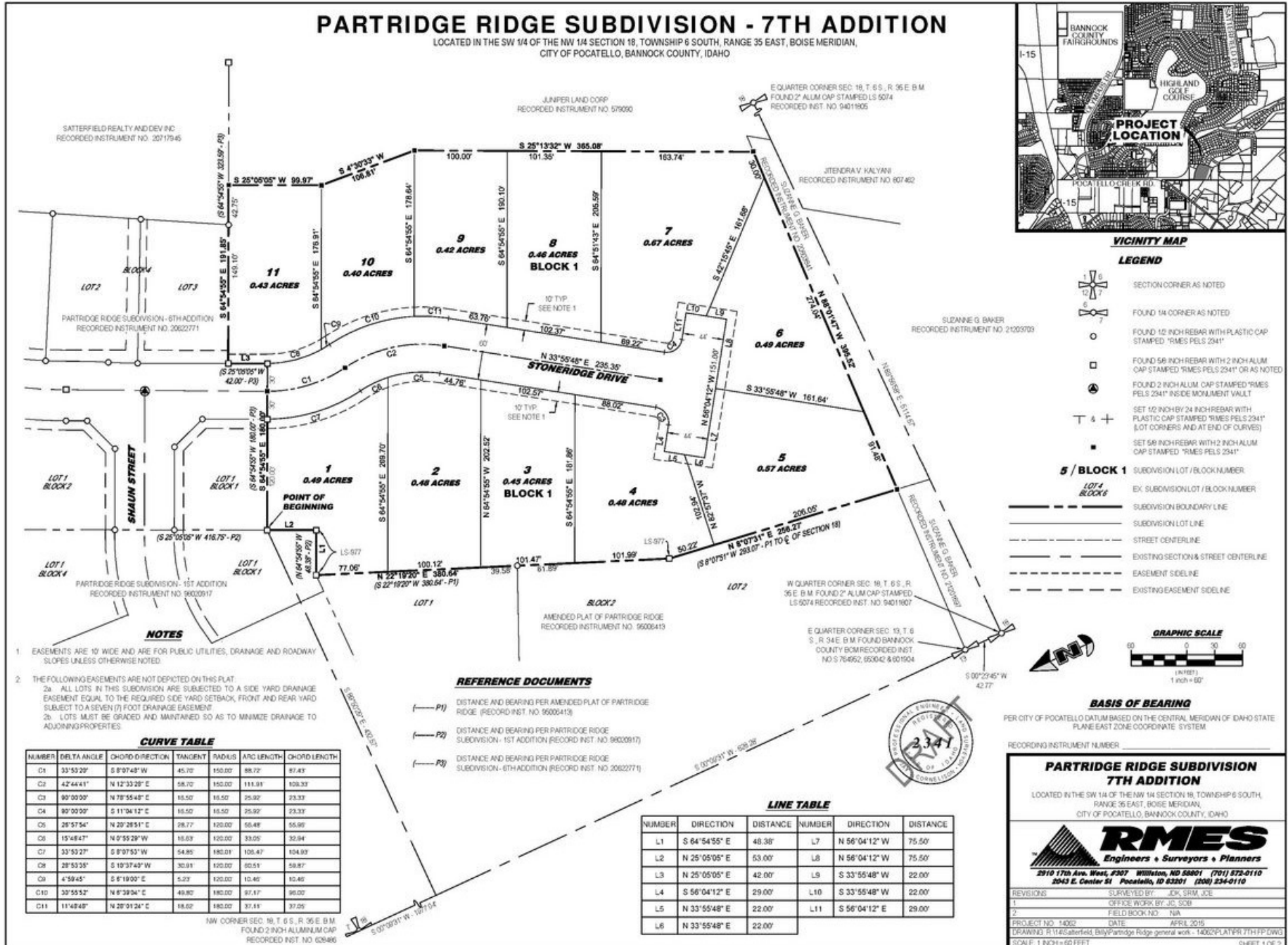


Is a subdivision plat required?

	No. parcels	Parcel size	Time	
State	5 or more	1.5 acres or less	5 years	
Portage Co.				
Major subdivision	5 or more	1.5 acres or less	5 years	Plat
Minor subdivision	1+	20 acres or less	5 years	CSM

- Review plats and CSM for land suitability, lot size, width, depth, road access
- Review major subdivisions for water access, parks (land/fee)
- Public improvements at discretion of town boards (roads, stormwater mgt, water, septic, park fee, etc.)
- Flexibility through density/lot averaging, open space design

Plat = a map of a subdivision



CSM = Certified Survey Map

Expedited process for land divisions that do not meet state or local definition of subdivision (based on number or size):

- Survey, monument, and map by professional land surveyor
- CSM dedicating streets or other land must be submitted to governing body – 90 days to act
- Filed with county register of deeds



Typical Process

1

Pre-Application Conference

Informal review intended to spot problems upfront

If requested or required by local ordinance

2

Preliminary Plat Approval

If required by local ordinance OR submitted by applicant

Act within 90 days

3

Final Plat Approval

Submission of detailed engineering and design drawings that comply with Wis. Stat. Ch. 236

Act within 60 days

Final plat is entitled to approval if it complies with local plans/ordinance, meets objections of state agencies, and substantially conforms with an approved preliminary plat.

Comparing Rural Land Divisions

160 acres



160 acres



160 acres



154 lots, 1 acre
3.75 miles road
5-acre park, 3-acre pond

27 lots, 2-10 acres
1.95 miles road

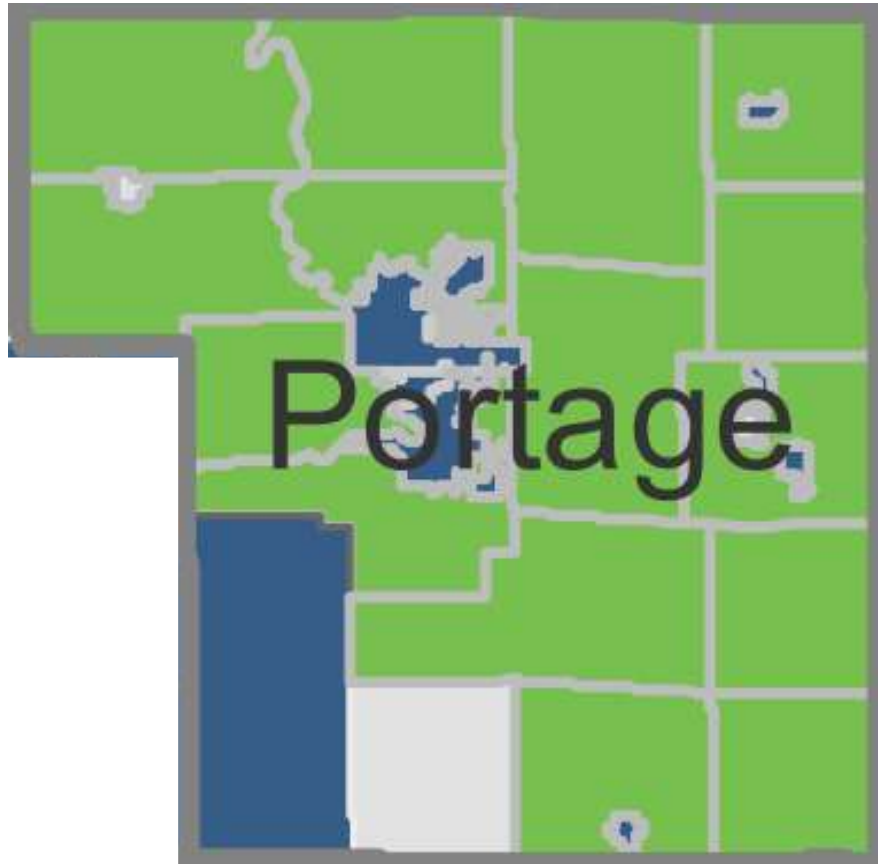
24 lots, 1.5+ - 40 acres
1 mile road
7 parcels without road access

How were these created?

Portage County Ordinances

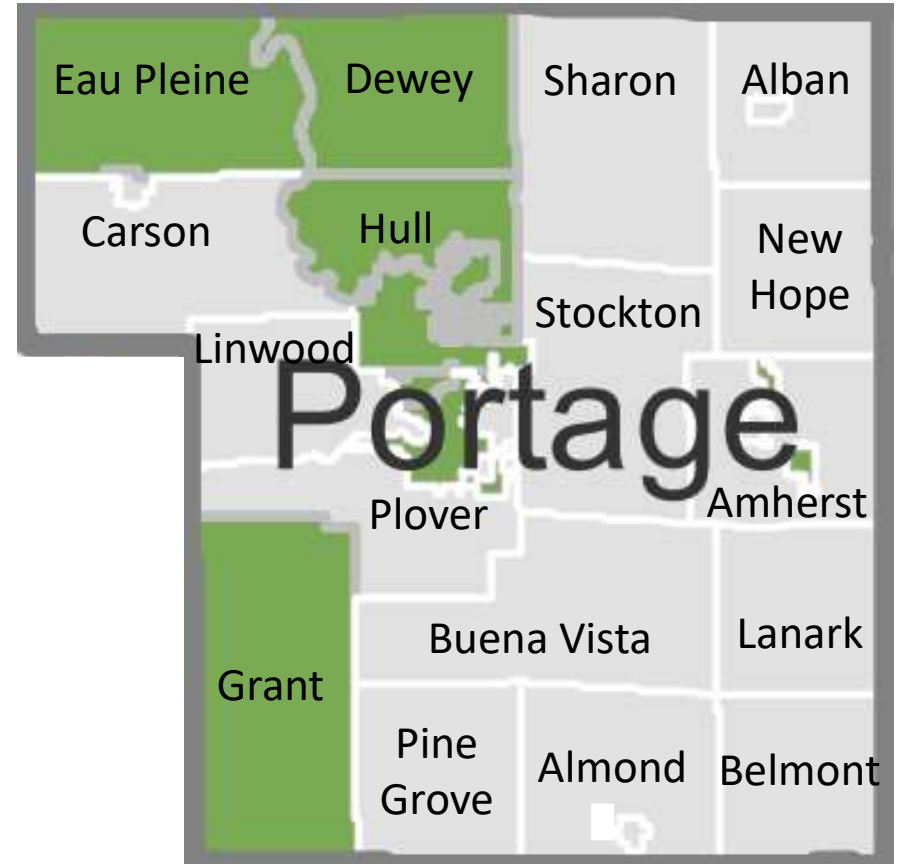
Zoning Ordinance:

- County
- City, Village, Town
- none



Subdivision Ordinance:

- County
- City, Village, Town
- none



“There is some overlap between zoning and subdivision codes. Both can set minimum lot sizes. Both can assess the suitability of land for development. Implementing important plan techniques such as rural cluster development often requires use of the zoning and subdivision ordinance together.”

Comparing Rural Land Divisions

160 acres



154 lots, 1 acre
3.75 miles road
5-acre park, 3-acre pond

Town of Plover
Boundary agreement
Sewer service area
R2-Single Family Residence
(min 20,000 sf lot = .46 ac)
Major subdivision - plat

160 acres



27 lots, 2-10 acres
1.95 miles road

Town of Stockton
Well and septic
A3-Low Density Agriculture
(min 5-acre lot)
Minor subdivision - CSM

160 acres










24 lots, 1.5+ - 40 acres
1 mile road
7 parcels without road access

Town of Amherst
Well and septic
A4-General Agriculture
R1-Rural Fringe Residence
(min 2-acre lot)
Minor subdivision - CSM

Boundary Agreements and Sewer Service Areas

Exhibit 5 Town of Plover Sewer Service Area and Village of Plover Twenty Year Planning Boundary

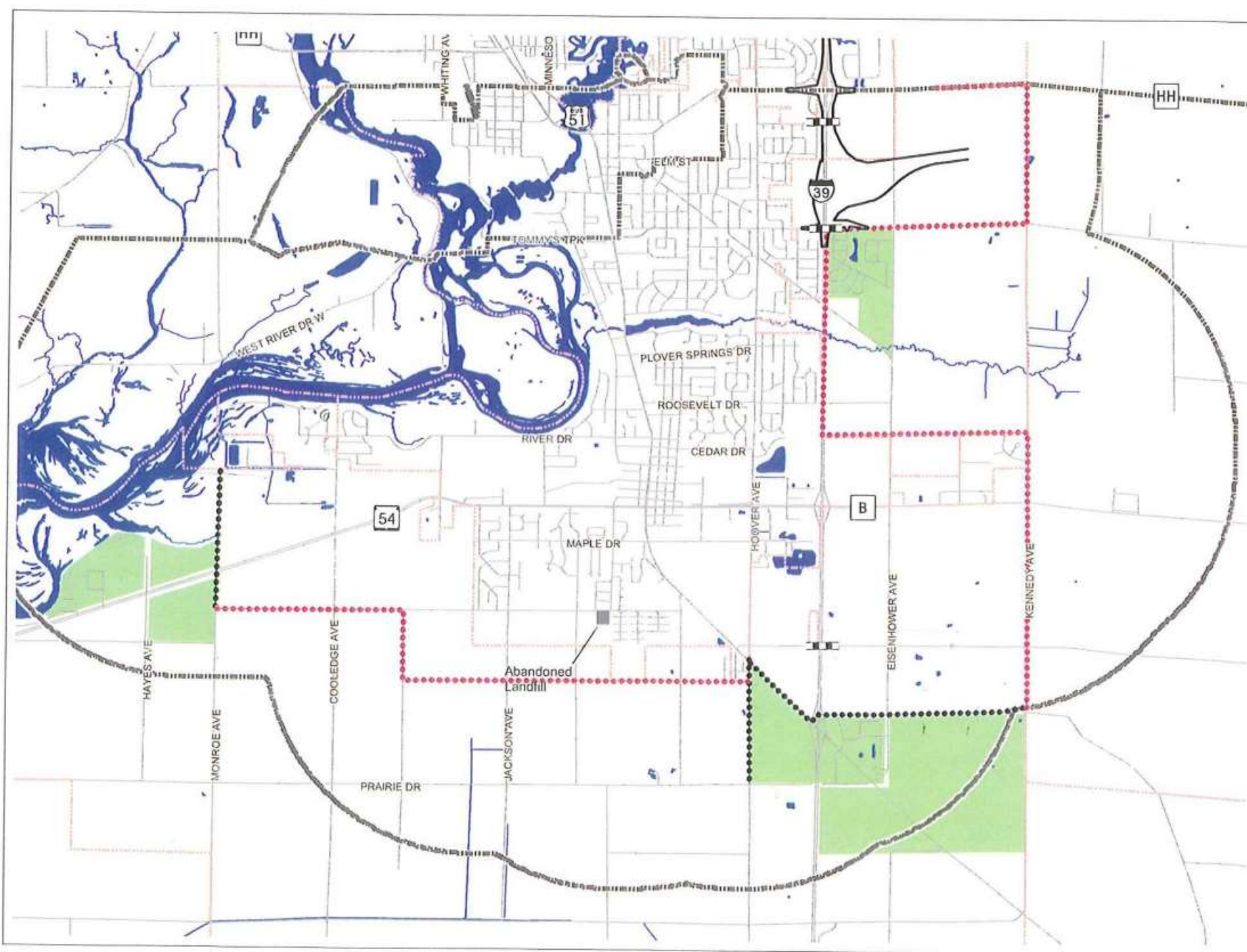
-  Town of Plover Sewer Service Area
-  Extraterritorial Boundary
-  Municipal Boundaries
-  Village of Plover 20 Year Planning Boundary
-  Town / Village Permanent Boundary
-  Streets
-  Sewer Mains



Source:
Portage County Planning and Zoning Department
Extraterritorial Boundary, 2005,
Municipal Boundaries, 2005



Planning and Zoning Department
1462 Stangs Avenue
Stevens Point, WI 54481
Map Produced: March 10, 2005



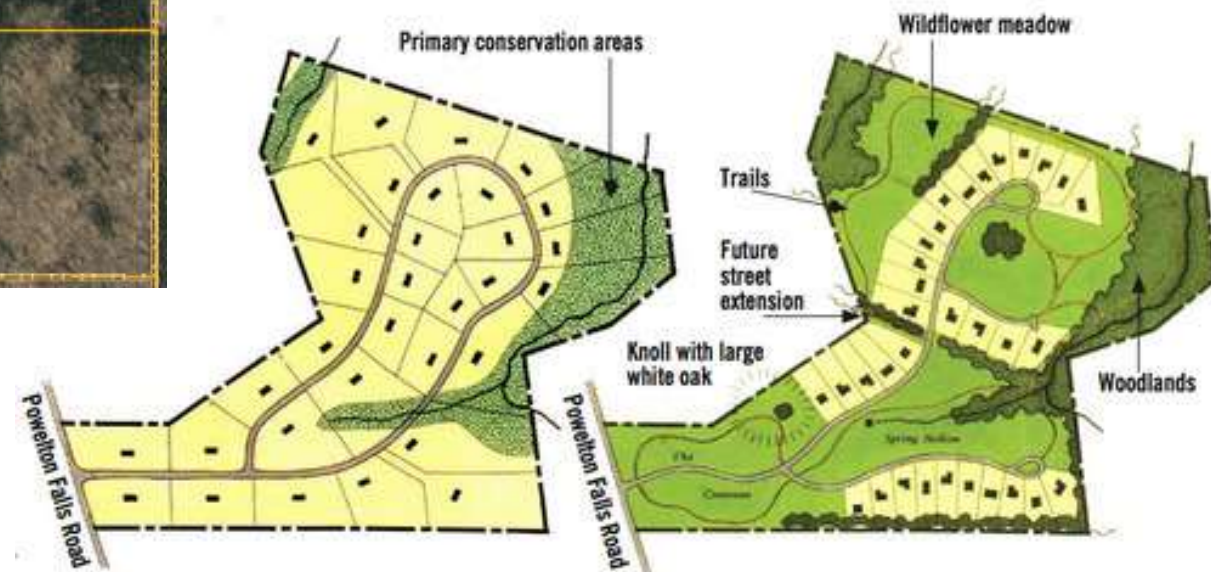
**ZONING SETBACKS, AREA AND HEIGHT REQUIREMENTS FOR
TOWNS UNDER PORTAGE COUNTY ZONING ORDINANCE**

ZONING DISTRICT	MAX HEIGHT (ft) (a)	MIN FLOOR AREA (sq ft)	MIN LOT AREA (sq ft)	MIN LOT WIDTH (ft)	MIN SIDE YARD (ft)	MIN REAR YARD (ft)	MAX ACCESSORY BLDG SPACE (sq ft)
R1 Rural & Urban Fringe	35	720 (g)	2 acres	200	25 (b)	25 (b)	2,800 (l)(m)
R2 Single Family	35	720	20,000	100	10 (b)	25 (b)	2,800 (l)(m)
R3 One and Two Family	35	720-1/1000-2	30,000	100	10 (b)	25 (b)	2,800 (l)(m)
R4 Multiple Family	35	550 (c)	20,000 (c)	100	10 (b)	25 (b)	2,800 (l)(m)
R5 Waterfront	35	720	1 acre	150 (d)	15 (b)	25 (b)	2,800 (l)(m)
A1 Exclusive Agricultural	35	720	35 acres	200	25 (b)	25 (b)	Unlimited
A2 Agricultural Transition	35	720 (g)	10 acres	200	25 (b)(f)	25 (b)(f)	Unlimited
A3 Low Density Agricultural	35	720 (g)	5 acres	200	25 (b)(f)	25 (b)(f)	Unlimited
A4 General Agricultural	35	720 (e)(g)	2 acres	200	10 (b)	25 (b)(f)	Unlimited
A20 Primary Agricultural	35	720 (g)	20 acres	200	25 (b)	25 (b)	Unlimited
RL Rural Limited	35	720	10 acres (n)	200	25 (b)	25 (b)	Unlimited
REC Recreational	35	720 (g)	20,000	100	10 (b)	25 (b)	2,800 (l)(m)
CON Conservancy	35		2 acres		25	25	
C1 Neighborhood Commercial	45	720	20,000	100	8	12	
C2 Marina	35	720	20,000 (h)	100	6 (i)	12	
C3 Commercial	45	550	20,000 (h)	100	6 (i)	12	
C4 Highway Commercial	80	550 (c)	20,000	100	8	12	
IND Industrial		550	20,000 (h)	100	6 (j)(k)	12 (k)	

Tools for Flexibility

See Section 7.5 Open Space
Design Option

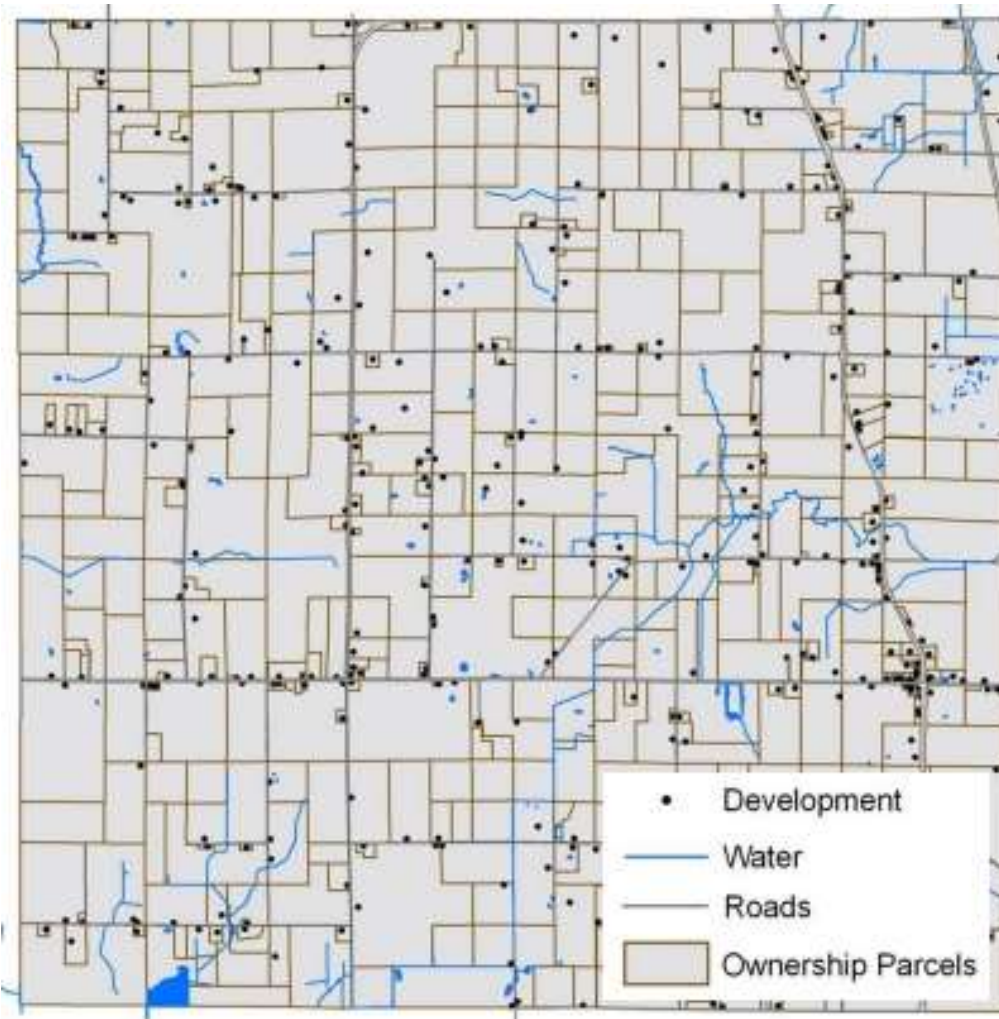
Evergreen Hills Subdivision
Town of Lanark



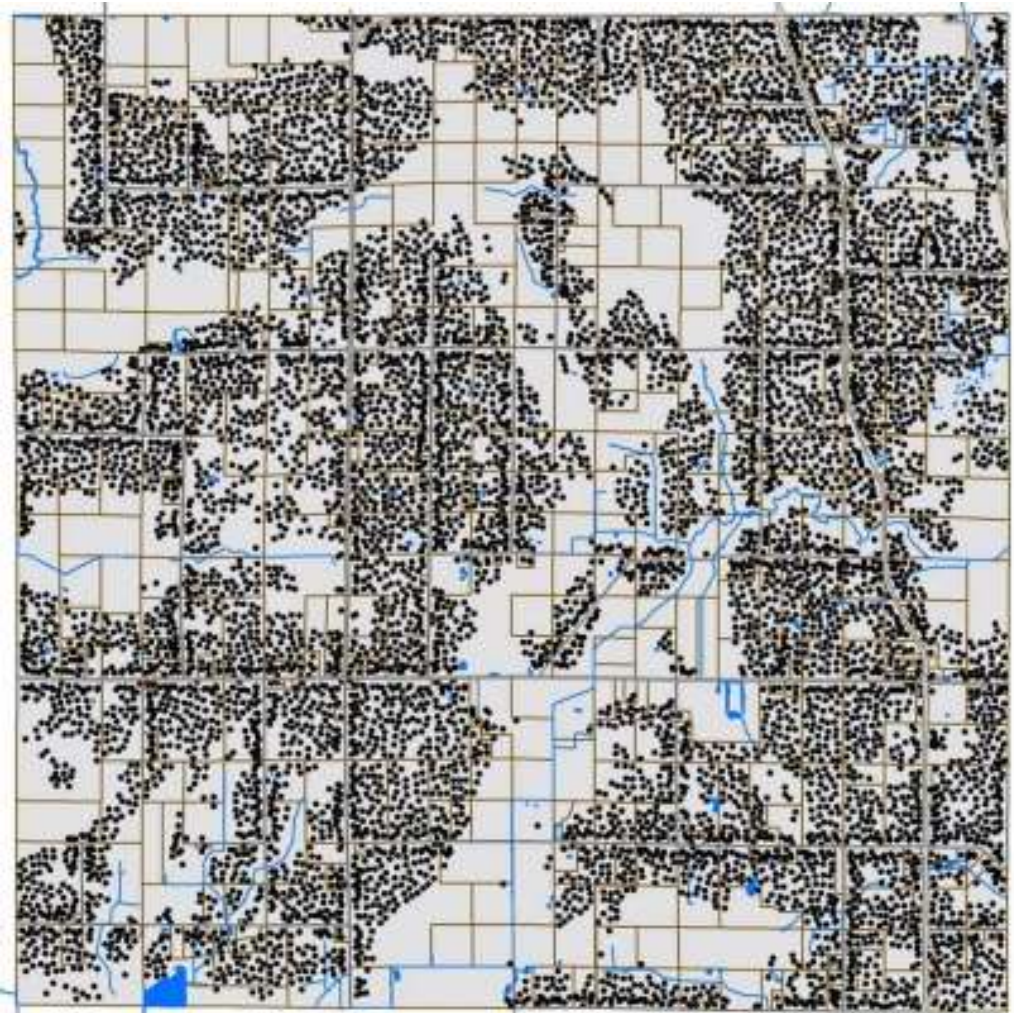
Build-Out Analysis

Ex. Town of Bear Creek, Waupaca County

Existing Development, 2010



Build-Out, Minimum Lot Size Zoning

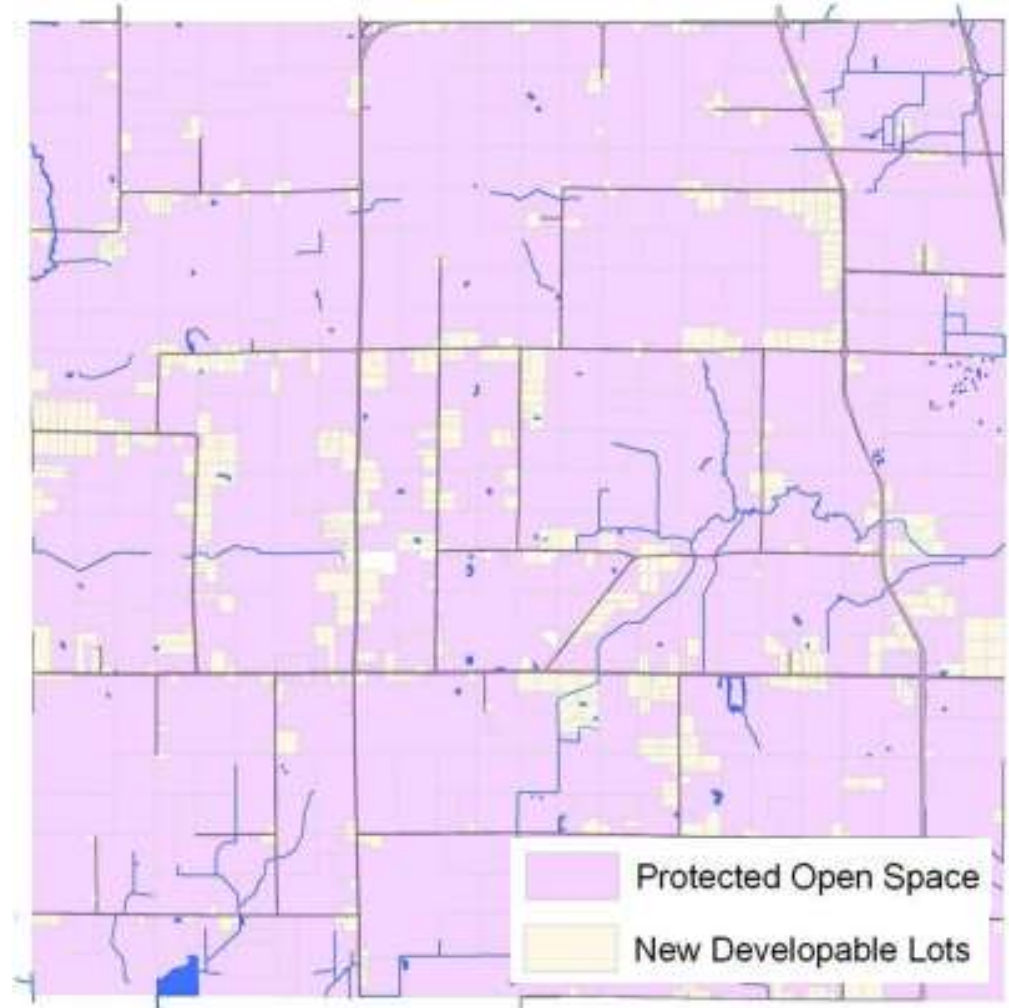
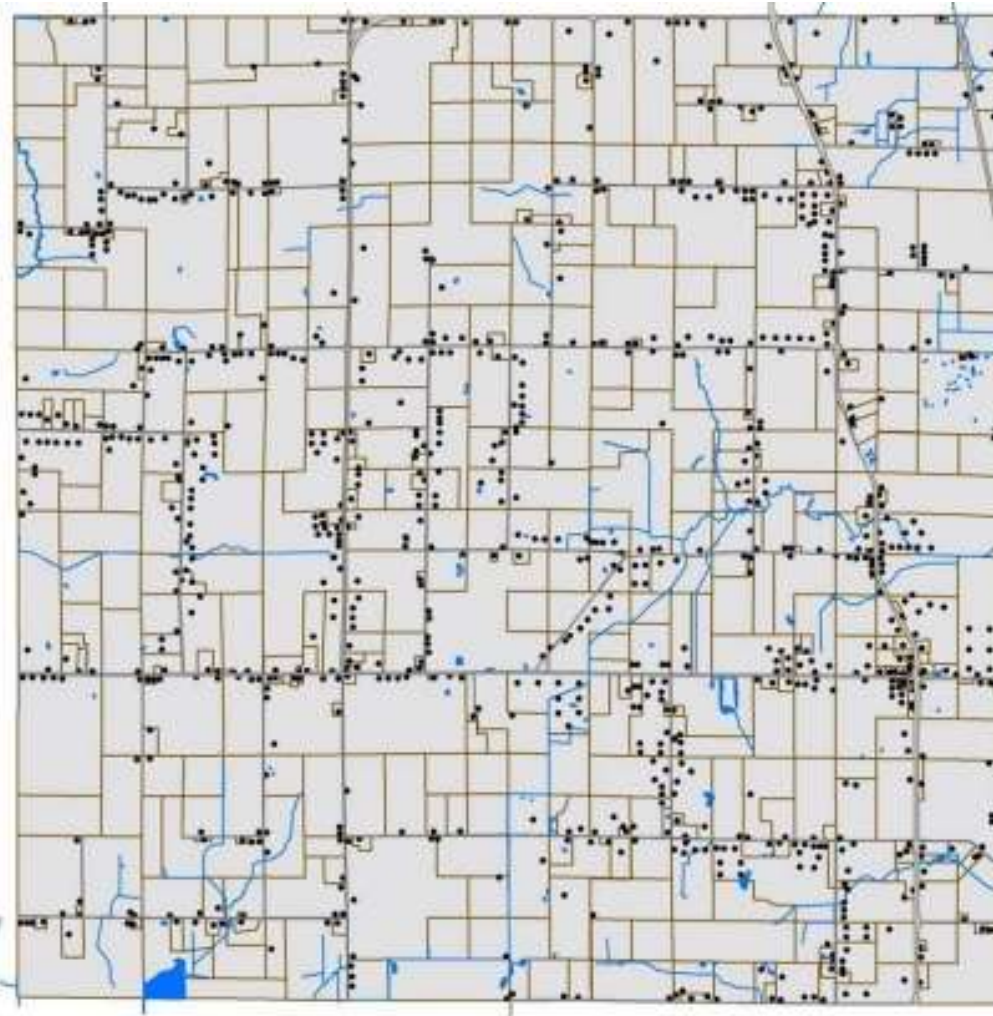


Potential for 9,151 building units!

Build-Out Analysis

Ex. Town of Bear Creek, Waupaca County

Build-Out, Density-Based Zoning



Potential for 530 additional building units

Visualizing Density

4 Dwelling Units Per Acre (Gross)

Standards can be used to reduce street widths, include street trees and planter strips, and deemphasize garage at front of home.



NEWER SINGLE-FAMILY SUBDIVISION IN ELLENSBURG.

15 Dwelling Units Per Acre (Gross)

Standards can be used to accommodate a variety of housing types, pedestrian-friendly streetscapes, and common open space with trails.



RELATIVELY NEW MIXED-HOUSING-TYPE SUBDIVISION, ALSO WITHIN THE MASTER-PLANNED ISSAQUAH HIGHLANDS DEVELOPMENT IN ISSAQUAH.

Future Directions

- What plans and ordinances do you have in place?
- Potential areas for update?
 - Process
 - Standards
 - Flexibility
 - Accommodate new forms of development

Thank You!

Rebecca Roberts
Center for Land Use Education
715-346-4322
rroberts@uwsp.edu



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



Extension
UNIVERSITY OF WISCONSIN - MADISON