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

640 acres (section)

160 acres (quarter section)

40 acres
What do you see?

40 acres
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

10 x unit/acre
15 x value/acre
1.7 x value/road mile

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?
Comprehensive Plan
County Comprehensive Plan

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 2005. 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 johnskrn@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)
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

(Wis Stat. 66.1001)
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”

(Wis Stat. 66.1001)
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
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)
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
A zoning ordinance contains two parts:

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

**Map** – Divides the community into zoning districts.
Basic Elements of Zoning

- Purpose statements
- Zoning districts
- Allowed uses
- Dimensional standards
- Development standards
- Administrative procedures
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: Airport/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
Dimensional Standards

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

**SETBACKS**
- 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

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

**HEIGHT**
- Maximum Structure Height:
  - A. Primary: 45 feet (*)
  - B. Accessory: 35 feet (*)
<table>
<thead>
<tr>
<th>Development Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dumpster Enclosures</td>
</tr>
<tr>
<td>Utility Equipment</td>
</tr>
<tr>
<td>Exterior Lighting</td>
</tr>
<tr>
<td>Landscaping</td>
</tr>
<tr>
<td>Buffers</td>
</tr>
<tr>
<td>Fences</td>
</tr>
<tr>
<td>Stormwater Mgmt.</td>
</tr>
<tr>
<td>Bldg Material &amp; Color</td>
</tr>
<tr>
<td>Building Height</td>
</tr>
<tr>
<td>Building Massing</td>
</tr>
<tr>
<td>Building Façade Character</td>
</tr>
<tr>
<td>Roof Form &amp; Articulation</td>
</tr>
<tr>
<td>Rooftop Equipment</td>
</tr>
<tr>
<td>Franchise Architecture</td>
</tr>
<tr>
<td>Architecture Unity</td>
</tr>
<tr>
<td>Signage</td>
</tr>
<tr>
<td>Viewshed Protection</td>
</tr>
<tr>
<td>Parking</td>
</tr>
</tbody>
</table>
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

Preapplication Meeting

Application Filing
(with Community Development Director)

Completeness Review

Staff Review/Recommendation

Plan Commission Review/Recommendation

Official Public Hearing Notice

Village Board Public Hearing and Decision
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
Let's Review!
Role of Local Officials
Who Does What?

Planning and Zoning Staff
- Drafting, review and technical support

Plan Commission / Zoning Committee
- Recommendation

Governing Body
- Ordinance adoption or amendment
  (Includes rezones)

Zoning Board of Adjustment / Appeals
- Conditional use

Permitted use

Conditional use

Conditional use

Conditional use

Variance

Administrative appeal
Types of Decisions

**Legislative**
Exercise broad discretion in making policy.
Example:
- Plans
- Ordinances
- Amendments
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?

**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
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.
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.

**Rezone Process**

Towns under county zoning:
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)
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

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. §§ 55.60 and 59.604.

(Code 1988, § 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 1988, § 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 1988, § 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 1988, § 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

- Consistent: Recommend approval
- Not consistent: Recommend denial
- If not consistent, recommend approval with changes to comprehensive plan
1. Look to future land use map
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”
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.
The Future Land Use map, Map 9-2, shows future agricultural, residential, and commercial land use areas in the Town of Tainter. The land use categories depicted on the map do not conflict with the permitted uses of appropriate zoning districts in the current Dunn County Comprehensive Zoning Ordinance. Since most of Tainter is zoned General Agriculture, which allows for low density single-family residential development, specific future low density residential areas are not identified. There are areas identified on Map 9-2 that are conducive to higher density residential and commercial development because of their location on major transportation routes, and proximity to existing development that would be attractive to businesses. As land uses evolve or if new land uses become known and conflicts arise, the Town will collaborate with the County Zoning staff to resolve such conflicts.
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

Scale: 0 0.5 1 Miles

N

Town of Ironton
Comprehensive Plan
Map 11-2
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.
• 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.
- 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

<table>
<thead>
<tr>
<th>Future Land Use Category (shown on Map 6-1)</th>
<th>General Description of Land Uses Allowed</th>
<th>Typical Implementing Zoning Districts</th>
<th>Lot Size and/or Density Range</th>
<th>Development Policies (see also Village zoning, subdivision, stormwater management, official map, and other ordinances)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial</td>
<td>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)</td>
<td>B-2 General Business (preferred) B-3 Highway Business PUD Planned Unit Development A-B Agricultural Business (in ETZ and other rural settings)</td>
<td>Per associated zoning district requirements</td>
<td>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.</td>
</tr>
<tr>
<td>Downtown</td>
<td>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</td>
<td>B-1 Central Business District (preferred) PUD Planned Unit Development</td>
<td>See Chapter 3: Downtown for density and other site utilization recommendations for the Downtown and specific sites within it Also see B-1 requirements</td>
<td>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.</td>
</tr>
<tr>
<td>Office/Research</td>
<td>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</td>
<td>O-R Office and Research District (preferred) PUD Planned Unit Development</td>
<td>Per associated zoning district requirements</td>
<td>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.</td>
</tr>
</tbody>
</table>
Conditional Uses (Special Exception Uses)
## Uses for each district:

<table>
<thead>
<tr>
<th>Permitted Use</th>
<th>Conditional Use</th>
<th>Prohibited Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use is listed and allowed by right in all parts of the zoning district</td>
<td>Use is listed for the district and may be allowed if suited to the location</td>
<td>Use is not listed for the district or is expressly prohibited</td>
</tr>
</tbody>
</table>

- Permitted Use: Granted by zoning administrator
- Conditional Use: Decided by zoning board, plan commission, or governing body
- Prohibited Use: May apply for rezone or use variance, if allowed
Ex. Residential District

Permitted Uses

Conditional Uses

Prohibited Uses
## Sample Use Table

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>A1 Intense Agriculture</th>
<th>A2 Light Agriculture</th>
<th>RR Rural Residential</th>
<th>R1 Single Family</th>
<th>R2 Multi Family</th>
<th>C1 Commercial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Livestock facility</td>
<td>P</td>
<td>C</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Residential poultry and beekeeping</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
<td>-</td>
</tr>
<tr>
<td>Agricultural tourism</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>-</td>
<td>-</td>
<td>C</td>
</tr>
<tr>
<td>Agriculture-related business</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>-</td>
<td>-</td>
<td>C</td>
</tr>
<tr>
<td>Roadside stand</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>-</td>
<td>-</td>
<td>C</td>
</tr>
</tbody>
</table>
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.
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

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

“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

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

Review standards to make sure they are reasonable and measurable

Consider adding specific standards for commonly granted uses
Specific Standards

Ex. Sawyer County Zoning Ordinance

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

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.

Consider adding specific standards for commonly granted uses
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

Provide criteria, instructions, and examples to help applicant
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

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
Appeals and Legally Defensible Decisions
Appeal of Zoning Decisions

Wisconsin Supreme Court

Court of Appeals

Circuit Court

Zoning Board of Adjustment/Appeals

Governing Body

Plan Commission/Zoning Committee

Zoning Administrator
### Legally Defensible Decisions

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

<table>
<thead>
<tr>
<th><strong>Authority</strong></th>
<th>Are you empowered by statute or ordinance to act on the matter?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proper procedures</strong></td>
<td>Did you follow proper procedures? (notice, open meeting, public hearing)</td>
</tr>
<tr>
<td><strong>Proper standards</strong></td>
<td>Did you apply the proper standards? (ordinance, state statute, case law)</td>
</tr>
<tr>
<td><strong>Rational basis</strong></td>
<td>Were you unbiased? Could a reasonable person reach the same conclusion?</td>
</tr>
<tr>
<td><strong>Evidence</strong></td>
<td>Do facts in the record support your decision?</td>
</tr>
</tbody>
</table>
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

County

Local
• 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?

<table>
<thead>
<tr>
<th></th>
<th>No. parcels</th>
<th>Parcel size</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>State</td>
<td>5 or more</td>
<td>1.5 acres or less</td>
<td>5 years</td>
</tr>
<tr>
<td>Portage Co.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Major subdivision</td>
<td>5 or more</td>
<td>1.5 acres or less</td>
<td>5 years</td>
</tr>
<tr>
<td>Minor subdivision</td>
<td>1+</td>
<td>20 acres or less</td>
<td>5 years</td>
</tr>
</tbody>
</table>

- 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
<table>
<thead>
<tr>
<th>Typical Process</th>
<th>1 Pre-Application Conference</th>
<th>2 Preliminary Plat Approval</th>
<th>3 Final Plat Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informal review</td>
<td>If required by local ordinance OR submitted by applicant</td>
<td>Submission of detailed engineering and design drawings that comply with Wis. Stat. Ch. 236</td>
<td></td>
</tr>
<tr>
<td>intended to spot problems upfront</td>
<td>Act within 90 days</td>
<td>Act within 60 days</td>
<td></td>
</tr>
</tbody>
</table>

**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

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

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

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.

Source: Visualizing Compatible Density theurbanist.org
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!

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rroberts@uwsp.edu