

# Land Use Tracker

*A quarterly publication of the  
Center for Land Use Education*



► SOLAR POWER:  
WHAT LOCAL GOVERNMENT CAN DO.....1



► THE ROLE OF THE  
PLAN COMMISSION .....4



► ZONING AMENDMENT  
NULLIFIES CONDITIONAL  
USE PERMIT.....8

## SOLAR POWER: WHAT LOCAL GOVERNMENT CAN DO

Solar power offers a range of benefits to communities. It adds local jobs, improves local economies, helps achieve state and local environment and energy goals, mitigates land use issues, and strengthens energy infrastructure and independence.

Despite the many benefits that solar offers, the upfront cost of installing a solar system can be a barrier to more widespread adoption of solar power. Non-hardware costs, including permitting, installation, inspection, and interconnection can make up 30-40 percent of the cost of a rooftop photovoltaic system.

How can communities help remove barriers and reduce the associated costs to make solar a more widely adopted technology? Local governments can focus on the following three areas to help reduce costs associated with solar installation:

### ► **Revise planning and zoning codes**

Zoning codes and other local planning regulations can be a major barrier to solar installations. Identifying and revising local ordinances, including zoning codes, subdivision ordinances, historic district regulations, development agreements, planned unit development laws, and property tax abatements that pose obstacles to solar installation can help increase the adoption of solar energy technologies.

Additionally, establishing solar access laws or regulations that protect both commercial and residential solar access, creating 'solar friendly' standards for new construction, and publishing ordinances, standards, and other related information online can all help increase the adoption of solar technologies and induce market transformation.

## Grant Opportunity: Rooftop Solar Challenge

In order to help address some of these challenges, the U.S. Department of Energy (DOE) recently released the Rooftop Solar Challenge to Induce Market Transformation Funding Opportunity Announcement (FOA). The objective of this FOA is to achieve measurable improvements in market conditions for rooftop photovoltaic across the United States, with an emphasis on streamlined and standardized permitting and interconnection processes. DOE anticipates providing up to \$12.5M to up to 25 awardees to accomplish the goals of this funding opportunity. This FOA directly supports the goals of DOE's Office of Energy Efficiency and Renewable Energy, Solar Energy Technologies Program, and the SunShot Initiative.

This FOA will take a phased approach addressing four main action areas (listed below), designed so that awardees that succeed in all action areas will have the necessary policy and process framework in place to support a robust solar market in their region:

- Permitting and Interconnection Processes
- Net Metering and Interconnection Standards
- Financing Options
- Planning and Zoning

State or territorial governments; local governments; consortia made up of regional or statewide teams of local government; or nonprofit or for profit entities authorized to act on behalf of a consortia of state and/or local governments, large single jurisdictions, or Indian tribes representing areas with a population greater than 500,000 are eligible to apply. DOE expects to make 20-25 awards of between \$250,000 and \$1,000,000 under Phase 1 of this FOA.

Deadline for Letter of Intent: July 18, 2011.  
Deadline for Application: August 31, 2011.

### For More Information

To learn more about this program, visit:  
<https://eere-exchange.energy.gov>.

## ► Standardize permitting and interconnection processes

Creating a streamlined and consistent permitting process for solar installations can help to reduce costs, as can online permitting. Local governments can simplify permitting processes and fee structures, make permitting information available to prospective solar system owners and solar contractors, and can fast-track solar permits where appropriate. Though interconnection standards are often determined at the state level, cities with municipal utilities can often influence interconnection standards in their jurisdictions. Adopting efficient interconnection standards that specify different levels of review for systems of different sizes and complexities, establishing transparent interconnection processes, eliminating requirements for liability insurance, and combining interconnection and permitting applications can all help reduce costs associated with the installation of solar systems. Local governments can also work with investor-owned utilities to improve the interconnection process.

## ► Support financing options

Homes and businesses traditionally pay for electricity on a monthly basis. Even as solar systems become more affordable, purchasing a system outright is a significant investment that many residents and business owners cannot make. Many promising financing models have emerged for solar energy systems. Local governments can work to help ensure that state and local policies allow for third party ownership of solar systems, which allows solar companies to offer leases or power purchase agreements, enabling customers to spread costs over time. Local governments can also set up property assessed financing, community solar financing, or group purchasing programs that make solar more affordable for residents and businesses.

*This article was reprinted from the International City/County Management Association (ICMA) website, published June 10, 2011. ICMA develops and advances professional local government management to create sustainable communities. For more information, visit: <http://icma.org>*

## New Publication: Solar Powering Your Community

*Solar Powering Your Community: A Guide for Local Governments* is a comprehensive resource created by the U.S. Department of Energy (DOE) to assist local governments and stakeholders in designing and implementing local solar plans.

The guide can help stimulate ideas or provide a framework for a comprehensive solar plan for a community. Each section is divided into topic areas—typically within the jurisdiction of local governments—that are integral in creating and supporting local solar markets. Each topic area includes:

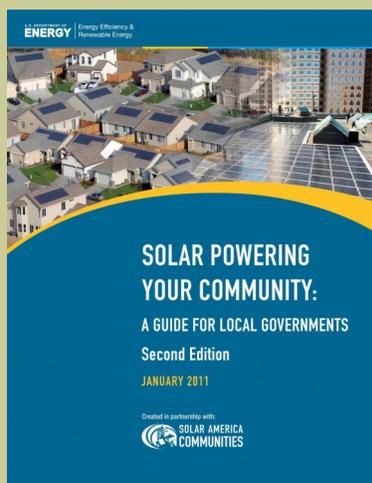
- An introduction that describes the policy or program and states its purpose
- Information on benefits of implementing the policy or program
- Tips and options for designing and implementing the policy or program
- Examples that highlight experiences from communities that have successfully implemented the policy or program
- Additional reports, references, and tools that can offer more information on the topic

DOE recognizes that there is no one path to solar market development, so this guide introduces a range of policy and program options that can help a community build a sustainable solar infrastructure. Community leaders are encouraged to tailor their approach to fit their community's needs and market barriers.

### For More Information

*Solar Powering Your Community: A Guide for Local Governments* can be downloaded from:

[www.solaramerica.comunities.energy.gov](http://www.solaramerica.comunities.energy.gov).



## Wisconsin Examples

Many of the examples and models included in *Solar Powering Your Community* have been field-tested in cities and counties around the country and are a direct result of DOE's Solar America Communities program. Madison, Wisconsin is highlighted in the following case studies.

### ► Helping prospective solar owners make decisions

Through the Solar America Cities grant, the city of Madison contracted with the Midwest Renewable Energy Association (MREA) to guide Madison homeowners and business owners through the process of "going solar." The objective of the solar agent program is to increase knowledge, understanding, and confidence about purchasing a solar system by offering a free site survey to Madison residents. The solar agent works directly for the city, lending credibility to the program and giving the consultant direct access to city departments to work through any procedural or permitting issues. The agent performs remote site surveys using aerial photography and Google Street View. If the property receives a favorable solar rating, the solar agent discusses general installation costs and arranges an on-site assessment. After the on-site assessment, the agent prepares a financial analysis using a template from Focus on Energy. The solar agent does not design the solar system or recommend specific installation companies. Instead, the agent assists residents, nonprofit organizations, and businesses in gathering and understanding quotes from certified contractors located within the city limits.

### ► Allowing solar energy systems in historic districts

Madison formerly prohibited solar installations in some historic districts on the grounds that "solar apparatus is not compatible with the historic character of the district." In other districts, solar could be denied based solely on aesthetics. These provisions were actually illegal, based on state statutes. The city amended its ordinance to allow solar installations in historic districts and created a permitting process for solar installations in historic districts and on landmark properties. The new ordinance allows for staff-level permitting as opposed to more cumbersome committee approval.

## THE ROLE OF THE PLAN COMMISSION

*By Rebecca Roberts, Land Use Specialist, Center for Land Use Education*

In the course of its work, the plan commission performs a wide variety of functions related to land use and community planning. Formal roles are outlined in state statutes and local ordinances while less formal roles evolve as a result of the nature of the plan commission's work. Four major roles are outlined below:

### 1. Community Planning

A primary function of the plan commission is to prepare and maintain community plans. These plans may focus on specific geographic areas, such as corridors, neighborhoods or regions, or specific issues, such as land use, transportation, parks and recreation, disaster mitigation or sustainability. The comprehensive plan incorporates many different elements and is considered a central organizing umbrella under which other plans, regulations and initiatives exist.<sup>1</sup>

As an appointed body removed from the politics of elected office, the plan commission may be asked to take a lead role in involving the public in local planning projects. They can help to identify opportunities and challenges facing the community, develop a shared community vision, and help to prioritize community goals, objectives and policies. The commission may also be asked to prepare or review planning data, maps and analyses. Depending on the commission's workload, budget and level of staff support, it may opt to form subcommittees to assist with these tasks or hire a planning consultant.

The role of the plan commission in developing the comprehensive plan is described in Wis. Stat. sec. 66.1001. The plan commission must prepare the plan and recommend its adoption to the governing body by resolution. The governing body is responsible for formally adopting the plan and must do so by ordinance. Specific public participation, notice and distribution requirements also apply. Though the plan must be legally updated only once every ten years, it is a good idea for the commission to review it on a more frequent basis and make updates as needed. This helps to keep the plan current, ensures that it is

## [ Comprehensive Plan ]

The **comprehensive plan** is a guide to the physical, social and economic development of the community. It contains background information on the local community and a statement of overall objectives, goals, policies and programs to guide the future development and redevelopment of the community over a 20-year period. It must address nine different topics or 'elements' including: issues and opportunities; housing; transportation; utilities and community facilities; agricultural, natural and cultural resources; economic development; intergovernmental cooperation; land use; and implementation.

*See Wis. Stat. sec. 66.1001*

being used in local decision-making, and reduces the work associated with a major review and rewrite. The same process that is used to adopt the plan is used to amend the plan.

### 2. Plan Implementation

Effective plan implementation involves a variety of tools, both regulatory and non-regulatory. Recent changes to the comprehensive planning law clarified that the plan, though adopted by ordinance, is not a regulation.<sup>2</sup> Therefore, other tools are needed to implement the plan. These tools may be regulatory, financial, voluntary or educational in nature.

The implementation element of the comprehensive plan contains a detailed list of recommended programs and actions to implement the plan. The plan commission is well suited to help prioritize these programs and initiate action amongst local government bodies, departments and community groups.

Two of the most common plan implementation tools in Wisconsin are zoning and subdivision regulations. If a community decides to adopt

general zoning, the plan commission is required to prepare the ordinance and recommend its adoption to the governing body.<sup>3</sup> Amendments to the zoning ordinance are also referred to the plan commission for review. Similarly, before a local governing body can adopt or amend a local land division or subdivision ordinance, it must receive the recommendation of its plan commission.<sup>4</sup>

State law requires that newly adopted or amended zoning, subdivision and official mapping ordinances be “consistent with” the comprehensive plan.<sup>5</sup> Since plan commission members are intimately familiar with the plan and may also be involved in drafting ordinance language, they are a logical choice to review the plan for consistency.

### 3. Development Review

Most plan commissions spend the majority of their time reviewing specific land development proposals. Requests for zoning amendments, conditional use permits, and subdivision plats appear frequently on the municipal plan commission agenda. Commissions may also be involved in other types of review including but not limited to site plan review, planned unit developments, historic preservation review, and design review. Though important, these types of review are not discussed in detail in this article.

## [ Zoning Ordinance ]

**Zoning** works by dividing a community into districts, regulating uses that are allowed within those districts, and prescribing allowable dimensions such as lot sizes, setbacks and building height.

*See Wis. Stat. secs. 62.23(7) (cities, villages and towns with village powers); 59.69 (counties); and 60.61 (towns).*

### ► Zoning amendments

The zoning ordinance, like the comprehensive plan, is not set in stone and will likely need to be updated over time. Various types of amendments are possible and include changes to district boundaries, changes to district regulations (i.e. setbacks, height limitations), and changes to the use of individual properties. These changes are often referred to as map amendments, text amendments and rezones, though terminology varies by community.

The process of amending a zoning ordinance is outlined in state statutes.<sup>6</sup> The governing body is responsible for adopting the amendment but must first send the amendment to the plan commission for review and recommendation. A public hearing and class 2 notice are required.

### Considerations for Zoning Map Amendments<sup>7</sup>

	Yes	No
1. Does the municipality need more land in the requested district?	_____	_____
2. Is there other property in the municipality that might be more appropriate for this use?	_____	_____
3. Will the request have a serious impact on traffic circulation, parking, sewer and water service, or other utilities?	_____	_____
4. Is there a good possibility that the request, as proposed, will have an adverse impact on property values in the vicinity?	_____	_____
5. Is there a good possibility that the request, as proposed, will result in lessening the enjoyment or use of adjacent properties?	_____	_____
6. Will the request, as proposed, cause serious noise, odors, light, activity or unusual disturbances?	_____	_____
7. Will the request result in illegal spot zoning (use is inconsistent with surrounding properties and only serves private rather than public interests)?	_____	_____
8. Does the proposal seem realistic? Is it properly financed, and does it depend on other events that must occur first to make it feasible?	_____	_____

Local decision-makers have a fair amount of flexibility in making changes to the zoning ordinance. Because a zoning amendment is a legislative act, it must be reasonable and constitutional. It should be judged on the same basis as the ordinance itself. In other words, the amendment should bear a reasonable relationship to the public health, safety, morals and general welfare of the community. A zoning amendment must also be consistent with the comprehensive plan.<sup>8</sup> When making a recommendation on a zoning amendment, the plan commission must consider these two criteria. The checklist on page 5 provides additional suggestions to consider when reviewing an amendment to the zoning map.

### ► Conditional uses

A zoning ordinance contains various districts such as residential, commercial and industrial. For each district, the ordinance identifies uses that are allowed by right, uses that may be allowed if certain conditions are met, and uses that are prohibited. The second type of use is known as a conditional use, special use, or special exception – this article will use the term conditional use.<sup>9</sup> Authority to decide conditional uses may be assigned to the plan commission, zoning board of appeals, or governing body as specified in the local zoning ordinance.<sup>10</sup>

Conditional uses are different from variances in that they allow a property owner “to put property to a use which the ordinance expressly permits when certain conditions are met.”<sup>11</sup> A variance, on the other hand, allows a property owner to do something that is prohibited by the zoning ordinance. A conditional use must be specifically listed in a local ordinance<sup>12</sup> along with general or specific decision criteria.<sup>13</sup> The body deciding conditional uses has discretionary authority to grant or deny the permit based on the ordinance criteria<sup>14</sup> and may attach conditions.<sup>15</sup> Conditions should be designed to diminish the adverse impacts of the use on the district. For example, a daycare facility might be allowed as a conditional use in a residential district subject to parking, fencing and signage requirements.

The plan commission must be aware of the potential long-term nature of conditional uses.

Conditional use permits, like variances, run with the property. That means that all subsequent owners of the property are entitled to the same use, subject to the original permit conditions.<sup>16</sup> A plan commission may attach conditions requiring periodic compliance reporting or that new landowners come in to the zoning office to discuss permit conditions upon transfer of the property. These types of review opportunities do not give the plan commission the ability to attach new conditions. The plan commission must therefore be careful to think through potential problems at the time the permit is issued. For uses that are temporary in nature, such as gravel pits, it may be appropriate to issue a permit that is limited in time.

## [ Subdivision Ordinance ]

**Subdivision** regulations provide standards and procedures for dividing and recording individual parcels of land within a community. Local ordinances often focus on the physical layout or design of a development and may require developers to provide public improvements such as roads, utilities, landscaping or signage.

*See Wis. Stat. ch. 236*

### ► Plat review

Local governments have authority to review subdivision plats<sup>17</sup> that fall within their boundaries or the extraterritorial plat approval jurisdiction.<sup>18</sup> This authority applies regardless of whether the community has adopted a local land division or subdivision ordinance.<sup>19</sup> In cities, villages and towns with village powers, proposed plats must be referred to the plan commission for review.<sup>20</sup> The plan commission has thirty days to review and comment on the plat before the governing body or other decision-making body may take final action. The governing body may assign responsibility to approve preliminary or final plats to the plan commission, or retain that authority.<sup>21</sup> Final plats involving the dedication of streets, highways or other lands must be approved by the governing body.

The standards by which local governments may review plats is strictly limited.<sup>22</sup> Plat approval may

only be conditioned upon compliance with local ordinances in place when the plat was submitted, installation of required public improvements, and consistency with the comprehensive plan.<sup>23</sup>

Additionally, state agencies may object to a plat for failure to comply with state requirements related to sewage disposal and highway access. If a final plat conforms substantially to an approved preliminary plat and to local plans and ordinances, it is entitled to approval.<sup>24</sup>

#### 4. Referrals and Advisory Recommendations

In addition to its primary responsibilities related to community planning, plan implementation and development review, the plan commission reviews a wide variety of matters referred to it. In cities, villages and towns with village powers, the following matters *must* be referred to the plan commission for review and consideration before the governing body or other decision-making body may take action:<sup>25</sup>

- a) Location and design of public buildings
- b) Location of statues and memorials
- c) Land for public purposes such as streets, parks, airports, etc.
- d) Land for public or semi-public housing, slum clearance, relief of congestion, or vacation camps for children
- e) Public utilities
- f) General fire limits
- g) Child welfare agencies and group homes
- h) Community-based residential facilities
- i) Pedestrian malls
- j) Proposed housing projects
- k) Plats of lands over which the municipality is given platting jurisdiction
- l) Adoption or amendment of a subdivision or land division ordinance
- m) Amendment or repeal of any ordinance adopted under Wis. Stats. sec. 62.23, including ordinances relating to plan commissions, comprehensive planning, official mapping and zoning.

In most cases, the plan commission is given thirty days to review these matters.<sup>26</sup> If a report is not submitted by the plan commission within that time period, the decision-making body may proceed

without it.<sup>27</sup> Failure to refer one of these items to the plan commission may result in a court voiding the action.<sup>28</sup>

In addition to the items outlined above, the governing body may refer any other matter to the plan commission that it deems appropriate. These referrals may be outlined in a local ordinance or determined on a case-by-case basis.

#### Conclusion

The role of the plan commission is varied and complex. While one day the commission is responsible for reviewing a contentious land use proposal, the next, it is working on a long-range plan to guide the community twenty years into the future. Both situations require the plan commission to weigh complex planning issues, seek public input, balance competing private property interests, and consider the long-term interests of the community. Given the complexity of local planning decisions, local officials often rely heavily on the commission and give significant deference to their recommendations.

<sup>1</sup> Duerksen, Christopher, J., C. Gregory Dale, FAICP, and Donald L. Elliot, FAICP. 2009. *The Citizen's Guide to Planning*, Fourth Edition. APA: Chicago.

<sup>2</sup> Wis. Stat. sec. 66.1001(2m) which was adopted May 18, 2010 via 2009 WI Act 372.

<sup>3</sup> See Wis. Stat. secs. 59.69(5), 60.61(4) and 62.23(7)(d).

<sup>4</sup> See Wis. Stat. sec. 236.45(4).

<sup>5</sup> See Wis. Stat. secs. 66.1001(1)(am) and (3). "Consistent with" means furthers or does not contradict the objectives, goals, and policies contained in the comprehensive plan.

<sup>6</sup> See Wis. Stat. secs. 59.69(5)(e)1, 60.61(4)(c) and 62.23(7)(d)2. The referral requirement does not appear to apply to towns that have adopted zoning under Wis. Stat. sec. 60.61.

<sup>7</sup> Adapted from: Daniels, Thomas L., John W. Keller and Mark B. Lapping. *The Small Town Planning Handbook*, Second Edition. 1995. APA: Chicago.

<sup>8</sup> See Wis. Stat. sec. 66.1001(1)(3).

<sup>9</sup> Wisconsin courts treat conditional uses in the same manner as special exceptions. However, local ordinances may distinguish between the two. A conditional use is generally used to apply to uses that are allowed under certain circumstances (i.e. gas station, landfill, gun club, etc.), while special exceptions are used to refer to minor deviations from dimensional requirements (i.e. setback, height, etc.). See: Olson, Daniel M. "Zoning Tools: Conditional Uses and Special Exceptions." *The Municipality*, October 2008. League of Wisconsin Municipalities.

<sup>10</sup> See Wis. Stat. secs. 59.694(1), 60.65(3) and 62.23(7)(e)1.

<sup>11</sup> *State ex rel. Skelly Oil Co. v. Common Council*, 58 Wis. 2d 695, 701, 207 N.W.2d 585 (1973) quoting 2 Rathkopf, *The Law of Zoning & Planning*, 54-4 n.3 (1968).

<sup>12</sup> *Foresight, Inc. v. Babl*, 211 Wis.2d 599,565 N.W.2d 279 (Ct. App. 1997).

<sup>13</sup> *Edward Kraemer & Sons, Inc. v. Sauk County Bd. of Adjustment*, 183 Wis.2d 1, 515 N.W.2d 256 (1994).

<sup>14</sup> *Village of DeForest v. County of Dane*, 211 Wis. 2d 804, 816, 565 N.W.2d 296 (Ct. App. 1997).

*Continued on page 8*

## COURT RULES ZONING AMENDMENT MAY NULLIFY CONDITIONAL USE PERMIT

By Dean Richards, J.D., Reinhart Boerner Van Deuren, S.C.

A recent Court of Appeals decision should cause counties and communities to carefully consider the potential impact of zoning changes on preexisting conditional use permits. The May 25 decision in *Hussein v. Village of Germantown Bd. of Zoning Appeals*, (2010AP2178, publication recommended) establishes that if a zoning code amendment eliminates the conditional use from the ordinance under which a conditional use permit (CUP) has been granted, the CUP is void and the use is treated as a legal nonconforming use.

In 1973, the Village of Germantown granted a CUP to Germantown Auto Sales allowing a repair shop, service station and auto sales with parking limited to 25 cars. In 1988, a zoning code amendment eliminated auto sales as a conditional use in the applicable zoning district. Hussein acquired Germantown Auto Sales in 2002. In 2009, Hussein requested that the zoning district be changed to one that would allow auto sales as a conditional use and further requested an increase in parking capacity to 110 cars. The Village denied both requests and demanded that Hussein comply with the 1973 CUP. Hussein challenged the Village's decision before the Board of Zoning Appeals which found that the 1973 CUP was still valid. Hussein filed a certiorari appeal.

The circuit court ruled that Hussein's use became a legal nonconforming use as a result of the 1988 code amendment. The court of appeals concurred. The decision notes that the village may only grant a conditional use permit for a use that is specified as a conditional use in the zoning code. When the 1988 amendment eliminated auto sales as a conditional use, there was no longer any authority upon which to grant the CUP and it was voided. Thereafter, the use of the property was governed not by the CUP, but rather as a legal nonconforming use.

The consequence to the village is the loss of the 25 car parking restriction. The consequence to Hussein is the perilous task of operating his business within the parameters of a legal nonconforming use. Remember that as a legal

nonconforming use, Hussein may not expand or enlarge his business by an identifiable change in the use. But if expansion is simply the result of an increase in the historically allowed use, this will be allowed, albeit subject to other regulatory provisions.<sup>1</sup> The village's removal of auto sales as a conditional use meant the end of the parking restriction originally placed in the CUP.

<sup>1</sup> The courts noted "if there is an identifiable change in the [legal nonconforming] use, the enlargement is illegal. If the expansion is a result of a mere increase in the historically allowed use, the enlargement or expansion will be allowed subject to regulatory markers." *Waukesha County v. Pewaukee Marina, Inc.*, 187 Wis. 2d 18, 27, 522 N.W.2d 536 (Ct. App. 1994) (*Seitz II*).

### The Role of the Plan Commission Continued from page 7

<sup>15</sup> *Rainbow Springs Golf Co., Inc. v. Town of Mukwonago*, 2005 WI App 163, para. 13, 284 Wis. 2d 519, 702 N.W.2d 40.

<sup>16</sup> If permit conditions are not met, the permit may be revoked. A recent court case addressed a situation in which a CUP became void. In *Hussein v. Village of Germantown Bd. of Zoning Appeals* (2010AP2178, publication recommended), a zoning code amendment eliminated the conditional use from the ordinance under which the CUP was granted. The courts ruled that the existing use was allowed to continue as a legal nonconforming use but the conditions were not enforceable.

<sup>7</sup> Wis. Stat. sec. 236.02 defines a "subdivision" as any division of land that results in five or more parcels of 1.5 acres or less within a five year period. A "plat" is a map of a subdivision.

<sup>18</sup> The extraterritorial plat approval jurisdiction extends 3 miles for 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> class cities and 1½ miles for 4<sup>th</sup> class cities and villages. Local governments may waive their right to review plats in the extraterritorial jurisdiction.

<sup>19</sup> Under Wis. Stat. sec. 236.45, local governments may adopt ordinances that are more restrictive than state standards. Local ordinances may be defined to apply to lots of any number or size.

<sup>20</sup> Wis. Stat. sec. 62.23(5) which applies to cities, villages and towns with village powers.

<sup>21</sup> Wis. Stat. sec. 236.10(3).

<sup>22</sup> Wis. Stat. sec. 236.13.

<sup>23</sup> 2009 WI Act 372 removed the consistency requirement from Wis. Stat. sec. 236.13 'Basis for Approval'. However, authority is retained elsewhere. Wis. Stat. sec. 236.11(1)(b) states: "If the final plat conforms substantially to the preliminary plat as approved... and to local plans and ordinances adopted as authorized by law, it is entitled to approval." Courts have also held that a municipality can rely on an element contained solely in its master (comprehensive) plan as the basis for rejecting a plat. *Lake City Corp. v. City of Mequon*, 207 Wis. 2d 155, 558 N.W.2d 100 (1997). Lastly, most local ordinances require or could be revised to include compliance with a comprehensive plan as a basis for approval.

<sup>24</sup> Wis. Stat. sec. 236.11(1)(b)

<sup>25</sup> (a-e, k, m) Wis. Stat. sec. 62.23(5); (f) Wis. Stat. sec. 62.23(9)(b); (g) Wis. Stat. sec. 48.68(3); (h) Wis. Stat. sec. 50.03(4); (i) Wis. Stat. sec. 66.0905; (j) Wis. Stat. sec. 66.1211(3); (l) Wis. Stat. sec. 236.45(4).

<sup>26</sup> The governing body may extend this time. Review of amendments to the zoning ordinance or official map are given sixty days.

<sup>27</sup> *KW Holdings, LLC v. Town of Windsor*, 2003 WI App 9, 259 Wis. 2d 357, 656 N.W.2d 752, 02-0706.

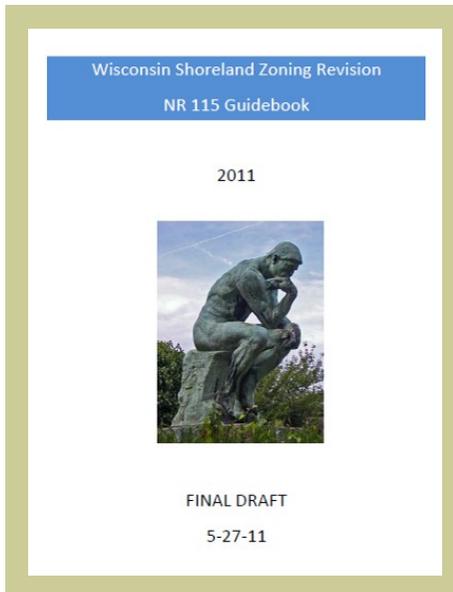
<sup>28</sup> *Scanlon v. Menasha*, 16 Wis. 2d 437, 114 N.W.2d 791 (1962).

## NEW PUBLICATIONS FOCUS ON SHORELAND AND WETLAND ZONING

By February 1, 2012 local governments are required to update their shoreland zoning ordinances to comply with new requirements under Chapter NR 115 of the Wisconsin Administrative Code. While the new rules do not substantially change minimum standards for shoreland-wetland protection, the ordinance revision process provides an opportunity to review local land use policies and programs related to wetlands. Two new publications are available to assist local governments in this process.

### Wisconsin Shoreland Zoning Revision: NR115 Guidebook

*Wisconsin County Code Administrators, May 2011*



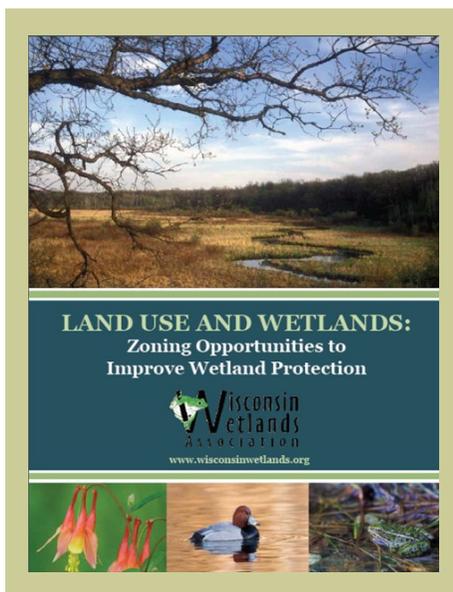
This publication provides guidance for county zoning staff and zoning committees to implement changes to NR 115 – Wisconsin’s shoreland protection program. Each chapter includes NR 115 language, DNR model ordinance language, sample county ordinance language and graphics, and administrative methods and procedures to effectively implement the ordinance. Chapters include:

1. Vegetation Removal and Retention
2. Impervious Surface Limits
3. Mitigation
4. Nonconforming Uses and Structures
5. Reduced Shoreland Setbacks
6. Wetland Protection
7. Annexed, Incorporated and Extraterritorial Areas

The guidebook and related resources are available online at: [www.wccadm.com/nr115\\_committee\\_page.htm](http://www.wccadm.com/nr115_committee_page.htm)

### Land Use and Wetlands: Zoning Opportunities to Improve Wetland Protection

*Wisconsin Wetlands Association, May 2011*



This publication provides recommendations and options for local governments to amend land use ordinances to improve the efficiency and effectiveness of existing wetland policies and programs. The recommendations are based on findings from an inventory of zoning and subdivision ordinances from Wisconsin’s 15 coastal counties. Though the research was limited to coastal counties, the findings and recommendations have applications for counties, cities, villages and towns across the state. Chapters include:

1. Why Adopt and Implement Local Wetland Protections?
2. Points to Consider About These Recommendations
3. Zoning Recommendations
4. Assistance Available from Wisconsin Wetlands Association
5. Recommended Reading

The Land Use and Wetlands series is available online at: [www.wisconsinwetlands.org/localgovs.htm](http://www.wisconsinwetlands.org/localgovs.htm)

## STAFF UPDATE

The Center for Land Use Education is pleased to welcome **Michael Reisner** to its staff.



[ Michael Reisner ]

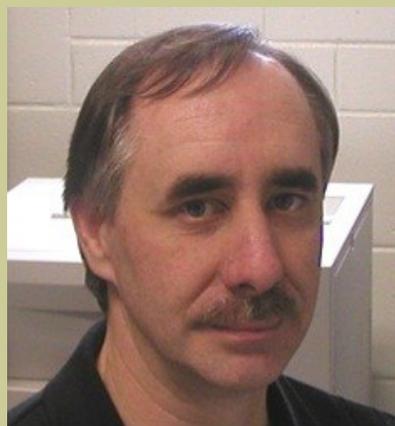
Mike is an Assistant Professor of Energy and Natural Resources Policy in the College of Natural Resources at UW-Stevens Point and an **energy policy specialist** with the Center for Land Use Education. He earned his Ph.D. in Forest Ecosystems from Oregon State University in 2010. His research focused on understanding the relative importance of numerous interacting factors driving the resilience and resistance of sagebrush steppe ecosystems to exotic species invasion in the face of disturbance and water stress. He earned a B.S. in Biology from Montana State University with an emphasis in fish and wildlife ecology and conservation, where he had the unique opportunity to study grizzly bears in Yellowstone National Park.

Mike also earned a J.D. from the University of Oregon School of Law with an emphasis in environmental and natural resources law, where he worked on forest management, endangered species, and Federal Indian law issues in the Pacific Northwest. He spent nearly a decade working on a diverse array of energy and natural

resources policy issues at the federal, state, and local levels including: coal mining and coal-fired power plants, non-conventional natural gas development (coal bed methane, shale gas, and tight sands gas), hard rock mining, wind power, and other renewable energy resources.

His teaching and research focus on understanding the sustainability of different energy sources and technology by examining the economic and social-ecological impacts of energy development and how policies influence the sustainability of such development. He is especially interested in examining how sustainable development of renewable resources and carbon sequestration can revitalize and build the natural, human, financial, social, political, and institutional capital of Wisconsin and the Midwest region and enhance the resilience and adaptive capacity of these communities to change in the future.

After ten years of service, we must also bid farewell to **Robert Newby**.



[ Robert Newby ]

As our **program assistant**, Bob managed our budget and finances, coordinated workshop registrations, assisted with the layout and design of numerous publications, maintained the CLUE website, and generally helped the office to run smoothly.

Prior to coming to UW-Stevens Point, Bob worked for UW-Marshfield/Wood County where he was the Financial Aid Administrator and Veterans Coordinator in the Student Services Office. After spending nearly three decades in administration, Bob is taking a well-deserved break.

Congratulations and good luck in your retirement!

The CLUE staff  
Anna, Lynn, Becky, Linda, Dan, Aaron and Kristin



Center for Land Use Education  
University of Wisconsin-Stevens Point  
College of Natural Resources  
800 Reserve Street  
Stevens Point, WI 54481

Phone: 715-346-3783  
FAX: 715-346-4038  
Email: [landcenter@uwsp.edu](mailto:landcenter@uwsp.edu)

▶ ANNA HAINES  
Center Director/Associate Professor/  
Land Use Specialist  
[Anna.Haines@uwsp.edu](mailto:Anna.Haines@uwsp.edu)

▶ LYNN MARKHAM  
Shoreland/Land Use Specialist  
[Lynn.Markham@uwsp.edu](mailto:Lynn.Markham@uwsp.edu)

▶ REBECCA ROBERTS  
Land Use Specialist  
[Rebecca.Roberts@uwsp.edu](mailto:Rebecca.Roberts@uwsp.edu)

▶ LINDA STOLL  
Outreach Specialist  
[Linda.Stoll@uwsp.edu](mailto:Linda.Stoll@uwsp.edu)

▶ DANIEL MCFARLANE  
Research Specialist  
[Daniel.McFarlane@uwsp.edu](mailto:Daniel.McFarlane@uwsp.edu)

▶ KRISTIN FLORESS  
Assistant Professor/Specialist  
[Kristin.Floress@uwsp.edu](mailto:Kristin.Floress@uwsp.edu)

▶ AARON THOMPSON  
Assistant Professor/Specialist  
[Aaron.Thompson@uwsp.edu](mailto:Aaron.Thompson@uwsp.edu)

▶ MICHAEL REISNER  
Assistant Professor/Specialist  
[Aaron.Thompson@uwsp.edu](mailto:Aaron.Thompson@uwsp.edu)

 (CM) - Certification  
Maintenance credit  
granted or applied for

## CALENDAR OF EVENTS

**Roundabouts: Planning, Design and Potential Pitfalls (CM)**  
July 11, 2011 – webinar (noon - 1:30pm CST)  
[www.lorman.com/audio-conference/388190](http://www.lorman.com/audio-conference/388190)

**IAP2 Public Participation Training**  
July 18-22, 2011 – Chicago, IL  
[www.iap2.org/associations/4748/files/2011\\_Chicago.pdf](http://www.iap2.org/associations/4748/files/2011_Chicago.pdf)

**International City/County Management Association Annual Conference**  
September 18-20, 2011, Milwaukee, WI  
<http://icma.org/en/conference/welcome>

**Walkable Streets and the Law**  
September 22, 2011 – webinar (noon - 1:30pm CST)  
[www.phpnet.org/php/webinar-php-20110922](http://www.phpnet.org/php/webinar-php-20110922)

**Wisconsin Counties Association Annual Conference**  
September 25-27, 2011 – Kalahari Resort, Wisconsin Dells, WI  
[www.wicounties.org](http://www.wicounties.org)

**Wisconsin Healthy Communities Conference**  
October 4, 2011 – Holiday Inn Conference Center, Stevens Point, WI  
<http://blogs.ces.uwex.edu/healthywicommunities>

**Wisconsin County Code Administrators Fall Conference**  
October 12-14, 2011 – location pending  
[www.wccadm.com](http://www.wccadm.com)

**Rally 2011: The National Land Conservation Conference**  
October 13-16, 2011 – Frontier Airlines Center, Milwaukee, WI  
[www.landtrustalliance.org/training/rally/rally](http://www.landtrustalliance.org/training/rally/rally)

**Wisconsin Conference on Downtown Revitalization**  
October 19-20, 2011 – Ramada Plaza Hotel, Fond du Lac, WI  
<http://wisconsinowntown.org>

**League of Wisconsin Municipalities Annual Conference**  
October 19-21, 2011 – Wyndham Airport Hotel, Milwaukee, WI  
[www.lwm-info.org](http://www.lwm-info.org)

**Upper Midwest American Planning Association Conference (CM)**  
October 19-21, 2011 – Davenport, IA  
[www.iowa-apa.org/index.php?id=93](http://www.iowa-apa.org/index.php?id=93)

**Mastering Land Use and Planning Processes (CM)**  
November 1, 2011 – Milwaukee, WI  
[www.nbi-sems.com/Default.aspx](http://www.nbi-sems.com/Default.aspx)

**ESRI Wisconsin User Group Conference**  
Nov 9-10, 2011 – Lambeau Field, Green Bay, WI  
[www.ewug.org](http://www.ewug.org)

### Sign up for the Newsletter

To receive this newsletter by email sign up at: [www.uwsp.edu/cnr/landcenter/newsletters.html](http://www.uwsp.edu/cnr/landcenter/newsletters.html)

### Submit an Article!

If you would like to submit an article, please contact the managing editor, Rebecca Roberts. Your article should be 1,000 words or less, of statewide concern, and address a land use or community planning issue.

### American Planning Association Free Monthly Webcasts (CM)

July 15, 2011 – Community Erosion: How Traffic Flows Like Water  
 August 5, 2011 – Zoning Statutes for Sustainable Development  
 August 12, 2011 – Fights over Flight: Addressing General Aviation Airports  
 September 8, 2011 – Eco-Industrial Development  
 September 23, 2011 – Natural Gas Extraction: Planning Implications  
 October 7, 2011 – Build-out Scenarios: Conventional vs. Density Based Zoning  
 October 14, 2011 – Mobile Technology, Distracted Attention & Pedestrian Safety  
 November 4, 2011 – Design Guidelines for Small Towns and Rural Places  
 December 1, 2011 – Community Development in a Global Context  
[www.utah-apa.org/webcasts](http://www.utah-apa.org/webcasts)

### Municipal Water Star Webinar Series (CM)

July 1, 2011 – Wisconsin Water Star: Navigating Water Star  
 July 15, 2011 – Ordinances for Protecting Water Quality  
 July 29, 2011 – Pervious Pavement and Pavers in a Municipal Environment  
 August 12, 2011 – Salt and Deicing Strategies to Protect Water Quality  
 August 26, 2011 – Greener Streets: Bioswales for Clean Water and Infiltration  
 September 9, 2011 – Stream Corridor Improvements  
 September 23, 2011 – Using Non-Regulatory Tools for Water Quality Goals  
[www.waterstarwisconsin.org](http://www.waterstarwisconsin.org)

### Natural Step Network Webinars

July 21, 2011 – Respecting the Principles of Sustainability  
 September 15, 2011 – Hidden Assets in Plain Sight for Sustainability  
 November 17, 2011 – Storytelling to Harness Sustainability Efforts  
[www.naturalstepusa.org/storage/pdfs-training/change-series-2011.pdf](http://www.naturalstepusa.org/storage/pdfs-training/change-series-2011.pdf)

For additional dates and information visit the online calendar of events

[www.uwsp.edu/cnr/landcenter/events.html](http://www.uwsp.edu/cnr/landcenter/events.html)

905014



Center for Land Use Education  
 University of Wisconsin-Stevens Point  
 College of Natural Resources  
 800 Reserve Street  
 Stevens Point, WI 54481

Phone: 715-346-3783  
 FAX: 715-346-4038  
 Email: [landcenter@uwsp.edu](mailto:landcenter@uwsp.edu)