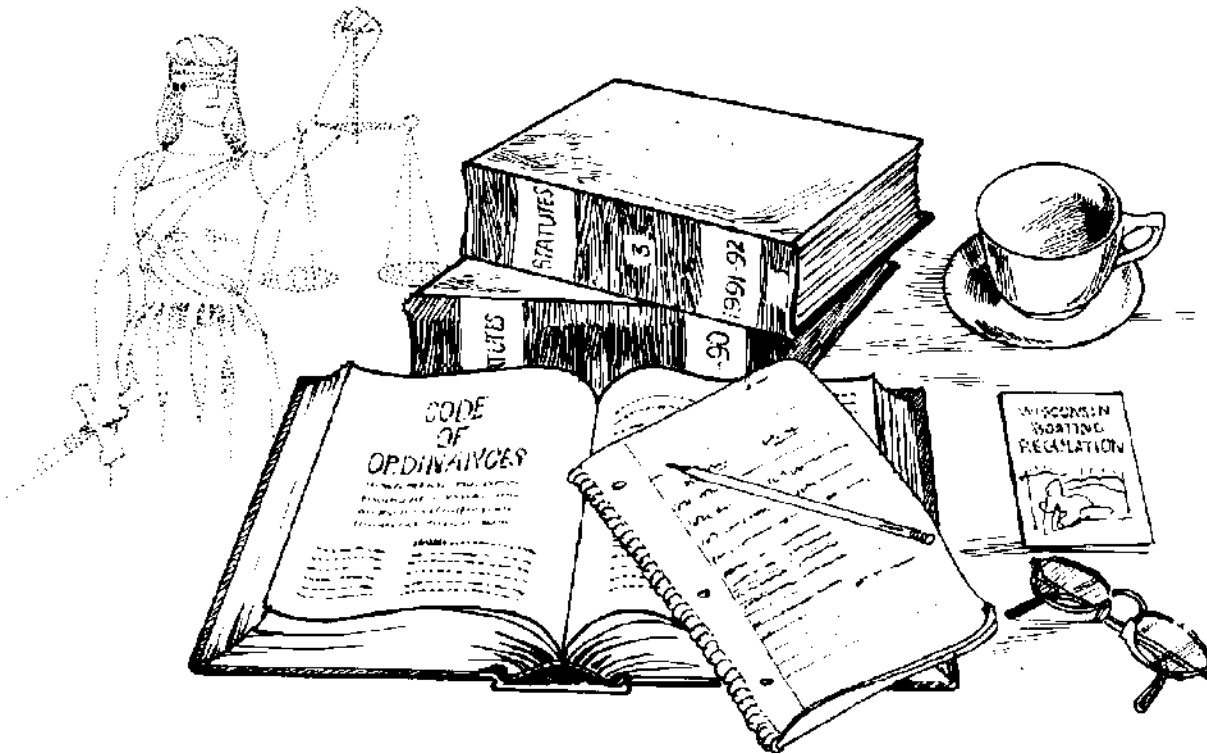


New Rules for Conditional Uses



September 29
10:00-11:00 am

Rebecca Roberts and Lynn Markham
Center for Land Use Education
UW-Stevens Point & Extension



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



Extension
UNIVERSITY OF WISCONSIN-MADISON

Upcoming Webinars

Designed for planning and zoning staff, experienced officials, and individuals who have completed introductory training.

- ***Floodplain 101*** by DNR

Wednesday, October 7, 2020, 8 am – noon

- ***Variances***

Thursday, October 29, 2020, 10-11 am

- ***Refreshing Your Zoning Ordinance***

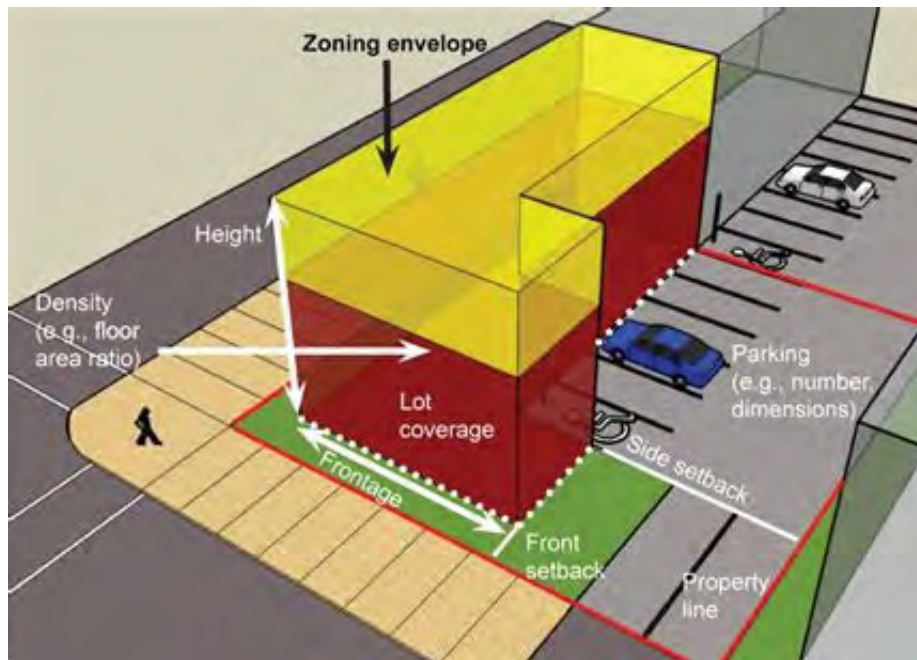
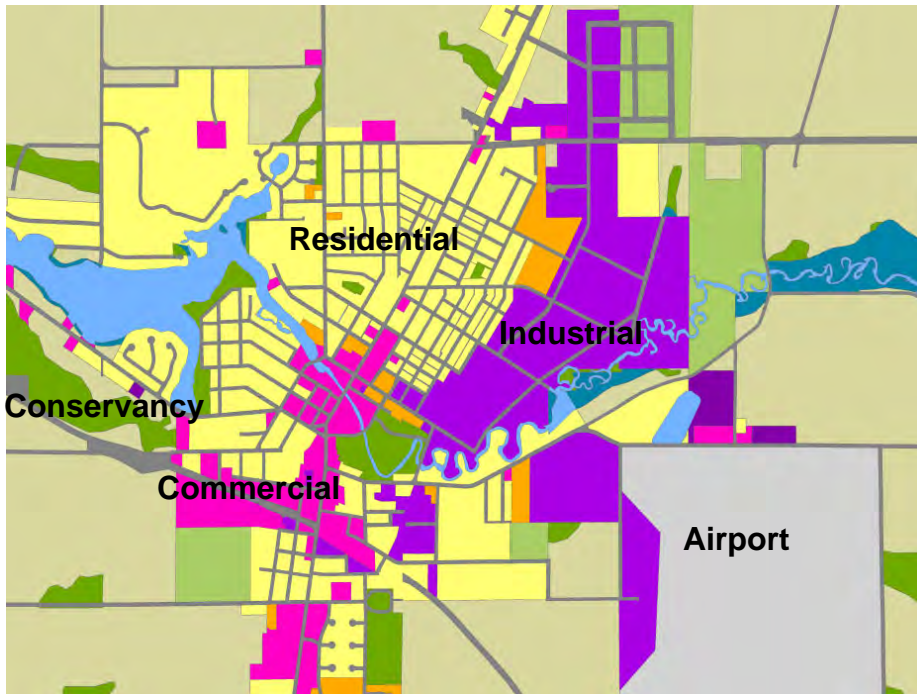
Monday, November 30, 2020, 10-11 am

A zoning ordinance contains two parts:

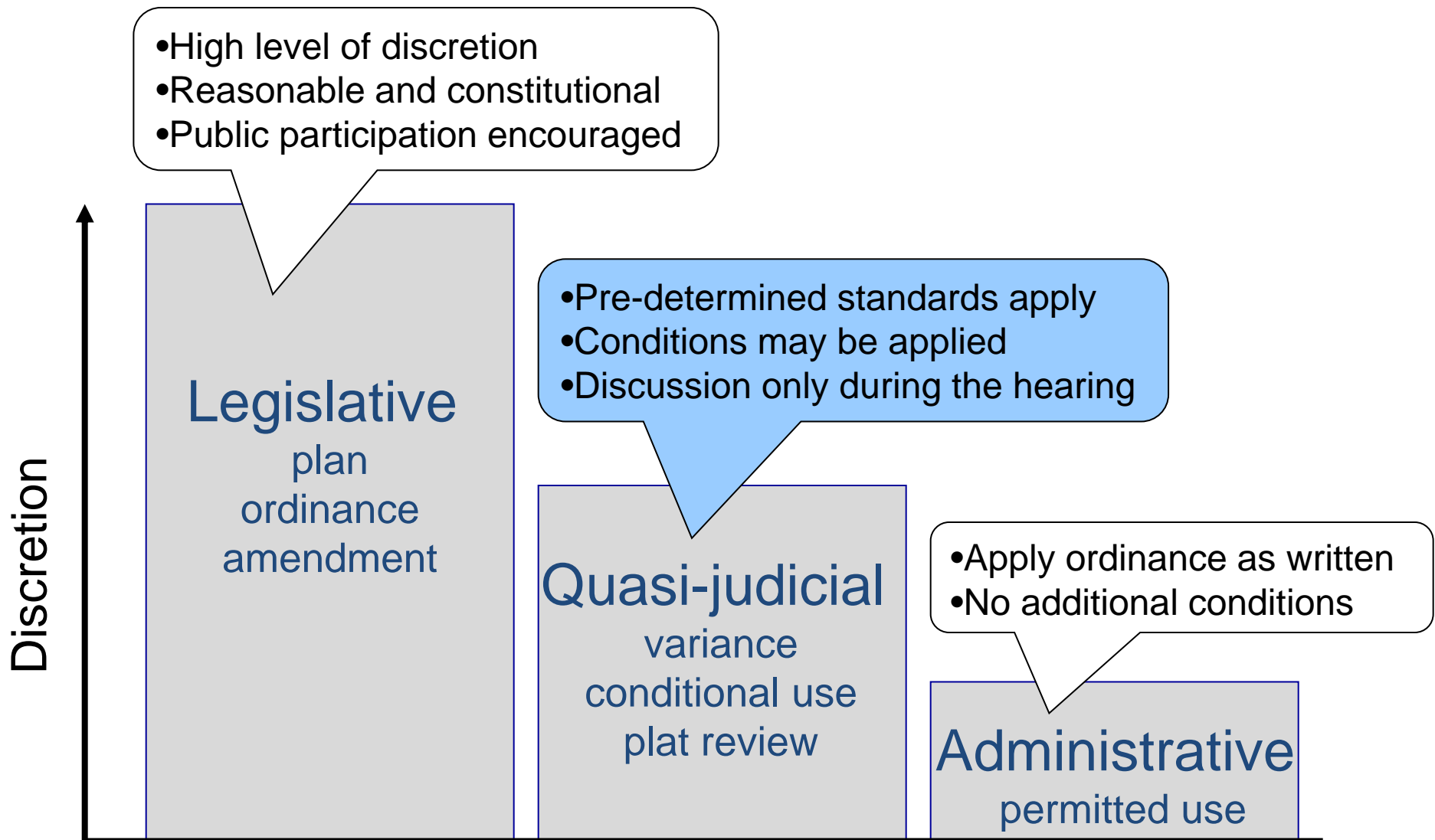
Zoning Map – divides the community into districts

Text – describes:

- purpose of the regulations
- uses for each district
- dimensional standards (lot size, density, setbacks, etc.)
- other requirements (parking, signage, landscaping, etc.)



3 Types of Decisions



DEPARTMENT OF COMMERCE
HERBERT HOOVER, SECRETARY

**A STANDARD
STATE ZONING ENABLING ACT**
**UNDER WHICH MUNICIPALITIES MAY ADOPT ZONING
REGULATIONS**

BY THE
ADVISORY COMMITTEE ON ZONING

APPOINTED BY SECRETARY HOOVER

CHARLES B. BALL	Secretary-Treasurer, City Planning Division, Sanitary Engineer. American Society of Civil Engineers.
EDWARD M. BASSETT	Counsel, Zoning Committee of New York. Lawyer.
ALFRED BETTMAN	Director, National Conference on City Planning. Lawyer.
IRVING B. HIETT	Ex-President, National Association of Real Estate Boards. Realtor.
JOHN IHLDER	Manager, Civic Development Department of the Housing Consultant. Chamber of Commerce of the United States.
MORRIS KNOWLES	From the Chamber of Commerce of the United States; Chairman, City Planning Division, Consulting Engineer. American Society of Civil Engineers.
NELSON P. LEWIS *	From the National Conference on City Planning and National Municipal League; Past Presi- dent, American City Planning Institute.
J. HORACE McFARLAND	Ex-President, The American Civic Association. Master Printer and Civic Investigator.
FREDERICK LAW OLMSTED	Ex-President, The American Society of Land- scape Architects; Ex-President, American City Planning Institute.
LAWRENCE VELLER	Secretary and Director, The National Housing Housing Expert. Association.

* Deceased.

JOHN M. GRIES

Chief, Division of Building and Housing, Bureau of Standards
Department of Commerce



[Revised Edition, 1928]

PRICE 5 CENTS

SOLD ONLY BY THE SUPERINTENDENT OF DOCUMENTS
GOVERNMENT PRINTING OFFICE, WASHINGTON, D. C.

WASHINGTON
GOVERNMENT PRINTING OFFICE
1926

- 1920s – Standard state zoning enabling acts authorize the zoning board of adjustment to make “special exceptions” to the terms of the zoning ordinance.
- 1960s – “Conditional uses” widely accepted as a way to add flexibility and discretion.
- 1973 – CUPs addressed by WI Supreme Court – synonymous with special exceptions.
- 2017 – Conditional uses defined in state statutes related to zoning.

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

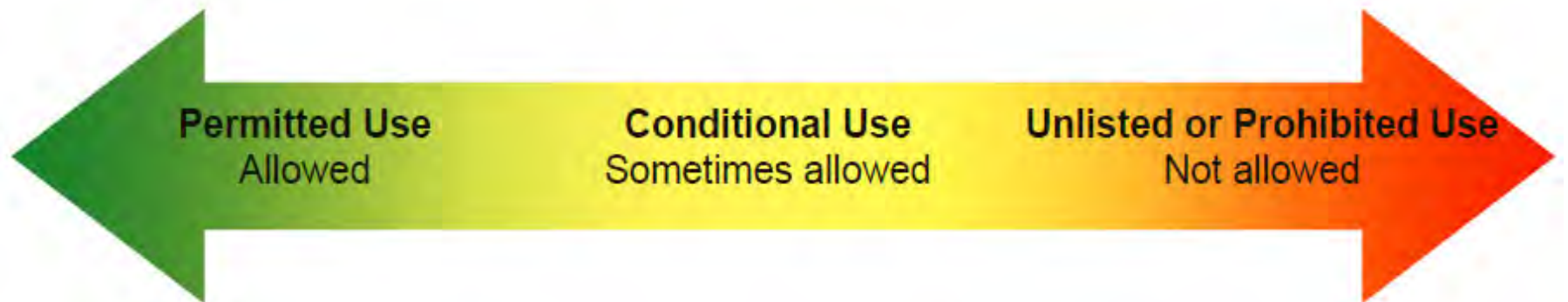
Use is listed for the district and may be allowed if suited to the location

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



Which body has final authority to decide conditional uses?

Plan commission or zoning committee

Governing body

Zoning board

Other

Conditional Uses

- Conditional uses must be listed for the zoning district
- Discretionary decision – CUP may be granted or denied based on requirements listed in the ordinance
- Conditions may be attached

Confirmed in *AllEnergy Corporation v. Trempealeau County*, WI Supreme Court, 2017



Poll: How familiar are you with the conditional use standards in your zoning ordinance? (choose one)



Not familiar.



Somewhat familiar. I've read them.



Very familiar. We've used them regularly when making conditional use decisions.

AllEnergy v. Trempealeau County 2017 WI 52

Recent
court
case

- County identified 37 conditions for silica sand mine, then voted to deny permit based on public health, safety and aesthetic concerns.
- Wisconsin Supreme Court supported decision to deny.
- Dissenting opinion argued for less discretion for local governments.



What is the Correct Standard?

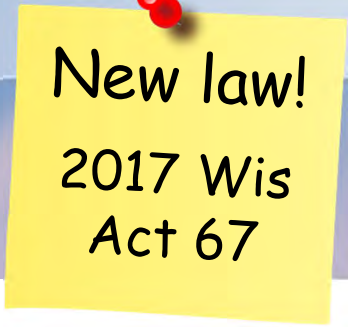
Inclusion of a conditional use in the ordinance is a legislative determination that the use is suitable for the district.

- CUP must be granted, except in extreme circumstances.
- Zoning board focuses on what conditions to impose to mitigate negative impacts.

The zoning board has discretion to determine if a proposed use is appropriate for the given site.

- CUP may be granted or denied.
- Zoning board determines if the use is capable of meeting the ordinance standards and what conditions to impose.
- May consider general health, safety and welfare concerns.

Conditional Uses

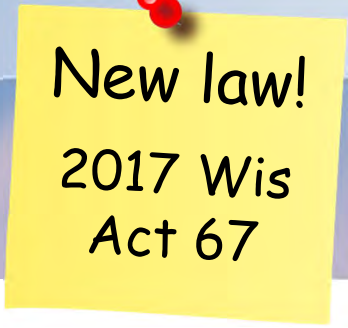


New law!
2017 Wis
Act 67

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 law!
2017 Wis
Act 67

Definition

“Conditional Use” means a use allowed under a conditional use permit, special exception, or other special zoning permission, but does not include a variance.

Conditional Uses

New law!
2017 Wis
Act 67

Process

- Class 2 notice, public hearing
- Decision by zoning board
- Appeal to circuit court

Ordinance may specify alternate route, typically:

plan commission → appeal to zoning board
governing body → appeal to circuit court

(See Wis. Stat. 59.69(2)(bm), 59.694(1), 62.23(7)(e)1)

Conditional Uses

New law!
2017 Wis
Act 67

Local government responsibilities:

- Ordinance requirements and conditions must be reasonable and, to the extent practicable, measurable
- Must support decision to approve or deny the permit, and to attach conditions, with substantial evidence
- Conditions must relate to the ordinance purpose
- Conditions may limit permit duration, transfer, or renewal

Conditional Uses

New law!
2017 Wis
Act 67

“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

Conditional Uses

New law!
2017 Wis
Act 67

Applicant responsibilities

- Must demonstrate that the application and all requirements and conditions established by the local government relating to the conditional use are or shall be satisfied
- Must provide substantial evidence supporting the application and demonstrating that the requirements and conditions will be met

Conditional Uses

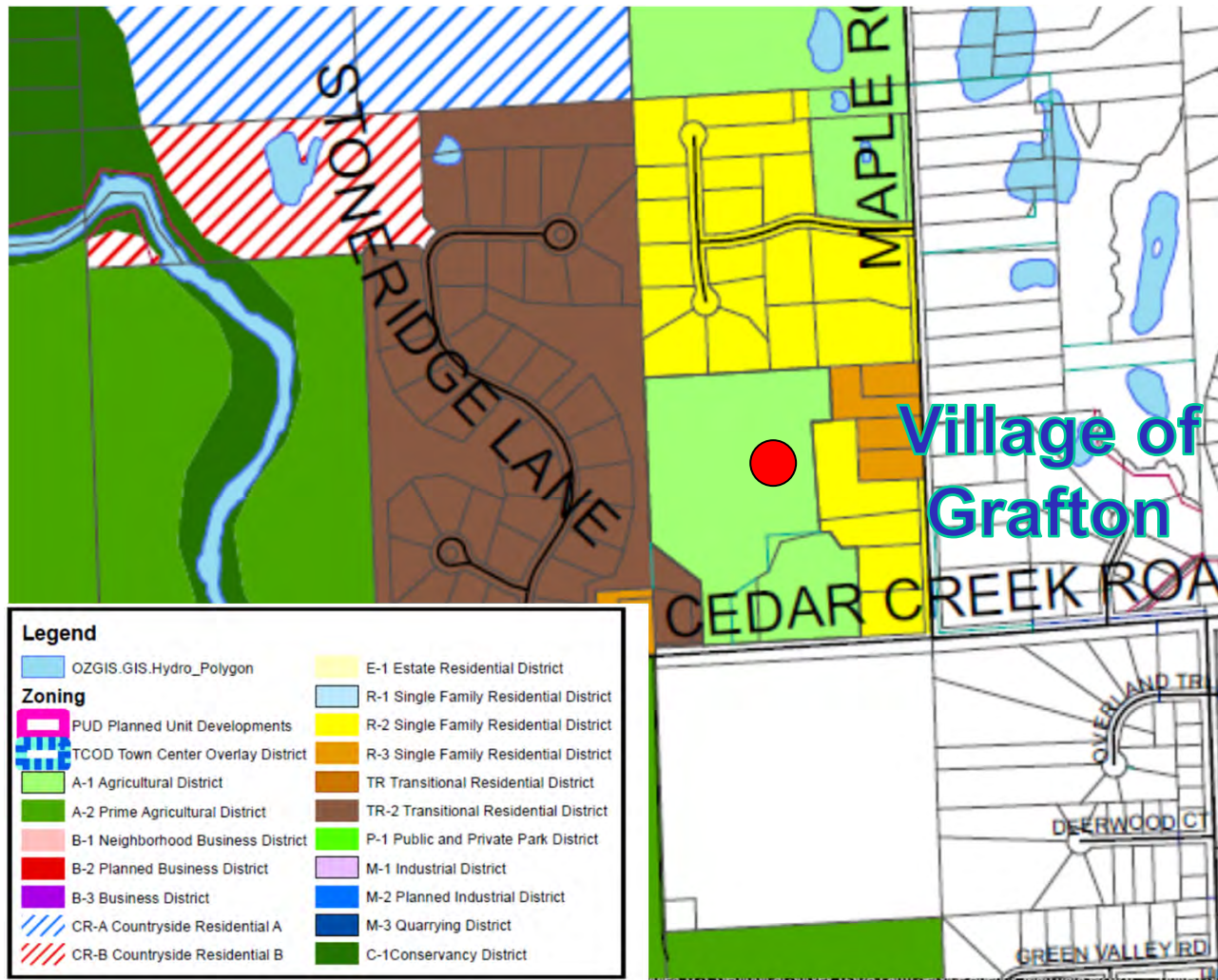
New law!
2017 Wis
Act 67

Permit decision

- If an applicant for a conditional use permit meets or agrees to meet all requirements and conditions specified in the ordinance or imposed by the zoning board, the local government shall grant the conditional use permit

Eco-Site, LLC v. Town of Cedarburg, WI Ct of Appeals, 2019

Recent
court
case



Eco-Site, LLC v. Town of Cedarburg, WI Ct of Appeals, 2019

Recent
court
case

Town of Cedarburg Zoning Ord § 320-51 Standards for CUP approval.

No application for a conditional use shall be recommended for approval by the Plan Commission or granted by the Town Board unless such Commission and Board shall find that all of the following conditions are present:

(1) Welfare. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

(2) Compatible with adjacent land. The uses, values and enjoyment of other Town property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

(3) Not impede surrounding property development and improvement. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding Town property for uses permitted in the district.

(4) Adequate infrastructure. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

(5) Ingress and egress. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(6) Conform to zoning district regulations. The conditional use application shall conform to all applicable regulations of the district in which it is located.

The Town Board voted to deny the CUP for failure to meet the 3 CUP standards highlighted in yellow.

Eco-Site, LLC v. Town of Cedarburg, WI Ct of Appeals, 2019



Recent
court
case

After hearing the evidence, the town voted to deny the conditional use because:

- 1) the considerable and foreseeable **loss in value** to the surrounding properties particularly given the rural and rustic nature of the property, and the loss of property sales in the area as a result of the prospect of the tower; (Std 1)
- 2) the **incompatibility** of the 120-foot monopole **with the adjacent land**, which the Town is struggling to keep rural and rustic; (Std 2)

Eco-Site, LLC v. Town of Cedarburg, WI Ct of Appeals, 2019



Recent
court
case

- 3) the 'dropping a metal tower in the middle of' a 'beautiful and scenic area' would be detrimental the public health, safety, and general welfare (Std 1); and
- 4) Eco-Site's failure to explain why its 'search ring' for other locations was so small, therefore failing to provide an application that was complete under Wis. Stat. § 66.0404(2)(b)6."

Eco-Site, LLC v. Town of Cedarburg, WI Ct of Appeals, 2019



Recent
court
case

- Eco-Site appealed the CUP denial to circuit court, and argued that 66.0404(4)(g) prohibits local governments from denying cell towers “solely on aesthetic concerns.”
- Upon reviewing the record and briefs, the circuit court ruled:

the reasons set forth by the Town were not “just another way of saying aesthetics,” but were in fact “legitimate reasons” for disapproval and that there was “substantial evidence” within the record to support its decision.

Eco-Site, LLC v. Town of Cedarburg, WI Ct of Appeals, 2019



Recent
court
case

- Eco-Site appealed to Court of appeals.
- Telecommunications Act of 1996 states a local government ... provide a written decision supported by substantial evidence “contained in a written record” if a request is denied.
- “Substantial evidence” is evidence where reasonable persons could decide as the Town did.

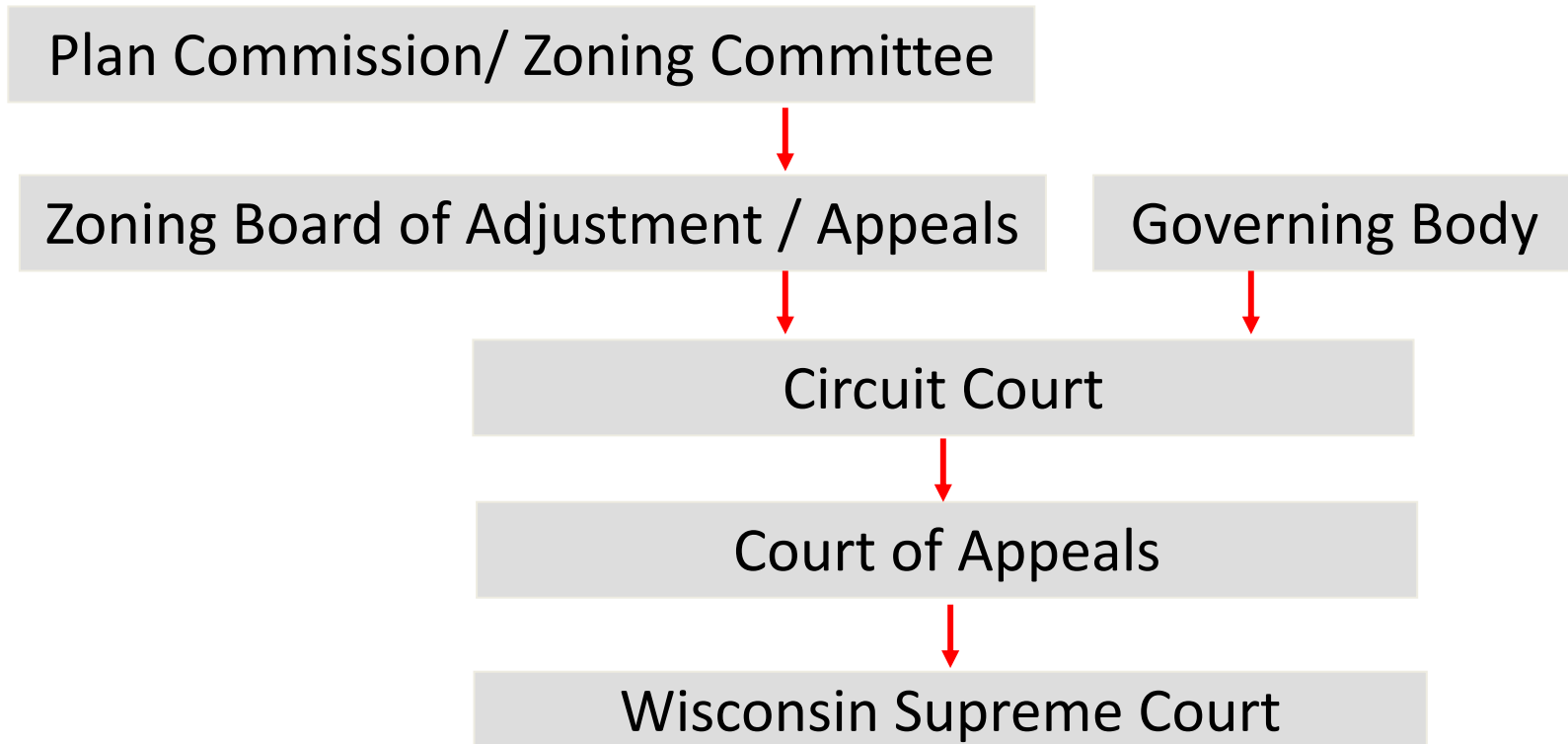
Eco-Site, LLC v. Town of Cedarburg, WI Ct of Appeals, 2019



Recent
court
case

- Court of appeals found that testimony at the public hearings supported the Town's conclusion the tower would be incompatible with adjacent (residential) land. Residents presented sufficient evidence of the "substantial diminishment" in the value of adjacent properties if the tower is built. One resident cited two studies showing loss in property values near towers and a developer stated he lost a potential sale due to the tower proposal.
- The town's conditional use denial was upheld.

Appeal of CUP Decisions



Highland Sportsmen's Club v. City of Delafield, WI Ct of Appeals, 2020

Recent
court
case

- The City of Delafield denied a conditional use permit for a shooting range, stating they had safety concerns, but not specifying the concerns.
- The club with shooting range is located between commercial and residential properties.



Highland Sportsmen's Club v. City of Delafield, WI Ct of Appeals, 2020



Recent
court
case

- The Court of Appeals held that the City's denial of a CUP for the shooting range was arbitrary and capricious and thus invalid because the City denied the CUP without making any findings. The City had its opportunity to put forth its best evidence and its reasoning, which was found wanting.*
- The Court reversed the City's decision. It did not remand the matter to the City.

Highland Sportsmen's Club v. City of Delafield, WI Ct of Appeals, 2020



Recent
court
case

- Rather than issuing the CUP based on the Court of Appeals' decision, the City held new hearings, took new evidence, issued new findings, and denied the CUP.
- The Court of Appeals on Round 2 quipped the City does not get “a second kick at the cat” in these circumstances. The Court of Appeals ordered the City to grant the CUP.

Local governments have one opportunity to put forth their best evidence and reasoning.

Poll: Which type of conditional use has been most controversial in your community? (select one)



Gravel pits or quarries



Frac sand operations



Large livestock farms



Solar or wind farms



Shooting ranges



Campgrounds



Other (type in the chat box)

Where do you go from here?



Review Your
Ordinance

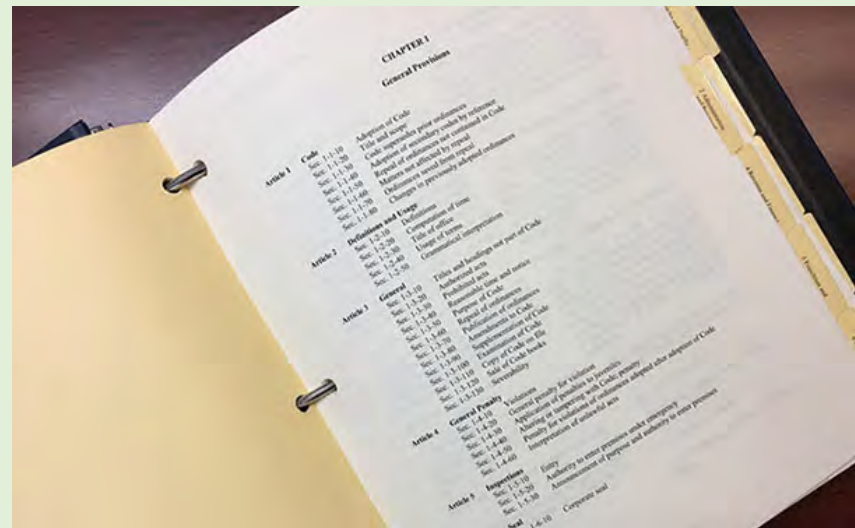


Review Your
Permitting Process

1

Ordinance Review

- Review purpose statements
- Review use classifications
- Review conditional use standards
- Review process



Review Purpose Statements

Look for general statements found at the beginning of the ordinance

1.01 Authority

This Ordinance is adopted under the authority granted by Sections 60.62, 61.35, 62.23(7), 87.30, 144. Chapter 236 of the Wisconsin Statutes and amendments thereto.

1.02 Purpose

The purpose of this Ordinance is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of the residents of the Town of Newton. The Ordinance is a comprehensive, unified set of regulations that govern the subdivision of land, the development of land, and the use of land.

1.03 Intent

It is the general intent of this Ordinance to regulate and restrict the use of all structures, lands, and waters; and to:

1. Regulate lot coverage and the size and location of all structures to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage.
2. Regulate population density and distribution to avoid sprawl or undue concentration and to facilitate the provision of adequate public service and utilities.
3. Regulate parking, loading, and access to lessen congestion in, and promote the safety and efficiency of, streets and highways.
4. Secure safety from fire, pollution, contamination and other dangers.
5. Stabilize and protect existing and potential property values.
6. Preserve and protect the beauty of the Town of Newton.
7. Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters.
8. Further the maintenance of safe and healthful water conditions.
9. Provide for and protect a variety of suitable commercial and industrial sites.
10. Protect the traffic carrying capacity of existing and proposed arterial streets and highways.

Review Purpose Statements

Look for purpose statements describing each zoning district

12.03 A-1 Agricultural/Rural Residential District

This district is intended to allow for limited rural residential development on lands that are not suited for agricultural production or, due to the proposed location, would have limited impact on agricultural production. It is also intended to improve growth management related to residential development within the planned agricultural areas established by the Comprehensive Plan. Lots are limited in number, size and location to minimize the impacts associated with rural residential development within predominantly agricultural areas. Residents of this district may experience conditions associated with preferred agricultural land uses that are not necessarily compatible with rural residential use.

12.07 R-2 Residential District

This district is intended to provide for preferred areas to accommodate residential growth in order to minimize impacts to agricultural resource lands, retain the Town's rural character, and maintain efficiency and provision of rural governmental services. Lands within this district include areas centered around existing town rural centers (e.g., Newton, Clover}, near the City of Manitowoc, and other limited areas. This district may be considered within the Rural center and Agricultural Transition Preferred Land Use Management Areas established by the Comprehensive Plan.

12.12 I-1 Industrial District

This district is intended to provide for manufacturing, warehousing, and other industrial operations, which on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reason of noise, dust, smoke, odor, traffic, physical appearance, degradation of groundwater or other nuisance factors; and to subject industrial operations to such regulatory controls as will reasonably insure compatibility in this respect.

Review Purpose Statements

475-114 CONDITIONAL USES

- A. **Purpose.** This ordinance identifies certain uses that, because of their unique or widely varying characteristics or their potential adverse impacts on adjacent land uses, are not permitted as a matter of right but that may be approved through case-by-case review as a “conditional use.” They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address specific reasonable concerns, or to deny the use if the concerns cannot be resolved.

Look for purpose statements describing conditional uses

Practice Pointer

“Any condition imposed must be related to the purpose of the ordinance”

Review Use Classifications

Link to
text for
additional
standards

Zoning districts listed across top

Uses are
displayed
down the
left side
of the
table

Key:	P Permitted Use				C Conditional Use			(Blank) Use Not Permitted					
USE	Residential Districts				Agricultural Districts			Nonresidential Districts					Development Standards
	U-R	L-D-R	R-R	R-E	F-P	G-A	C-V/R-C	N-C	C	B-R	L-I	H-I	
COMMERCIAL, OFFICE, and SERVICE USES													
Adult Entertainment									C				Section 17.204.35
Bank or Financial Institution								P	P	P			
Bar, Tavern, or Micro-Brewery						C		P	P	P			
Bed and Breakfast			C	C		C		C					Section 17.204.36
Business Service Establishment						C		P	P	P			
Car Wash						C		C	C	C			Section 17.204.37
Drive-Through Facility (accessory to a principle use)								P	P				Section 17.204.38
Gas Station								C	C				Section 17.204.39
Motel or Hotel								C	C	C			
Office, Research, Professional Services								P	P	P	P	P	
Personal Service Establishment						C		P	P	P			
Gun Ranges					C	C	C						Section 17.204.40
Archery Range					P	P	P						Section 17.204.41
Place of Assembly						C		P	P				Section 17.204.49
Public or Self-Storage						C		P					Section 17.204.42
Recreation, Indoor		C	C	C		C	C	P	P				Section 17.204.43
Recreation, Outdoor		C	C	C		C	C	C	C				Section 17.204.44
Restaurant						C		P	P	P			
Retail Sales (outdoor)						C		C	C				Section 17.204.45
Vehicle Sales, Service, or Rental						C		P	P	C	P		Section 17.204.46

Review Standards

Applicant and local government must provide substantial evidence

In determining whether to approve, approve with conditions, or deny a request for a conditional use permit, the Plan Commission and the Common Council shall consider factors specified in other sections of this Ordinance, including standards for special use permits for certain land uses and activities. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in this chapter or imposed by the city, the city shall grant the conditional use permit. The applicant must demonstrate by substantial evidence that the application and all requirements and conditions established by the city are or shall be satisfied. The decision to approve or deny the permit must be based on substantial evidence. In addition, the following approval criteria shall apply:

1. **Consistency with the Comprehensive Plan.** The relationship of the proposed use to the goals, objectives, and policies of the City of Ashland Comprehensive Plan.
2. **Compatibility.** The compatibility of the proposed use with existing development within two hundred (200) feet of the proposed use and within five hundred (500) feet along the same street and development anticipated in the foreseeable future within the neighborhood and conditions that would make the use more compatible.
3. **Importance of services to the community.** The importance of the services provided by the proposed facility to the community, if any, and the requirements of the facility for certain locations, if any, and without undue inconvenience to the developer, and the availability of alternative locations equally suitable.
4. **Neighborhood protections.** The sufficiency of terms and conditions proposed to protect and maintain the uses in the surrounding neighborhood.
5. **Conformance with other requirements of this Ordinance.** The conformance of the proposed development with all provisions of this Ordinance.
6. **Other factors.** Other factors pertinent to the proposed use, site conditions, or surrounding area considerations that the Plan Commission or the Common Council feels are necessary for review in order to make an informed and just decision.

Review Standards

Standards must be reasonable and measurable

☐ § 90-550.90 Review and decisionmaking criteria.

[Ord. No. 19-2020, 6-8-2020]

- (a) In reviewing and taking final action a proposed conditional use the Plan Commission and Village Board must review each application to determine whether the proposed use complies with regulations applicable to that specific use and with all other relevant provisions of this chapter.
- (b) The Village Board's decision to approve or deny a conditional use must be supported by substantial evidence.
- (c) To aid in review of and decisionmaking on proposed conditional uses, the Plan Commission and Village Board must evaluate at least the following criteria, which are deemed reasonable and, to the extent practicable, measurable:
 - (1) Whether the establishment, maintenance or operation of the conditional use will be detrimental to or endanger the public health, safety, or general welfare.
 - (2) Whether the Village is able to provide municipal services to the property where the conditional use is proposed, given due consideration of the cost of providing those services.
 - (3) Whether the uses, values and enjoyment of other property in the neighborhood for purposes already established will be substantially impaired or diminished in any foreseeable manner.
 - (4) Whether the establishment of the conditional use will impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (5) Whether adequate utilities, access roads, drainage, parking supply, internal circulation improvements, including but not limited to vehicular, pedestrian, bicycle, public transit and other necessary site improvements have been or are being provided.
- (d) An applicant's failure to demonstrate, by substantial evidence, that the application and all applicable requirements in this chapter and conditions established by the Village relating to the conditional use are or will be satisfied constitute grounds to deny the conditional use. At all times the burden of proof to demonstrate satisfaction of these criteria remains with the applicant.

What standards are included in your ordinance?

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

Add Specific Standards

Specific Use Standards

Consider adding specific standards for specific uses

E. Dwelling: Accessory

An accessory dwelling shall be allowed only in those zoning districts where it is permitted as a conditional use and only after the issuance of a conditional use permit pursuant to *Section 3.9: Conditional Use Permit*. In addition, the following standards shall apply:

1. An accessory dwelling shall be located above a detached garage that is accessory to a single-family detached dwelling and located within the rear yard;
2. Any exterior changes or additions for an accessory dwelling shall be constructed of similar materials and shall be architecturally compatible with the principal building;
3. The accessory dwelling unit shall not contain more than thirty (30) percent of the total floor area on the subject parcel;
4. There shall be a total of no more than one accessory dwelling on the subject parcel;
5. The minimum parcel area shall be two thousand five hundred (2,500) square feet greater than the minimum parcel area required for the principal building in the subject zoning district;
6. A detached garage with an accessory dwelling shall meet all requirements for accessory buildings;
7. There shall be an unobstructed walkway leading from the public street to the accessory dwelling; and
8. At least one dwelling unit on the subject parcel shall be owner-occupied.

Consider a fourth category - Restricted Use

Restricted Uses

Conditional uses can be unpredictable in implementation. Restricted uses are a preferred method where the restrictions are clearly defined and can be implemented by right if complied with.

+S #Shup lwhg#0 Xvh#lv#shup lwhg
 +U #Uhwulfwhg#0 Xvh#lv#shup lwhg/#surylghg#
 lw#frp schv#z lw#do#xvh#uhwulfwlrqv#
 +F #Frqglwlrq#0 Xvh#p d|eh#shup lwhg/#
 vxenlw#r#dsuryd#lqg#Frqglwlrq#
 +Q #Surklelwhg#0 Xvh#lv#grw#shup lwhg

Use	Permission	Restriction
Lodging		
Bed and Breakfast	R	<ol style="list-style-type: none"> 1. The owner's primary residence must be on site. 2. No more than 5 guest rooms are permitted. 3. The maximum length of stay is 14 days.

Users' Guide to Zoning Reform, Congress for the New Urbanism, 2018

https://www.cnu.org/sites/default/files/Enabling_Better_Places_Jan_2018.pdf

Review Process Requirements

Class 2 notice and hearing required.
May post if no official newspaper.

Sxedf#Khdubj#Qrwlfh#

4, Sxedvkhg#Qrwlfh#r#htxlng#sxedf#khdubj#v#
p xw#eh#sxedvkhg#q#df frugdqfh#z lk#kh#
Fdv#5#grwlfh#htxlng#hgw#r#z lv#v#w#
Fkdswhu#k ; 8 #

5, P dlng#Qrwlfh#p xw#eh#p dlng#r#doh#kh#
ir#z#lj#d#hdw#4 3#gdl#v#ehiruh#htxlng#
sxedf#khdubj#v#
d, Wkh#xenf#surshw#r#z qhu#dg#
e, Doh#z qhu#r#surshw#z lk#q#5 3 3#hhw#
r#kh#xenf#surshw#

6, Srwhg#D#hdw#r#q#grwlfh#v#lj#q#p xw#eh#
srwhg#r#q#hdfk#sxedf#w#hhw#urqwdjh#
dexw#qj#kh#xenf#surshw#d#hdw#4 3#
gd#v#ehiruh#htxlng#sxedf#khdubj#v#



2

Process Review

- Review application forms
- Review supporting materials
- Review decision forms



Website

Website provides first impressions and directs user to information

PLATTEVILLE WISCONSIN

City HallBusiness & DevelopmentOur

Community Development

	Affordable Home Improvement Assistance Program
+	Building Inspection
+	Community Plans
-	Development and Zoning Approvals
	Annexation
	Conditional Use Permit
	Land Division - Certified Survey Map
	Land Division - Subdivision Plat
	Land Division - Extraterritorial Area
	Planned Unit Development
	Rezoning & Zoning Amendment

Conditional Use Permit

Conditional Use Permit Approval Process:

Step 1: Pre-application Staff Meeting

Although not required, it is recommended that the applicant meet with the Community Development Director to discuss the proposed request. This step is intended to explain to the applicant the purpose and objectives of the regulations and the comprehensive plan, and to informally reach mutual conclusions regarding the general program and objectives of the proposed development.

Step 2: File Application Materials

The applicant submits a completed application form, other necessary materials, and a \$200 application fee. The application materials shall include the following items:

- a) A description of the type of structure(s) on the site, proposed operation or use, the number of employees.
- b) A Site Plan that shows the dimensions of the property, location, dimensions and setbacks of any existing or proposed buildings, parking areas, landscaping, exterior lighting, and signage.
- c) Additional information as required by the Zoning Administrator.

Upon receipt of the necessary materials, the item will be placed on the agenda for the next available Plan Commission meeting. The application deadline for getting on the agenda is twenty (20) working days prior to the meeting. The Plan Commission meets on the first Monday of the month, at 7:00 p.m. in the council chambers of City Hall.

Step 3: Staff Review

City staff, including representatives of various city departments and divisions as needed, will provide a

Lookup Tools

- Zoning maps
- Use tables
- Procedures

The screenshot displays the Wisconsin Rapids Zoning Code website. At the top, the header includes the Wisconsin Rapids logo and the text "Wisconsin Rapids". Navigation links for "Home", "Interactive Map", "Highlights", "Administration", and "Tools" are positioned on the right. Below the header, a secondary navigation bar shows "Zoning Code | Home". The main content area features a large, colorful "Interactive Zoning Map" with a hand cursor icon and a "I Want to..." button. Below the map, there are three columns of links, each with an icon: "Highlights" (Zoning Districts, Land Uses, Dimensional Standards, Procedures, Definitions), "Administration" (Pending Applications, Nonconformities, Application Forms), and "Tools" (Find Your Zoning, Sign Up for eAlerts, Submit An Application). At the bottom, a "Disclaimer" section states: "Information on this website is provided as a convenience and is for informational use only. Be sure to review the [Terms of Use](#) for all of the details related to your use of this website."

Permit Guide

Permit guide provides overview of permit types and instructions



Conditional Use Permit



Flow Chart

WHEN: Conditional Uses are uses which are not permissible by right in certain Zoning the terms of the [Zoning Ordinance](#), if certain conditions are met.

WHY: Certain uses and situations are unique and require separate review and approval. These uses shall be evaluated in accordance with the [Waukesha County Zoning Code](#), [Shoreland and Floodland Protection Ordinance - Appendix B](#), copies of which are available at the Waukesha County Clerk.

WHO: Both the Waukesha County Park and Planning Commission and the Town Planning Commission review and approve the Conditional Use Permit. Town Board action is also required for Quarries and Cemeteries. The Planning and Zoning Division issues the Conditional Use Permit. A copy is mailed to the applicant and the town. See Staff Who Can Help.

HOW: Applicant must submit a complete application packet and fee to the Planning and Zoning Division for review and scheduling.

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

Packet includes
requirements,
instructions and
examples

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

What does your community require as part of a conditional use application?

General Application Form

Conditional Use Form

Site Plan

Plan of Operation

Architectural Drawings

Other

Review Application Materials

STANDARDS FOR REVIEW AND APPROVAL

The Plan and Architectural Commission shall use the following standards when reviewing applications for conditional uses. The applicant is required to fill out the following items and explain how the proposed conditional use will meet the standard for approval.

Application prompts applicant to address each standard

STANDARD	APPLICANT'S EXPLANATION
A. That the establishment, maintenance, or operation of the Conditional Use will not create a nuisance for neighboring uses or substantially reduce value of other property.	
B. That utilities, access roads, parking, drainage, landscaping, and other necessary site improvements are being provided.	
C. That the conditional use conforms to all applicable regulations of the district in which it is located, unless otherwise specifically exempted by this ordinance.	
D. That the conditional use conforms to the purpose and intent of the city Master Plan.	



Review Application Materials

Submit Form

Fillable forms are helpful for the applicant and reviewer

CONDITIONAL USE PERMIT (CUP): PLEASE STATE HOW YOUR REQUEST MEETS EACH OF THESE STANDARDS THAT MUST BE MET TO APPROVE A CONDITIONAL USE PERMIT (If you need additional space, attach a separate document.)

1. Will be consistent with the purposes and intent of the zoning code, and will not adversely affect public health, safety, welfare;

2. Will not be hazardous, harmful or otherwise adverse to the environment or to the reasonable use and value of nearby properties or the community in general;

3. Will be compatible with the existing uses of, and structures upon, surrounding properties, and will not impede normal and orderly development and improvement of other properties for uses permitted in district;

4. Will be designed and operated in a manner which minimizes adverse effects, including visual impacts, on surrounding properties and the community as a whole;

5. Provides adequate means of ingress and egress so as to minimize traffic congestion in the public streets and will not cause any significant traffic problems;

Review Decision Forms

Decision

If an applicant for a conditional use permit meets, or agrees to meet, all of the requirements found in the zoning ordinance and all conditions imposed on the permit, the local government is required to grant the permit.

Based on the above findings of fact, conclusions of law, and the record in this matter, the permit is:

☐ Approved, with the conditions stated above.

☐ Denied, for the following reasons:

Signature of local government

Date

Recommendation Forms

Recommendation forms help to solicit input from review bodies

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

Staff Report

Staff can provide additional 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."



Poll: Which of the following actions do you plan to take after attending this webinar? (select all that apply)



Review the uses listed in our ordinance



Review our ordinance purpose statements



Review our standards for granting conditional use permits



Add standards to our ordinance for specific uses



Review and update our application materials



Nothing. Our materials are up-to-date!

Thank You!

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

Lynn Markham
lmarkham@uwsp.edu
715-346-3879

www.uwsp.edu/cnr-ap/clue
fyi.extension.wisc.edu/landusetraining



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



Extension
UNIVERSITY OF WISCONSIN-MADISON