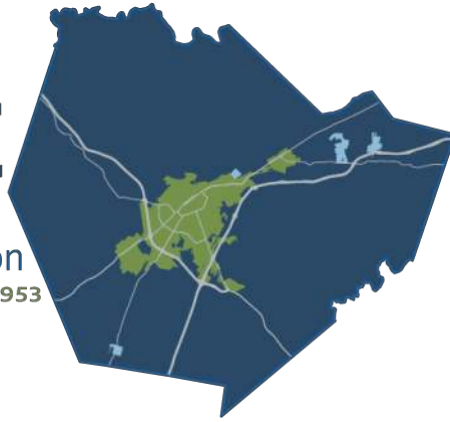


PLANNING COMMISSION HANDBOOK

CCPC
City-County
Planning Commission
warrenpc.org | (270) 842-1953



City County Planning Commission of Warren County Kentucky
922 State Street, Suite 200, Bowling Green, KY 42101

February 2021
planninginfo@bgky.org



Bike  **WalkBG**
The logo for Bike WalkBG, featuring the word "Bike" in blue, a green bicycle icon, and the word "WalkBG" in blue.



Warren County

Bowling Green
Oakland
Plum Springs
Smiths Grove
Woodburn

Citizens should be thanked for taking on the job of a Planning Commissioner. The long hours and hard work may cause a person to wonder whether it's all worth it. **IT IS.** Planning Commissioners help to set directions for the community and make decisions that affect its residents and its future. The special role of the Planning Commission is confirmed by the authority given in state law and by local ordinance.

The job of the Planning Commissioner, in its larger sense, includes the responsibility of balancing individual rights with the public welfare; the challenge of making decisions that affect the future of the community; and the ability to analyze problems and resolve difficult situations. These may not characterize every Planning Commission meeting, but they show the scope of responsibility of a Planning Commission, and indicate the seriousness of the work that the Planning Commission undertakes.

Planning Commissions decide on land-use and development issues important to the future and well-being of the community. Planning Commissioners often are appointed without any prior training in planning or in their role as members of a public body. They must “learn the ropes” as best they can. While most Planning Commissioners learn how to do their jobs this way, and some excel, training and education can help Planning Commissioners with their job. **This Planning Commission Handbook** will help Planning Commissioners by providing information on planning and guidance on the conduct of the Planning Commission's activities. This handbook is not a formally adopted document and is only intended to be a practical guide to some of the issues faced by Planning Commissioners.

This document has been adapted from the City of San Mateo, California *Planning Commission Handbook*, <https://www.cityofsanmateo.org/DocumentCenter/View/40259/1-14-14-Item-1-Planning-Commission-Handbook>. Thank you to the City of San Mateo for the foresight in creating this resource.

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Table of Contents

Chapter 1 - WELCOME TO THE PLANNING COMMISSION	1
Introduction	1
What is a Planning Commission?	1
Planning Commission Duties	2
Some Rules of Thumb	2
Chapter 2 - ROLE AND ACTIVITIES OF THE PLANNING COMMISSION	5
Introduction	5
Purpose of the Planning Commission	5
The Authority of the Planning Commission	5
Duties of the Planning Commission	5
Characteristics of the Ideal Planning Commission	6
The Planning Commission's Relationship with Staff and Elected Officials	7
Chapter 3 - INTRODUCTION TO PLANNING	9
Introduction	9
What is Planning?	9
Why Plan?	9
A Short History of Planning	10
Authority for Local Planning in Kentucky	11
What Is a Comprehensive Plan?	12
What Planning Cannot Do	14
Chapter 4 - PLAN IMPLEMENTATION	15
The Importance of Implementation	15
Zoning Regulations	15
Authority for Zoning	15
The History of Legal Basis for Zoning	16
Subdivision Regulations	16
Authority for Subdivisions	16
Other Means of Implementation	17
Chapter 5 - PLANNING COMMISSION CONDUCT	19
The Public Interest	19
Legal Aspects of Planning Commission Conduct	19
Conflict of Interest	20
What is a Conflict of Interest?	20
When in Doubt	20
Effect of Disqualification	20
Disclosure of Conflict	21

Open Meeting Act.....	21
What is Not a Meeting.....	21
Open Meeting Requirements.....	21
Ex Parte Contact	21
How to Deal with Ex Parte Contact	22
Chapter 6 – THE PLANNING COMMISSION MEETING	23
Due Process	23
Conducting a Planning Commission Meeting.....	23
Chairing the Planning Commission	24
Responsibilities of the Chair	24
Qualities of a Good Chair.....	25
Practical Tips for the Planning Commissioner	26
Planning Application Continuance vs. Denial vs. Withdrawal.....	28
Chapter 7 – MAKING A DECISION AND THE NEED FOR FINDINGS	29
Three Kinds of Planning Commission Decisions	29
The Need for Findings.....	29
Evidence in the Record to Support Findings	29
Chapter 8 – DEVELOPMENT PLAN CONDITIONS	31
Legal Authority to Impose Conditions of Approval	31
Timing of Conditions.....	32
Who is Responsible for Implementing Conditions?	32
Legal Considerations in Imposing Conditions.....	32
Nollan v California Coastal Planning Commission (1987).....	32
Dolan v City of Tigard (1994)	33
Planning Commission Considerations	34
Chapter 9 – THE STAFF REPORT AND COMMISSION PACKETS	35
Commission Packet Contents	35
Items Not Included as Part of the Commission Packets.....	37
Chapter 10 – SUMMARY OF THE ZONE CHANGE PROCESS	39
Appeals	41
Final Word About the Process	41
SOURCES	42
APPENDICES	
JOINT AGREEMENT FOR THE ESTABLISHMENT OF THE PLANNING COMMISSION	
BYLAWS OF THE PLANNING COMMISSION	
JUST WHAT IS THE JOB OF A PLANNING COMMISSIONER?	
CITIZENS GUIDE TO FUTURE LAND USE MAPPING	

Chapter 1 - Welcome to the Planning Commission Introduction

A person's life is almost certain to become more interesting when asked to serve on the Planning Commission. Commissioners attend regular meetings, special meetings, and work sessions, evaluate projects and proposals, and makes tough decisions about community development projects and policies. New terms and concepts are encountered; more knowledge is gained about activities happening around town; and a greater understanding about government and public decision-making begins to develop.

A good Planning Commission must take the future seriously. To be a good Planning Commissioner requires commitment to ensuring a promising future of the community coupled with hard work, the patience to listen, and the willingness and ability to make decisions.

A good Planning Commissioner must have some understanding of the basic topics:

- What Planning is;
- Zoning and Subdivision law;
- Planning Commission procedures;
- The authority and duties of the Planning Commission;
- Legal aspects of Planning Commission conduct; and
- Standards for Planning Commission decision-making.

The purpose of this handbook is to provide an introduction to this information. Although being a Planning Commissioner will always be challenging, reading this handbook will make the challenge easier and more understandable.

What is a Planning Commission?

As used in this handbook, a Planning Commission refers to a body of citizens that serve local government. The Planning Commission is an advisory group to the legislative bodies on issues and policies related to planning and land use regulation and community development in general.

Kentucky Planning and Zoning Law allows cities and counties to establish Planning Commissions and provide for planning, subdivision and land use regulation. A legislative body choosing not to establish a Planning Commission would serve as the Planning Commission instead (this is a rare occurrence).

Each city or county establishing a Planning Commission passes an ordinance that defines its duties and scope, and which may identify the number of members, their qualifications, how vacancies are filled, the frequency of regular meetings, who serves as their staff, and general operating procedures.

In Warren County, the six legislative bodies of the Warren County Fiscal Court and the incorporated cities of Bowling Green, Smiths Grove, Oakland, Plum Springs and Woodburn have created and adopted a cooperative agreement to form a joint planning commission. This body serves as the advisory group to all six of the legislative bodies. The joint agreement outlines the number of appointees from each. There are four appointees from the Warren Fiscal Court, four from the City of Bowling Green, and one each from the smaller incorporated cities.

Planning Commission Duties

Duties usually assumed by the Planning Commission include, but are not limited to:

- Holding public hearings and meetings;
- Reviewing the Comprehensive Plan;
- Reviewing and recommending zoning ordinance text amendments;
- Recommending the reclassifications of a property's zoning;
- Reviewing subdivision plats;
- Acting on variances, conditional use permits, site development plans, and other types of planning applications;
- Reviewing and adopting special studies.

The role of the Planning Commission in shaping the future of a community is extremely important. The City Council is often engaged in the issues and business of the day and is unable to spend sufficient time studying current or planned development activities. The Planning Commission has been delegated a key role by taking the lead in reviewing and evaluation land-use and development issues in both the short-term **and** the long- term.

Some Rules of Thumb

After a person has been on the Planning Commission for a while, they will begin to recognize “pointers”, or “rules of thumb”, about how the Planning Commission should conduct its business. Listed below are some “pointers” that should help to provide some guidance. They are taken from the experience of other Planning Commissions, from Planning Commission materials prepared in other states, and from other training publications.

- Develop and adopt bylaws and procedures, and stick to them.
- Ensure that the staff develops and makes available accurate and reliable information, including data and maps, especially in staff reports.
- Prepare and maintain an adequate Comprehensive Plan, refer to it, and make decisions that are consistent with its policies. Also, implement the Plan and its policies.
- Annually re-examine what the Planning Commission is doing, how well it is doing it, and how to do it better.
- Converse periodically with members of the legislative body that appointed the commissioner in order to exchange ideas and to assess mutual objectives.
- Convey to staff what is desired and how material should be presented to the Planning Commission. Don't wait for the experts, the director or consultants to tell the Planning Commission what to do next.

- Take training seriously and when possible attend some short courses on planning techniques or the latest in land-use law and expect the staff to do the same. A planning commissioner is required by law to have 8 hours of training every two year period.
- Find out what other communities are doing. Sometimes it's surprising to find out how far ahead your community is in comparison.
- Lobby for good planning. If the Planning Commission doesn't, who will?
- Take time to orient new Planning Commissioners to the job. Remember how tough it is to get the hang of being new?
- Ensure that staff is keeping organized and complete files. There is no substitute for a complete record of Planning Commission action.
- Be consistent in decision-making.

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Chapter 2 - Role and Activities of the Planning Commission Introduction

Planning Commissioners put in long hours of hard work resolving complex, sometimes difficult, issues. Why would citizens want to subject themselves to long hours and hard work for little compensation and little public recognition? Probably because they are people who take an active interest in the welfare of their community and are willing to put that civic-mindedness to work. While the job can be difficult, it is also rewarding to participate in decisions and formulate ideas that will help shape the physical, social, and economic future of the community.

Purpose of the Planning Commission

The Planning Commission acts on behalf of the legislative bodies in deciding on and recommending land-use activities and related matters. The Fiscal Court and City Commissions do not have time to do their job and the job of the Planning Commission as well. This is not only because their workload may be too large, but also because the job of planning is too important to leave unattended. The Planning Commission has the authority and the responsibility to play a central role in making decisions and advising the legislative bodies in land-use concerns and development issues.

The Authority of the Planning Commission

The Planning Commission derives its authority and duties through the Kentucky Revised Statutes Chapter 100, the Agreement for the Establishment of the Joint City County Planning Commission of Warren County, the Focus 2030 Comprehensive Plan, and the Joint Zoning Ordinance of Warren County as well as other individual ordinances passed by the six legislative bodies.

Duties of the Planning Commission

The duties of the Planning Commission will vary from community to community depending on factors such as support for planning from legislative bodies, the community's rate of growth, responsibilities prescribed by ordinance, and community attitudes about planning. The following list of duties shows the range of activities with which a Planning Commission may become involved.

Assist in the preparation of a Comprehensive Plan. The Comprehensive Plan, which is discussed in more detail in the next chapter, contains policy statements about community development in the form of goals, objectives and action items, and a map displaying intended land-use in the community. The Comprehensive Plan can be the most important document the Planning Commission will prepare, since, if properly prepared and followed, it will be the blueprint for decision-making on land-use and development.

Review and Recommend Zoning Code Regulations. Zoning code regulations (as well as other means) are used to implement the General Plan. The Planning Commission is closely involved in the preparation and amendment of zoning code regulations and provides recommendations to the legislative bodies.

Review and Recommend the Reclassification of Property. The Planning Commission reviews proposed zoning reclassifications and makes a recommendation to the legislative body whether a zoning change should be granted. The legislative body has the final decision, since reclassifications are approved by ordinance.

Other Planning Applications. The Planning Commission has the authority to approve or deny planning applications which include variances and conditional use permits when part of a rezoning application. These applications have a specific separate set of state regulations to meet based on application type. When proposed, these regulations are included in the staff analysis.

Hold Public Meetings and Hearings. This may seem too obvious to mention, however, it's perhaps the most important activity the Planning Commission undertakes. Public meetings and hearings provide an opportunity for direct interaction between the Planning Commission and local residents. This gives local residents an opportunity to see the Planning Commission "in action", and gives the Planning Commission members the chance to hear first-hand about residents' concerns. Any concerns expressed are made part of the official public record and are forwarded to the legislative bodies for their consideration.

Characteristics of the ideal Planning Commission

Having the right kind of members on the Planning Commission can be critical to its success as a productive and respected group. A Planning Commission interested in its work, with a collective sense of its mission and responsibilities will fare much better than one which is disorganized and lacks a clear grasp of its public duties. A dedicated individual who understands the community and is willing to work for its well-being is the best kind of Planning Commissioner.

The ideal Planning Commission should reflect the following:

- **Balance.** Membership on the Planning Commission should attempt to reflect the diversity of the community while at the same time consisting of people who are known to be level-headed, practical, and willing to work together. The Planning Commission should not be composed of people who think alike. Nor should a Planning Commission be appointed that has individual members so opinionated that they cannot reach a majority consensus.
- **Skills.** A Planning Commission should not be made up of just architects and engineers or business owners or builders. A range of skills is needed to provide depth and perspective in the Planning Commission's deliberations.
- **Understanding of Community.** A Planning Commissioner should have some understanding of the forces that are shaping events in the community. This would include understanding attitudes and issues about growth and development, knowing how the local economy works, and having some knowledge of community land-use and development trends.

- **Understanding the Public Process.** Planning Commissioners represent and work on behalf of the public. The interests of the public must be kept in mind in both the way that business is conducted (procedural) and in the decisions that are made (substantive). Planning Commissioners should understand that working in a public process can be frustrating and time consuming. This is because everyone's interests – the interests of the community at large – must be heeded, and not just those of particular advocacy groups or individuals.
- **Commitment to Planning.** Planning Commissioners will not always agree on what constitutes good planning but they should all agree that planning is important.
- **Conflict of Interest.** A Planning Commissioner who frequently has to declare a conflict of interest and refrain from voting is not a fully participating member of the body. While it is more difficult in smaller towns, the City Council should try to select Planning Commissioners with little or no conflict of interest.
- **Special Interests.** A Planning Commission which is seen as being too cozy with special interest groups will lose credibility with the public and could find its decisions constantly under scrutiny or even being challenged in the courts. Public loss of confidence in the Planning Commission could result in qualified people declining to apply and a gradual deterioration in the Planning Commission's ability to do the public's work.
- **Objectivity.** This important trait is basically the ability to distinguish between fact and opinion. Planning Commissioners should be able to support decisions based on the facts, even if it disagrees with their personal opinion.
- **Sufficient Free Time.** A Planning Commissioner should have the time to, not only attend meetings and work sessions, but also to prepare for the meetings beforehand. No community is well served by a Planning Commissioner who is unprepared and tries to "wing it" at public hearings. Planning Commissioners should also have time to attend training sessions during the year.
- **Support of Appointing Authority.** It is the elected officials of the appointing authority that have put their trust in each of their planning commissioner appointments to give them the best recommendation possible. Only those elected bodies have the authority to appoint or replace planning commissioners.

The Planning Commission's Relationship with Staff and Elected Officials

Relationship to Elected Officials. The most important aspect of the relationship between the Planning Commission and the appointing legislative body is the Planning Commission's advisory role for certain types of approvals, such as zoning reclassifications, zoning ordinance amendments, and planned developments. Advisory means that the Planning Commission makes recommendations to the legislative bodies and the elected officials have the final say.

For example, the Planning Commission might recommend a change in the zoning ordinance to the community, but it is the five City Commissions and Fiscal Court that takes final action on the recommendation in whole or in part. A Planning Commission that has a good working relationship with the legislative bodies can play a key role in keeping the elected officials informed and educated about planning issues. If the Planning Commission can give the legislative bodies good, solid reasons for the positions it takes, the changes are improved that its positions will be accepted.

Relationship with City Staff. The Planning Commission Executive Director and planning staff work for and are hired by the Planning Commission. The Planning Commission staff is the planning commissioner's staff. The Executive Director and staff can only make recommendations on staffing and operations but it is up to the planning commissioners to take action on recommendations. It is within the Planning Commission's authority to seek information from the staff, to ask for recommendations on actions before the Planning Commission and to rely on the planner's ability to provide technical assistance and expert knowledge on any matter at any time.

While it is within the Planning Commission's authority to tell the planner to prepare a new General Plan or rewrite the zoning code, these kinds of major undertakings must be approved and funded by the appropriate legislative bodies. The Planning Commission may direct that the staff to undertake a particular study if within existing resources and capabilities.

Likewise it is acceptable for planning commission staff to take similar direction from elected officials and the legislative bodies and work with the Planning Commission to incorporate their wishes. Staff is usually present at meetings of legislative bodies to answer questions about planning commission actions. No legislative body has direct supervision over planning staff.

General duties of the staff include carrying out the operations of the office, staffing eight boards (Planning Commission, Board of Adjustment, Urban Growth Design Review Board, Historic Preservation Board, University District Review Committee, Cemetery Board and the Metropolitan Planning Commission (MPO)), development review, permitting, zoning enforcement, Geographic Information Systems mapping, and FEMA floodplain management. Together all of our boards comprise of approximately seventy citizen appointed volunteers. Staff cannot do their jobs without these citizen members or public participation.

The Metropolitan Planning Organization (MPO) is a transportation policy-making body that establishes a platform for coordination and communication between the public and local, state, and federal agencies in regard to planning issues and transportation topics, plans, programs, and projects. Federal law requires the formation of a MPO for any urbanized area with a population greater than 50,000 to carry out all transportation planning activities. Federal funding for transportation projects and programs are prioritized and channeled through this planning process. Having the MPO at the planning commission allows for greater coordination of transportation and development projects with regards to the local transportation system.

Chapter 3 - Introduction to Planning Introduction

Community planning at the local government level is an effort to shape the community's future through decisions made today regarding land-use, capital improvements, community design, city finances and so on. Planning and land use regulations are a necessary activity if a community wants to shape its future. With the direction and guidance that planning can provide, the community can grow in a more orderly, cost effective manner.

It is important to remember that planning is an ongoing process. It is a continuing activity, as ideas, values, and policies change to reflect the community's changing conditions. Planning can involve differing, even opposite points of view, and disagreements may arise that may be difficult to resolve. Yet the effort can be a rewarding one if the community finds common ground and faces the future together.

What is Planning?

Everyone plans. Planning is an activity that touches just about every aspect of life. Individuals plan their daily schedule as well as more long-range activities such as trips and vacations. Friends plan trips, or may organize their efforts to engage in other types of group activities. Families plan for major purchases such as a home or new car. Businesses plan their purchasing, inventory, pricing and marketing. The common thread that runs through these seemingly different activities is the time, effort and expense that is saved in the future by thinking ahead and plotting a course of action today. City planning may involve more people and be more complex than planning a three-day vacation, but it shares that common thread of organizing the future.

Why Plan?

Communities can realize tangible benefits from planning:

Planning Saves Money. A community can achieve efficiencies in operating government as the result of good planning decisions. For example, zoning that permits construction of a residential subdivision at a long distance from services will prove costly. Residents of the development may request water and sewer, fire, police, road maintenance, and the other services already provided in developed areas of the community and place unanticipated demands on the budget. The same development located adjacent or near to existing services would create a lower long-term demand on the budget through reduction in utility extension costs, maintenance, and related manpower requirements.

Planning Establishes the Ground Rules. Planning establishes ground rules and standards for developers and residents alike and sets the pattern for the community's design and development. A community that has a comprehensive plan and land-use regulations will give a clear signal that accepted standards and procedures apply to community development.

Developers know the ground rules and know what to expect when a proposal is submitted for the Planning Commission's consideration and the public knows the standards which will apply during the evaluation of a proposal. Having ground rules will not eliminate conflicts; however, it should help limit the possibility for conflict by having everyone involved or interested in a development activity "reading from the same page."

Planning Can Promote Economic Development. The planning process allows residents and decision-makers to examine alternatives and choose courses of action that can promote employment and economic well-being.

Planning Provides a Forum for Community Consensus. Achieving consensus is a vital aspect of community planning. A planning effort should involve as broad a segment of the community as possible to assure that the community's opinions are well expressed. This also gives a sense of "ownership" in the planning process and the comprehensive plan to as wide a range of people as possible. Community-wide consensus has not been reached if a plan is drawn up by a small group of people who basically agree with each other. It is only when differing viewpoints and values are brought together and the forces of negotiation, persuasion and compromise are at work, that true consensus takes place. Consensus in this context means the formulation of goals to which a majority of the community will agree.

Planning Can Promote Community Design. Community design is the deliberate process of building the community on the basis of agreed to architectural, aesthetic, and other objectives. It represents an effort to create a proportional balance between the man-made and the natural environments. For example, locating a multi-story steel office tower among two and three story historic buildings would create a significant design problem. Likewise, a development that ignores natural features to create a standard, checkerboard layout has failed to fit in well with the environment, and can damage or destroy natural features and functions.

Planning Can Protect Property and Property Values. Planning can protect property and property values by separating or buffering a potentially harmful or disagreeable land use from surrounding residential and commercial uses. Planning also helps to protect stable neighborhoods and their homes to retain their values. Property values can also be enhanced when the community plans for parks, trails, playgrounds and other amenities. Maintaining property values helps support revenues brought into the City through property tax revenue.

Planning Can Reduce Environmental Damage and Conserve Resources. Planning can help a community identify areas where development may be inadvisable because of environmental conditions. These conditions may include sinkhole or karst hazards, eroding stream banks, or other conditions which could threaten development with damage or destruction. Planning can also classify areas which have important natural or agricultural values.

A Short History of Planning

Community planning in the United States is not a new concept. Colonial Philadelphia, Williamsburg and the new capital of Washington D.C. were "planned" towns where the streets and public buildings were designed before development began. These cities were following the model established by European cities that incorporated an overall design in their development. Boulevards were arranged in relation to monumental public buildings and extensive parks to enhance the visual impression of the city. These designs were the work of architects who worked much in the same way as a painter designs a canvas.

This concept of community design continued in the United States until the early 1900's. Later on, the technique of zoning gained acceptance and legal validity as a tool to guide overall city development. Zoning was a natural reaction to the situation where original town designs were being outstripped by the

rate of expansion of communities. The separation of certain uses and buildings through zoning protected property values and avoided unsafe mixtures of residential and industrial districts.

Community planning took place in earnest in the 1930's and 1940's, as federal expenditures helped fund numerous planning studies. With the passage of Section 701 of the Federal Housing Act in 1954, local planning activity increased dramatically. Many communities used the "701" monies to create community plans to meet both the federal funding requirements as well as deal with local issues. The program was discontinued in 1981.

Passage of the Housing Act was followed closely by federal programs like the Urban Redevelopment Administration and the Overall Economic Development Program in the 1960's, the Coastal Zone Management Act in the early 1970's, and other federal legislation that offered money or encouragement for community and regional planning.

Today, Kentucky communities are planning for a variety of reasons, but mainly to provide a term vision for development of the community. A comprehensive plan is required before a community can enact zoning. All zoning and land use approval must be consistent with the comprehensive plan.

Authority for Local Planning in Kentucky

The following state and City laws outline the basic legal framework for local planning:

- Establishment of local planning units - KRS 100.113-100.131. Joint planning units - KRS 100.121.
- Planning commission membership, finances and function - KRS 100.133-100.182.
- Comprehensive plan and requirements - KRS 100.183-100.197.
- Land use management including zoning hearings - KRS 100.201-100.214.
- Board of Adjustment regulations (variances, conditional uses, etc.) - KRS 100.217-100.271.
- Subdivision management - KRS 100.273-100.292.
- Residential care facilities and group homes - KRS 100.982-100.984.
- Cellular communications towers - KRS 100.985-100.987.
- Penalties and enforcement - KRS 100.991.
- Staff and member training requirements - KRS 147A.027.
- City County Planning Commission Joint Zoning Ordinance and Subdivision Regulations

What Is a Comprehensive Plan?

The comprehensive plan provides the framework for all zoning and land use decisions within a community. State planning law requires that the comprehensive plan include a long-term vision for the community's physical development. The comprehensive plan shall consist of a "statement of goals and objectives which shall serve as a guide for the physical development and economic and social well-being of the planning unit". A comprehensive plan must include at a minimum of three mandatory elements and any optional element a community chooses to adopt.

The elements of the general plan are as follows:

- **Land Use Element** – The land use element of a comprehensive plan identifies the proposed general distribution and intensity of uses of land for housing, business, industry, open space, natural resources, public facilities and other categories of public and private uses. This element serves as the central framework for the comprehensive plan and is intended to correlate all policies into development categories. In the community's current comprehensive plan this includes a future land use map that illustrates the desired development patterns.
- **Transportation Element** – This element covers the broad policies concerning roadways, bicycle and pedestrian facilities, transit, waterways and other local public transportation utilities and facilities.
- **Community Facilities Element** – Community facilities is another broad category and is often broken up into separate chapters. The state framework states the following, "show the most desirable, appropriate, economic, and feasible pattern for the general location, character, and extent of public buildings, and land... including parks and recreation, schools, and other educational or cultural facilities, libraries, churches, hospitals, social welfare, and medical facilities, utilities, fire stations, police stations, jails, or other public office or administrative facilities."
- **Optional Elements.** The Kentucky Revised Statutes allow for additional elements not limited to community renewal, housing, flood control, pollution, conservation, natural resources, regional impact, historic preservation, and others. Our current comprehensive plan has the following elements: Future Land Use, Transportation, Community Facilities, Parks and Recreation, Natural and Cultural Resources, Housing and Neighborhoods, Economic Development, and an Implementation Framework. Future Land Use, Transportation, and Community Facilities are mentioned above. Below are the other elements:
 - **Parks and Recreation Element** – This element identifies existing parks and recreation facilities as well as policies to reserve more areas for parks and types of desired facilities.

- **Natural and Cultural Resources Element** – The element deals with the identification, conservation, development and protection of cultural sites, natural resources, environments and agriculture, especially with regards to our community's unique karst environment.
- **Housing and Neighborhoods Element** – The housing and neighborhoods element identifies and analyzes existing and projected housing needs and includes a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement and development of housing.
- **Economic Development Element** – This element identifies goals such as economic diversification, business development and preservation, academics and workforce development.
- **Implementation Framework** – The implementation framework provides actionable items or targets for the community to achieve in order to accomplish the goals and objectives of the comprehensive plan.

In summary, the preparation, adoption and implementation of a comprehensive plan serves to :

- Identify a community's land use, transportation network, housing, environmental, economic and social goals and policies as they relate to land use and development;
- Provide a basis for local government decision making, including decisions on development approvals;
- Provide citizens with opportunities to participate in the planning and decision making processes of their community; and
- Inform citizens, developers, and decision makers of the ground rules that guide development within the community.

The comprehensive plan bridges the gap between community values, visions and objectives, and physical decisions such as planning application approvals for development projects.

What Planning Cannot Do

While a planning effort and a comprehensive plan can produce benefits, it's a mistake to believe that planning has all the answers and is a "cure-all" for whatever ails the community. Planning can produce positive results if it is understood and supported by the Planning Commission, the governing bodies and local residents. The following limitations, however, should be noted:

- Planning cannot produce miracles, and cannot be expected to suddenly cure all of a community's ills. It is not a short-term proposition, but a medium to long-term undertaking.
- Planning cannot be used to exclude newcomers to the community nor can it be used to prevent change or to keep everything in the community just the way it is.
- Planning cannot be a device for problem-solving or a means of avoiding mistakes

unless it has credibility among residents and is supported by elected and appointed public officials.

- Planning cannot succeed without implementing the policies contained in the planning document. Planning needs some sort of action program to carry out its objectives.
- Planning is more difficult if it fails to balance competing points of view in the community. A successful planning effort brings all of the players to the table.
- Planning cannot work to the benefit of your community unless you want it to.

Chapter 4 - PLAN IMPLEMENTATION

The Importance of Implementation

The completion of a comprehensive plan is a big step, one which represents a substantial expenditure of time and effort and usually money, but it does not represent the completion of a planning program. The program will not be complete until ordinances are adopted that implement the plan's goals and policies. Zoning ordinances and subdivision regulations are the most recognized and widely used means of implementation. The Planning Commission and governing bodies use other means of implementation too, such as the focal point or small area plans, and even the more day-to-day decisions that they and the legislative bodies make.

The zoning and subdivision regulations must be kept up-to-date and consistent with the comprehensive plan. This is because the plan is essentially an advisory document, while the zoning and subdivision regulations are laws that are enforceable. Since the plan will undergo periodic updating to remain accurate, the regulations must be updated too, to assure consistency with the comprehensive plan. A revised and updated comprehensive plan will be of little use to the community if the zoning and subdivision regulations lag behind and represent outdated policies and land use designations.

Implementing ordinances will be more precise and specific than the terms contained in a comprehensive plan. For instance, a plan may contain a policy promoting adequate standards for new single family development. A provision in a zoning ordinance adopted to implement the plan might contain language that each new home must be constructed on a ten thousand square foot lot, and be set back ten feet from its side property line.

Zoning Regulations

Zoning is the classification of land according to use, such as single-family residential, commercial or industrial, and the establishment of standards governing each use within its zone. Uses may be permitted outright, permitted with conditions, permitted as an accessory use to the main use, or prohibited.

A city's zoning code consists of two parts: the map and the text. The map shows the location of different land use classification, while the text contains standards for each classification, such as, but not limited to: minimum lot size, setbacks, maximum building size, and listings of permitted, accessory, and conditional uses. Uses not listed in the zoning ordinance are generally prohibited.

Authority for Zoning

The Kentucky Revised Statutes Chapter 100 provides for the adoption and administration of zoning regulations, specifically the Land Use Management sections KRS 100.201-100.214.

Our community has adopted its own joint zoning code pursuant to this state enabling legislation. The pertinent sections of the zoning code are referred to in any matters brought before the Planning Commission.

The History of Legal Basis for Zoning

Zoning began in the United States in the early part of the 20th century as an attempt to promote public health and fire safety and separate incompatible uses. In New York, for example, zoning began in an attempt to stop the spread of the garment district up 5th Avenue and to improve the safety and living conditions in tenements. Many lower courts had upheld zoning in the 1920's. It was not until 1926, however, that the United States Supreme Court ruled in the landmark case of *the Village of Euclid v. Ambler Realty*, that zoning was a constitutional use of the police power. Justice Sutherland stated in the majority opinion that:

"each community has the right and responsibility to determine its own character and as long as that determination [does] not disturb the orderly growth of the region and the nation it is a valid use of the police power."

After this decision, zoning spread rapidly throughout the country and became the most widely accepted means of regulating land-use activities. By the 1950's, zoning had become closely associated with comprehensive planning, to the extent that the terms were often used interchangeably. In subsequent years, however, the general plan has become recognized as a policy document and the zoning ordinance as a regulatory document. In fact, state law requires that zoning must be consistent with the general plan.

The police power is basically the government's right to place controls over individual behavior and the use of private property to promote the health, safety and welfare of the community at large. The controls, such as a litter ordinance or zoning code, must have a reasonable basis, avoid constitutional pitfalls and serve a public purpose. Unlike the power of eminent domain, where just compensation must be paid for property which is taken for a public purpose, no compensation is required when zoning is used as a valid exercise of the police power. Zoning has been recognized as a legitimate use of the police power since the *Euclid v. Ambler* case. Times and conditions continually change, however, and zoning and land-use regulation is regularly under review and interpretation by the courts.

Subdivision Regulations

Subdivision is a largely technical activity that is fundamentally different than zoning, despite its common use in implementing the comprehensive plan. Subdivision does not address the use of land for residential, commercial and other activities. Instead, it establishes standards for subdividing land and places certain requirements on those divisions. Its purpose is not to determine which land-use goes where, but to assure that lots are created in accordance with community standards and are properly surveyed and recorded.

Authority for Subdivisions

The Kentucky Revised Statutes Chapter 100, specifically KRS 100.273-100.292, gives communities the ability to regulate and control the design and improvement of subdivision within its jurisdiction.

Our community has adopted its own Subdivision Regulations, consistent with the above statutes. The most typical type of subdivision in our community is a single family lot. New subdivisions or re-division of

land is routine, as the community is experiencing rapid growth. The Subdivision Regulations control the physical development of the land including construction standards of public infrastructure and plat requirements.

Other Means of Implementation

Zoning and subdivision regulations are not the only means of implementing the comprehensive plan, though they are the most common. The Planning Commission also uses other plans and regulations to further the goals and objectives of the comprehensive plan. These other measures include, but are not limited to, such things as:

Design Guidelines to regulate the appearance of buildings, including signs, color, lighting, landscaping, and parking. There are design guidelines for historic districts and the Lovers Lane and Cemetery Road overlay zones. Separate boards make decision in these areas. The Historic Preservation Board implements the design guidelines for the local historic districts and the Urban Growth Design Review Board implements guidelines for the Lovers Lane and Cemetery Road areas.

Specific Plans and Studies for selected areas of the communities, such as the Scottsville Road Corridor, Plano Road Focal Point Plan and other areas of the community such as Smiths Grove, Woodburn, Walnut Valley and Cedar Ridge. Policies for these areas include specific items to improve the physical appearance or create a more desirable development pattern in these areas.

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Chapter 5 - PLANNING COMMISSION CONDUCT

The Public Interest

Planning Commissioners, like others who are charged with conducting the public's business, must do so in the "public interest." Unlike a special interest, where a limited number of people would stand to benefit or profit, the public interest represents the maximum number of benefits flowing to society at large and not to selected individuals or groups within society. It is by nature more basic and more fundamental than special interest or individual interest or than the sum of special interests or individual interests.

Planning Commissioners have to determine what constitutes the public interest as decisions are made on variances, conditional use permits, rezones and other matters. The following pointers may help in keeping the public interest foremost in the decision-making process:

1. Remember who the client is. It is not the applicant but the public at large and the interest which that public represents. It is not just the people in the meeting room, but all those who are at home, too. It is everyone that lives in the community, and abides by the Planning Commission's decisions.
2. The question of who benefits from the decision should be asked. Does the applicant benefit at the expense of the public? Does the public benefit? Both?
3. The public interest includes the interests of all members of the community not just the interests of selected members.
4. When citing the public interest as the reason for a particular action, be sure that the public at large (i.e., the whole community) will benefit and not just certain individuals or groups.
5. Decisions made in the public interest should consider, to the extent possible, future as well as current generations.

Legal Aspects of Planning Commission Conduct

Planning Commissioners, like the members of all other public bodies in Kentucky, must comply with state laws regarding financial disclosure and public meetings. These laws set legal standards for the conduct of public officials. Planning Commissioners must also be aware of two other aspects of their conduct: ex parte contact (actually related to open meetings) and due process. Ex parte contact is basically the attempt to influence a Planning Commissioner outside the public forum. Due process is the procedural fairness that the Planning Commission must show to all parties.

Conflict of Interest

The goal of conflict of interest laws is to require public officials to make decisions without being influenced by personal financial interests. Toward this goal, the laws require disclosure of certain private financial interests and disqualification from decision-making under certain circumstances.

Conflict of interest laws balance two competing interests. On one hand, decisions must be made to benefit the public, not private financial interests. At the same time, conflict of interest laws are not designed to insulate officials from making difficult decisions. Making difficult decisions is, after all, one of the primary duties of a public official.

What is a Conflict of Interest?

There are a number of laws which define conflict of interest standards. KRS 100.171 is the most applicable. It says:

“Any member of a planning commission who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question, and he shall not be counted for the purpose of a quorum.”

The best way for a planning commission member to disqualify themselves on a particular issue if they have conflict of interest is for them to recuse themselves from the case. Once the case is called, declare a conflict and then leave the room. Once that case has concluded, the commission will return to the meeting. A public official or employee has a conflict of interest when all of the following occur:

- The official makes, participates in, or uses his official position to influence a governmental decision;
- It is foreseeable the decision will affect a financial interest of the official;
- The effect of the decision on the official’s financial interests will be material; and
- The effect of the decision on the official’s financial interest will be distinguishable from its effect on the public generally.

When in Doubt

In practical terms, when officials have an interest in a business, a piece of real property, as source of income related to a matter coming before the Planning Commission, they should consult with the Planning Commission Attorney prior to the meeting. If a conflict of interest is found it may result in damages paid, disqualification of the hearing, or any number of consequences.

Effect of Disqualification

When an official has a conflict, the official must not only disqualify themselves from voting, but must also refrain from participating in any debate on the matter. The disqualification should be made on the record.

Disclosure of Conflict

It is not "bad" to have a conflict of interest. It is not advisable to fail to declare a substantial conflict of interest or to participate in discussions on issues or decisions where such conflict exists. It is in a Planning Commissioner's and the Planning Commission's best interests to avoid public challenges on conflict of interest charges by heading them off in advance.

Open Meeting Act

All meetings and deliberations of the Planning Commission must be open and public as required by the Kentucky Open Meetings Act KRS 61.805-.845. This law requires that discussion by a quorum of the commission on zone change matters be held in open session. This statute applies to legislative bodies as well.

The courts have consistently interpreted the Kentucky Open Meetings Act broadly to ensure open deliberation and open decision making so the public can be fully informed and maintain contact with their governmental representatives.

What is Not a Meeting

Attendance by a majority of Planning Commissioners at a conference or at an open and publicized meeting organized to address a topic of local community concern such as a Chamber of Commerce forum on housing is not considered a meeting, provided that a majority of Planning Commissioners do not discuss among themselves, specific business within the Planning Commission's jurisdiction. Similarly, attendance of a majority of the Planning Commission at a social event or ceremonial event is not considered a meeting, again provided that a majority of Planning Commissioners do not discuss among themselves, specific business within the Planning Commission's jurisdiction.

Open Meetings Requirements

In general, the Kentucky Open Meetings Act requires:

- Posting of the date, time and place of regular meetings. (There are also other more notice requirements for planning applications as specified by state law and local ordinance).
- News media access.
- That proceedings be made available after the meeting in the form of minutes and/or media.

Ex Parte Contact

Ex parte is a Latin term that means, "from or on one side only." It deals with Planning Commissioners being influenced outside the public forum/hearing without the benefit of hearing all sides of an issue.

Contacts which occur away from the hearing are known as ex parte and can include telephone calls, informal meetings, lunches or even a casual encounter on a street corner. The essential element of ex

parte contact is that someone with a direct interest in a decision before the Planning Commission - an applicant, a representative of an applicant or an opponent of the applicant - is attempting to influence or secure a vote outside the public forum before a Planning Commissioner has had an opportunity to hear all sides of an issue.

Such contacts may be a source of pertinent information not otherwise available to the staff or Planning Commission members but they should not be permitted to influence a member's decision-making before deliberations begin.

Ex parte contact is common for Planning Commissioners because of their visibility in the community and the nature of their work. Discussions with Planning Commission members outside the public forum can be a beneficial way to exchange information and help keep Planning Commissioners informed of residents' attitudes. A distinction must be drawn, however, between contact on general or legislative matters, and contact on questions that involve specific parcels of land or the rights of certain individuals.

How to Deal with Ex Parte Contact

The following guidelines should be considered in dealing with ex parte contacts.

- If someone contacts a Planning Commissioner to discuss an issue involving the rights of specific individuals or particular parcels of land, the Planning Commissioner should refrain from stating his/her position and invite the person to present their testimony before the whole Planning Commission.
- If someone persists in offering information but is unwilling to testify before the whole Planning Commission, tell the person to put the information on the record, preferably by sending correspondence to staff. If the person is unwilling to have the information placed on the record.
- Written information on a pending Planning Commission action should be sent to staff for review and/or inclusion in the Planning Commission packets.
- If you do have ex parte contact with a member of the public, applicant or interested party, disclose that fact on the record before the meeting begins.

Above all, use common sense and good judgment when dealing with applicants and other interested parties outside a public forum.

Chapter 6 – THE PLANNING COMMISSION MEETING

Due Process

According to the courts, local planning decisions do not have to be wise, but they do have to be fair. The Planning Commission must respect equally the rights of all parties who appear before it. **The important elements of due process are:**

- adequate, advance notice of meetings in accordance with KRS Chapter 100;
- availability of staff reports and other information needed by the public to more fully understand issues;
- the opportunity to be heard at public hearings;
- full disclosure or the chance to hear, see, or review all the information available to the Planning Commission in its deliberations; and,
- findings of fact backed up by substantial evidence on the record to support the Planning Commission's decisions.

The Planning Commission has a responsibility to assure that its decisions are fair, impartial and objective, unbiased by even the appearance of having been privately influenced. Excerpts from a Washington State Supreme Court case illustrate the importance of due process and the appearance of fairness. Although not a Kentucky case, it clearly illustrates the fairness and impartiality the courts will expect of Planning Commission deliberations.

"Members of Planning Commissions with the role of conducting fair and impartial fact-finding hearings must, as far as practicable, be open-minded, objective, impartial, free of entangling influences and capable of hearing the weak voices as well as the strong." Buell v. City of Bellingham (1972)."

Conducting a Planning Commission Meeting

The Planning Commission will conduct basically four types of meetings: regular meetings, committee meetings, special called meetings and discussion/training sessions. Since no decisions are made in a study or training session, they are less formal and occur in a more relaxed setting than regular or special meetings. The Planning Commission is not required to accept testimony at a study session or committee meeting nor are any formal actions taken. Study or training sessions are held to gain a clearer understanding of complex or important issues, to establish a Planning Commission workload, budget, personnel or for some other reason not related to the actual conduct of Planning Commission business.

The planning commissioners have more contact with the public at meetings than at any other time. Thus, the Planning Commission's credibility and effectiveness can be directly affected by the way the public's business is conducted. A Planning Commission that conducts a fair, well-run meeting will preserve the public's confidence and be able to do productive work. A well-run meeting has the added benefit of being less tiring and less frustrating for Planning Commissioners. This permits the Planning Commission to pay more attention to the business at hand.

These meetings require adequate public notice, a published agenda, and minutes of the meeting per the Kentucky Open Meetings Act. All public notice is either mailed and or published in accordance with State law and local codes. Minutes are prepared at each meeting and are then forwarded to the Planning Commission for review and approval at their next meeting.

Chairing the Planning Commission

The attitude and abilities of the chair are critical to the successful operation of a Planning Commission. A capable chair understands the issues, understands his or her fellow members, can maintain order, and is able to bring the Planning Commission to a decision even on complicated or controversial issues. A person should be named as chair for his or her leadership abilities in addition to having other qualities such as integrity and fairness.

Responsibilities of the Chair

A chair has two types of responsibilities: those contained in the Planning Commission's bylaws and those that are more related to his or her leadership abilities.

Procedural responsibilities include, but are not limited to, the following:

- signing of checks and subdivision plats
- presiding over the meetings of the Planning Commission;
- appointing committees and their membership
- working with staff in setting and reviewing the agenda; and
- calling or scheduling special meetings of the Planning Commission.

Other types of responsibilities rest more with the chair's personal abilities, and are not determined by bylaws or other rules of procedure. These suggestions include:

Running a meeting. It is the chair's responsibility to run an orderly meeting and conduct the Planning Commission's business in a fair and timely manner. Other Planning Commissioners, the staff and the public will look to the chair for leadership.

Maintaining order. Try to limit the ability of members of the public to clap, cheer, whistle, and so on, either for or against testimony that is being presented or in response to comments by Planning Commission members during their deliberations. The chair should "gavel down" this kind of behavior and run an orderly meeting. Neither should the chair permit members of the Planning Commission to accuse or overtly challenge one another, members of the public, or persons testifying.

Keeping the business moving. The Planning Commission should not endlessly mull over matters, continually request new information, and otherwise delay making a decision when the information needed for doing so has been presented. The chair should move the meeting along by summarizing the facts and the positions presented by Planning Commission members, and bringing matters to a vote. Failure to do so is unfair to the City Council, which may be relying on the Planning Commission's recommendation, and to the applicant, whose proposal may be unfairly delayed by indecision.

Managing public testimony. Testimony from witnesses should be held to a reasonable length of time, particularly if a large number of people want to address the Planning Commission.

Testimony should be pertinent to the matter under deliberation. The chair should also discourage successive speakers from repeating the same testimony over and over again. While there is a need to keep the testimony moving, the Planning Commission also needs to show an interest in what the witnesses have to say. Once the public hearing is closed no one, other than planning commissioners or staff, is permitted to speak! On occasion, the Planning Commission may wish to recall the applicant to clarify remarks for the Planning Commission. However, this does not re-open the public hearing, and no further public testimony is allowed. There may be legal issues if the Planning Commission appears to base a decision on statements made by the public after the public hearing is closed.

Preventing arguments. The chair should prevent sharp exchanges from occurring between Planning Commission members and persons testifying, and between Planning Commission members themselves. He or she should limit the dialogue between Planning Commission members and persons testifying to fact gathering which will contribute to the Planning Commission's decision-making ability. This is important to prevent a loss of the Planning Commission's objectivity and credibility.

Understanding parliamentary procedure. The chair must understand making motions, amendments to motions, the order in which business is conducted, what is or is not debatable, and so on.

Tying things together. This is the ability to take into account public testimony, Planning Commission deliberations, and an understanding of the issue at hand, in guiding the Planning Commission toward a decision. It is based on the chair's ability to discern a position that a majority of the Planning Commission can support and that is fair to the public.

Qualities of a Good Chair

The ability of the chair to run a meeting is important if the Planning Commission is to get its work done. The qualities of composition for the Planning Commission in general apply equally well to the qualities needed in a chair except Planning Commission members will expect the chair to display leadership skills

and run well-organized and purposeful meetings.

The following attributes of a good chair should be considered:

Tact - The chair must show tact with other members and the public. A rude or insulting chair will reflect poorly on the whole Planning Commission and will alienate other Planning Commissioners and members of the community.

Quick Thinking - The chair may have to think and act quickly in overseeing the conduct of the Planning Commission's business. This may include summarizing positions, clarifying motions and giving direction to staff based on the differing views of Planning Commission members.

Respect – A chair whose judgment has been tested and found to be good, whose opinion is sought out, or who has support from diverse elements of the community has earned the respect of his or her peers. This can only help in conducting the Planning Commission's business and enhancing its role in community decision-making.

Speaking Ability - As the spokesperson, the chair must be able to articulate the Planning Commission's position to the City Council, the public and the media. This includes the ability to explain complex or controversial matters which may be either poorly understood or disputed in the community.

Understanding the Issues - Of all members, the chair must be able to understand the business before the Planning Commission. Failure to understand an item which the Planning Commission is to act on can lead to confusion and result in poor decision-making. The chair needs to put extra effort into studying the agenda and preparing for the meeting.

Practical Tips for the Planning Commissioner

1. **Become Familiar with the Comprehensive Plan and Zoning Ordinance** – These documents provide the basis for most all of the decisions you will make. Be aware of their contents.
2. **Read Your Packet** – A staff presentation will be made for each item on the Planning Commission's agenda. However, the full details of a project or study can only be ascertained by a review of the packet material, along with the testimony at the public hearings.
3. **Visit Project Sites** – Visiting a project site can give you a much better understanding about a zone change, variance, conditional use permit or other requests before the Planning Commission, than merely reading about it in the packet. Become familiar with the project then visit the site.
4. **Know All Sides of an Issue Before Forming An Opinion** – Review all staff material, related correspondence and consider all testimony given the night of the meeting before forming an opinion.
5. **Rely on Facts, NOT Opinions** – This can be hard, but it is very important. For example, if someone

tells you the Smith rezone is unwise, that is not a good reason to oppose it. If, however, staff recommendations or public testimony show it would be not compatible, or violate the general plan, then you have a factual basis for a decision.

6. **Use the Chair to Keep the Meeting Orderly** – Avoid extended one on one conversations with the applicant or public; instead, use the chair to direct questions and comments as appropriate. A simple question, such as “Is the color of the building blue?” with a response from the applicant “Yes.” is fine. However, extended dialogue and debate between a Planning Commissioner and an individual member of the public (or applicant) make it difficult for the chair and Planning Commission to have an orderly meeting. In addition, it may reduce other Planning Commissioners to being spectators instead of participants.
7. **Take Part in Debate** – As a rule, the quality of the Planning Commission's decision-making is improved when all members contribute to the discussion. Also, taking part in discussion lets other Planning Commissioners know a person's analytical and problem-solving strengths (and weaknesses!).
8. **Ask Questions** – You've heard the expression, "there's no such thing as a dumb question." Well, it's true. If you don't ask, who will? If you don't know, how else will you find out? Don't leave your education on an issue up to chance; take the initiative and find out.
9. **Seek Solutions** – Be a problem-solver. Contribute to debate in a way that will lead to solutions, and not merely add to the difficulty or complexity of a situation.
10. **Focus on Issues, Not Details** – Details are important, but don't get lost in them while trying to resolve an issue. Sometimes it's more comfortable to deal with details when an issue is particularly thorny or difficult, but doing so will not produce answers. You should always strive to understand the essence or substance of the matter you are addressing.
11. **Respect Your Peers** – There is no rule that says Planning Commissioners have to be friends (although that many times occurs), but relationships should be courteous and professional.
12. **Use the Staff** – Staff provides technical assistance. Don't ask staff to make a decision for you; instead, get from them the facts and other information you need to make the best decision you can.
13. **Dealing with Staff** – Don't surprise staff members at a meeting with critical comments. For example, if you have problems with a staff report that appears biased or wrong, contact the staff member beforehand and work out the problem. It is important to maintain a good working relationship with staff.
14. **Being a Planning Commissioner Takes Lots of Time** – The time you actually spend at meetings is only a small part of the time it takes to be a good Planning Commissioner. Be prepared to spend a considerable amount of time remaining informed, active and engaged as a Planning Commissioner.

Planning Application Continuance vs. Denial vs. Withdrawal

In some cases, the Planning Commission offers specific direction to the applicant, with the understanding that the project will be revised consistent with that direction and return to the Planning Commission for approval. In order to allow the project revisions to be made and reviewed by staff, a continuance “to a date uncertain” is the normal motion. This is also referred to as “tabling”. In these cases the public hearing will continue where it left off at the scheduled date and no further public notice is required.

The decision to table or deny is solely a Planning Commission decision. Consent from the applicant is not required. However, the Planning Commission may wish to consider the likelihood that the applicant will actually make project revisions when deciding whether to continue an item. In some instances, the applicant is unwilling to make any revisions; in other instances, major revisions may result which will respond to Planning Commission direction and allow for a motion to approve at the future date.

A denial of the application means a negative recommendation (recommendation for denial) is forwarded to the legislative body. The legislative body will make their decision in agreement with the planning commission recommendation or they may overturn their recommendation. This decision can be appealed to the City Council. When denied, an applicant must either wait one year before reapplying for a zone change on the property, or make substantial changes not previously considered by the planning commission.

The applicant also has the ability to withdraw their application from consideration if they are unable to make or offer any substantial revisions to gain a favorable vote. The applicant may withdraw after the Planning Commission recommendation is made but before the final vote of the legislative body. A withdrawal will require additional staff work to prepare another administrative report, complete the required public noticing and present the project to the Planning Commission. Only the applicant can make a withdrawal.

Chapter 7 – MAKING A DECISION AND THE NEED FOR FINDINGS

Planning Commissioners must rely on legal standards and other guidelines in making decisions. These standards may be quite broad, such as constitutional guarantees of equal protection and due process, or they may be much more specific, such as the language contained within the municipality's code of ordinances. This chapter will discuss the importance of building a record, or findings of fact, to justify the Planning Commission's decisions.

Three Kinds of Planning Commission Decisions

Planning Commission decisions can be either legislative or adjudicative in nature.

Policy - For the Planning Commission, policy decisions are decisions that make or interpret policy. These include comprehensive and small area plan amendments and amendments to the subdivision regulations. The key element of policy decisions is that they apply equally (or are meant to apply equally) to everyone in the community, not just to specific groups or individuals.

Adjudicative (quasi-judicial) - Generally, quasi-judicial decisions involve those that have a direct effect on the rights and liabilities of an individual or a small group of identified persons. Adjudication deals with a more limited set of facts such as those involved with individual planning applications which may involve zone changes, variances, conditional use permits, and development plans.

Administrative - Administrative decisions include matters of operation of the organization. Staffing decisions (hiring, dismissing, discipline), matters of the budget, and policies & procedures are all the responsibility of the planning commissioners.

The Need for Findings

Findings are not needed for administrative decisions, but are required for adjudicative and policy decisions. State law requires specific findings for decisions for most all of the planning applications that the Planning Commission reviews. The Kentucky courts have found that the planning commission and the legislative bodies must make findings to support zone change decisions in compliance with KRS 100.213 and with supporting evidence of compliance with the community's comprehensive plan.

Evidence in the Record to Support Findings

There must be evidence in the record to support the findings. Evidence consists of staff reports, written and oral testimony, exhibits and any other information presented as exhibits during the public hearing. There is no presumption that decisions rest upon the necessary findings and that such findings are supported by substantial evidence. Rather, the Planning Commission must expressly state their findings and must set forth the relevant facts supporting them. Staff supplies a suggested motion to the Planning Commission which includes all identified goals, objectives and action items from the comprehensive plan found to be relevant to the application. These are presented as findings in support of the Planning Commission's decision.

In some cases (this is rare), alternative findings may be provided should you wish to adopt findings or reasons for the decision different than that recommended by staff. Alternative findings are usually provided for projects which involve substantial public controversy and/or have a relatively equal potential of being approved or denied. Staff can assist in crafting findings for an action different than that recommended by staff, based on statements made by the Planning Commission. However, these statements must relate to the specific findings for the requested applications.

Chapter 8 – DEVELOPMENT PLAN CONDITIONS

Legal Authority for Development Plan Conditions

Development plan conditions are part of most applications. These conditions are voluntary on behalf of applicant in order to address compatibility with the comprehensive plan or other documents. They can be found with most every zoning item scheduled for hearing.

For example, landscaped buffers are already required based on sections of the zoning code. These types of requirements would be mandatory, whether they are listed as a condition or not. However, in order for a proposed use to be more compatible with the neighboring property the applicant may offer a privacy fence or additional landscaping beyond what the regulations require. In order to be binding on the property, these requirements are listed as development plan conditions to insure that the Planning Commission, applicant, public and staff know what will be required should the project be approved. These were formerly termed Binding Elements and are often referred to as such.

The authority to impose conditions is derived from several different sources:

Regulatory requirements – KRS 100.203(2) states that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan... where agreed upon, this development shall be followed. The Joint Zoning Ordinance outlines the provisions for an application including the requirement to submit a development plan including conditions for development.

Specific Policies – If an application falls within the boundary of a Focal Point Plan or study area, additional policies may apply. Applicants often offer additional conditions to address compliance with these policies. For example, the zoning code does not have a requirement concerning building orientation. However, the Plano Focal Point Plan has a policy that all building fronting Plano Road should incorporate a front façade facing Plano Road. As a result, the applicant may offer a condition to comply with this policy. If the applicant chooses not to comply, then the deficiency will be noted in the staff report and if the planning commission chooses to deny the request, could cite this as one of the findings.

Design guidelines - There are a few design guidelines corresponding to overlay zones that the City of Bowling Green has adopted specifically for local historic designations and the Cemetery Lane and Lovers Lane corridors. A separate board has been appointed to oversee the implementation of these areas. These guidelines may provide the basis for offering conditions of approval related to design. For example, a single family dwelling second story addition may have a condition added requiring an increase in the roof pitch to conform to the design guidelines. A planning commission application may have a condition of approval that the appropriate board approves the design prior to their decision being final. Typically the design review boards act on an application prior to the planning commission.

Timing of Conditions

The timing of conditions varies. Some conditions may need to be with the building permit plans and subsequently verified in the field. Other conditions may relate to the construction phase of the project. There are also use related conditions which are required to be adhered to for the entire life of the project.

Who is Responsible for Implementing Conditions?

Each condition of approval will include a responsibility for staff to implement or enforce the condition. A couple of examples:

BUILDING MATERIALS - At the time when a building permit is applied for staff looks up any applicable condition and verifies that appropriate building materials are being used. The permit is denied until compliance can be achieved.

UNDISTURBED LANDSCAPE BUFFER – For the life of a project a natural landscape buffer of trees and undergrowth must be maintained. Response to a complaint or periodic inspection is necessary to maintain compliance.

In these two instances, staff is responsible for implementation or enforcement of the condition of approval. It is not uncommon for lending institutions to require a zoning compliance letter prior to loan closing, especially on commercial property. When these are requested staff does a compliance check and cannot issue a letter until any violations have been corrected.

Legal Considerations in Imposing Conditions

The staff must have legal authority to impose any conditions of approval, as noted above (see “Legal Authority to Impose Conditions of Approval” at the beginning of this chapter).

Courts have also held that communities may impose conditions on development so long as the conditions are reasonable and there exists a sufficient legal nexus (connection) between the condition as imposed and the burden the proposed development will place on the community.

For ad hoc conditions, courts will consider both whether there is a “reasonable relationship” and whether the exaction is roughly proportional” to the impacts of the proposed project.

Two court cases help to illustrate the concepts of “nexus” and “rough proportionality.”

Nollan v California Coastal Planning Commission (1987) – “Reasonable Relationship”

In this case, the California Coastal Planning Commission approved the construction of a two-story beach house, subject to the condition that the owners dedicate a public access easement across a portion of their property along the beach. The easement purportedly was required to assist the public in viewing the beach and in overcoming a perceived “psychological barrier” to using the beach.

The owner challenged the easement, claiming that the condition violated the Fifth and Fourteenth Amendments' prohibition against taking private property for public use without just compensation.

The Court held that, although protection of the public's ability to see the beach was a legitimate governmental interest, no nexus or connection existed between the identified impact of the project (obstruction of the ocean view) and the easement condition (physical access across a beach).

Therefore, the exaction constituted a taking of private property without just compensation. The Court did, however, state that requiring the dedication of a viewing spot on the *Nollan* property might have been legal since there would be a nexus.

The *Nollan* Court stressed the importance of a nexus or connection between the dedication condition and the burden being imposed by the new development. Since the Court found that no such nexus or connection existed, the decision to impose a condition requiring a public access easement was not a proper land use decision, and therefore amounted to an unconstitutional taking of property.

Dolan v City of Tigard (1994) – “Rough Proportionality”

Florence Dolan owned a store located in the business district of Tigard, Oregon along Fanno Creek, which flows along a boundary of the property. Her proposed plans called for nearly doubling the size of the store and paving a 39-space parking lot.

The Planning Commission granted Dolan's permit application with a condition that she dedicate the portion of her property lying within the 100-year flood plain for improvement of a storm drainage system along Fanno Creek, and that she dedicate an additional 15-foot strip of land adjacent to the flood plain as a pedestrian/bicycle pathway. The Planning Commission made a series of findings concerning the relationship between the dedicated conditions and the projected impacts on the Dolan property.

After appeals to the Tigard Land Use Board of Appeals, court hearings with the Oregon Court of Appeals and the Oregon Supreme Court, the case reached the United States Supreme Court.

In a 5-4 decision, the United States Supreme Court held for the first time that, in making an adjudicative decision, a city must demonstrate “rough proportionality” between the conditions to be imposed on a development permit and the development's impact.

The Court reviewed the two required dedications and found that the city had not met its burden. After analyzing the findings upon which the city relied, the Court stated that the city had not shown the “required reasonable relationship” and “rough proportionality” between the floodplain easement and petitioner's proposed new building.

Noting that the Dolan's project would have increase the amount of impervious surface, which in turn would increase storm water runoff, the Court determined that the City could have required that Dolan simply keep the area open rather than requiring complete dedication.

Also, the court said “on the record before us, the city has not met its burden of demonstrating that the additional number of vehicle and vehicle trips generated by the petitioner's development reasonably relate to the city's requirement for dedication of pedestrian/bicycle easement.”

Planning Commission Considerations

Agency staff reviews all development plan conditions as well as all enabling regulations and ordinances to insure that all constitutional tests are being met.

Should questions regarding conditions arise at a Planning Commission meeting, they should be directed to staff for an appropriate response.

Chapter 9 – THE STAFF REPORT AND COMMISSIONER PACKETS

A staff report is provided to the Planning Commission for every public hearing on the agenda. The staff packets for upcoming Planning Commission meetings are mailed to the Planning Commission on the Thursday before the following Thursday meeting. The staff packets are also posted on the planning commission website by the next day. These packets and their entire contents are made part of the administrative record for each case.

This chapter will describe the basics of a staff report and its use by the Planning Commission.

Commissioner Packet Contents

The commission packets are arranged in a manner where there are layers of information. The first page includes a summary of the request and the contents of the remaining information. Following that is the more detailed analysis in the staff report including suggested motions, maps pertinent to the application, the application and preliminary development plan (proposed layout and conditions) supplied by the applicant, the pre-application materials including regulation references, and any correspondence between staff and the applicant.

Summary page – The first page contains all of the typical general information such as the case number, hearing date, brief summary of request, vicinity map, property summary and brief synopsis of the staff analysis. The bottom of the page contains points to consider. These points should be considered as clues relating to the proposed development's compliance or lack of compliance with pertinent regulations.

Staff Analysis – Following the summary page is a more detailed staff analysis relating to the compliance review process and specific goals, objectives, and actions items found in the comprehensive plan.

- **Future Land Use category review.** The first review is compliance with the Future Land Use Map category.
- **Site Characteristics review.** A review of the site characteristics follows and includes a review of adequate infrastructure and existing conditions at the site.
- **Site Design and Compatibility review.** The site design and compatibility review examines the surrounding density, land uses, building materials, natural and cultural features.
- **Area Specific Policy review.** If the proposal falls within a focal point or area plan boundary it is subject to additional policies found within that specific plan.

Traffic Impact Study – If a traffic impact study is required for a development, a summary of the findings will be provided in this section. Often a traffic impact

study is not required by the appropriate agency if recommended improvements are committed to in the form of binding conditions to address any transportation system inadequacies.

General Development Plan review – This section contains the proposed conditions put forward by the applicant in order to address compatibility with the comprehensive plan.

Focus 2030 Category Review – Staff identifies applicable goals, objectives and action items in the comprehensive plan at the pre-application conference. At this state staff analyzes compliance with these items. Many of these items are often left up to the determination of the commission.

Staff Review Summary – Think of this section as a conclusion of the staff report in the form of a brief summary.

Suggested Motion – Staff provides the commission with two suggested motions. One is in the form of approval (positive recommendation to the legislative body), and one in the form of denial (negative recommendation to the legislative body). The bottom of this motion page contains a Compliance Summary or chart of items in compliance or not in compliance. The Planning Commission should choose which of these items are appropriate for the motion they choose. These items serve as finding of fact for the decision and are items directly out of the Focus 2030 Comprehensive Plan. Other findings (reasons) for approval or denial may also be added to the motion.

Maps – At the end of the staff report you will find maps generally consisting of an aerial photo of the property, an existing zoning map, an existing land use map, and a future land use map. These are provided for visual reference when reviewing an application.

Application – The next items provided is the application provided at submittal along with any revisions received prior to finalizing commission packets. The application generally includes:

- Boundary exhibit showing the official limits of the request
- General Development Plan Concept showing the conceptual layout of the proposal.
- The official signed application with required applicant, attorney, surveyor and /or engineer information.
- Any other required documentation including a project summary and justification.

Pre-Application Materials – A copy of the pre-application materials is included in the packets. These materials include the initial review of the site, staff notes and all reference materials to any pertinent regulations. This is provided in order to bring

light to what was discussed from the initial meeting till the application.

Correspondence – A copy of email correspondence between staff and the applicant is included. This generally includes requests for clarification or more information by staff to the applicant that may result in revisions to the development plan. Additionally, any written correspondence received from the public, either for or against a proposal, is included in commission packets if obtained prior to completion of the packets.

Items Not Included as Part of the Commission Packets

Items submitted after the packets are mailed are left at your seat the night of the meeting. These items are usually letters from the public. Revisions to the applications are sometimes last minutes, but staff tries to minimize those occurrences. In some cases additional items may include a memo from staff correcting or clarifying information in the previously distributed staff report. Revisions to applications, especially development plan conditions, in response to commissioner or public concerns are common and acceptable.

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Chapter 10 – Summary of the Zone Change Process

The most common, and certainly one of the most talked about processes initiated through the Planning Commission is the rezoning of property. The following is a chronological summary of the local process from the beginning to end.

Step 1: Pre-Application Conference (30+ days prior to a Public Hearing) – Prior to formal application for amendment of the Official Zoning Map, the applicant, and/or his attorney, holds a conference with the Planning Commission staff to discuss the effect of the Comprehensive Plan, the Zoning Ordinance, the Subdivision Regulations and other land development controls on the proposed development. The applicant explains the proposed project, including the proposed use, density/intensity, general layout, and other related items such as proposed number of units/lots or proposed square footage for non-residential projects.

Step 2: Submit a Zoning Map Amendment Application to the Planning Commission (Approximately 30 Days Prior to Public Hearing) – Once an application is filed then the application and associated items become public record. Any application for amendment to the Official Zoning Map must include a written detailed explanation addressing the following:

1. How the proposed map amendment would conform to the Comprehensive Plan; OR
2. Why the original zoning classification of the property in question was inappropriate or improper; OR
3. What major economic, physical or social changes, if any, have occurred in the vicinity of the property in question that were not anticipated by the Comprehensive Plan and which have substantially altered the basic character of the area, which make the proposed amendment to the Official Zoning Map appropriate. The explanation for this section shall include:
 - a. A list of such specific changes;
 - b. A description as to how said changes were not anticipated by the Comprehensive Plan;
 - c. A description as to how said changes will alter the basic character of the area; and
 - d. A description as to how said changes make the proposed amendment to the Official Zoning Map appropriate.

Step 3: Planning Commission Staff Reviews the Application (2 Week Review) – Once an application is received by Planning Commission Staff for a proposed Zoning Map Amendment, the application is reviewed by staff to determine that is a complete application and contains all items that are required. In addition to reviewing an application for completeness, Planning Commission Staff also drafts a staff report to be presented to the Planning Commission the night of the public hearing.

During the review process, staff also solicits comments from sister agencies that are affected by the proposed development. This could include, but is not limited to city and county fire departments, city and county public works, Kentucky Transportation Cabinet District 3 office, and utility companies. If any comments are received, they are incorporated into the staff report for consideration by the Planning Commission.

Step 4: Public Notice – A Zoning Map Amendment Requires the Public Notice in accordance with Kentucky Revised Statutes (KRS) and the Warren County Joint Zoning Ordinance.

- Preliminary agenda notifications by social media (28 days prior to hearing)
- Legal notice published in Daily News (7-14 days prior to hearing)
- Sign(s) posted on the property (14 days prior to hearing)
- Letters mailed to adjacent property owners (14 days prior to hearing)
- Letters mailed to residents within 200' of the rezoning boundary (14 days prior to hearing)

Step 5: Staff compiles comments and e-mails them to the applicant(s) – Two weeks prior to the public hearing, staff sends their comments to the applicant(s) and or their surveyor/engineer and attorney. The applicant(s) then have one week to make any revisions prior to the meeting materials being sent to the Planning Commissioners.

Step 6: Commission packets finalized – About one week prior to the public hearing, staff sends the Planning Commissioners the meeting materials for their review. Additionally, the staff report and associated analysis is posted on the Planning Commission website.

Step 7: Public Hearing – Approximately 30 days after an application for a Zoning Map Amendment is filed, the Planning Commission holds a public hearing to consider the application. During this public hearing, staff presents a report to the commissioners explaining the location of the proposed amendment, proposed use of the property, any Binding Elements the applicants have submitted and other general information. When making their recommendation, the planning commissioners consider the information contained in the staff report, than application and testimony provided by the applicant, and testimony by any member of the public including neighboring property owners. Once all of the testimony and evidence is heard by the Commission, a motion is made and a vote is taken to see whether or not the Planning Commission will make a recommendation to approve or deny the request.

Step 8: Recommendation forwarded to the appropriate Legislative Body – Once the Planning Commission makes a recommendation, the recommendation along with the minutes, staff report, and any other evidence submitted is then forwarded to the appropriate Legislative Body (i.e. WC Fiscal Court, BG City Commission or Plum Springs, Oakland, Smiths Grove or Woodburn City Commission) for review. The Legislative Body then holds two readings to take final action on the Planning Commission's recommendation. If the action is to approve the application, an ordinance is created by the Legislative Body finalizing the Zoning Map Amendment.

The legislative vote is basically to agree or disagree with the Planning Commission's recommendation. If the legislative body disagrees with the Planning Commission's recommendation then they have to state why they disagree. An applicant or member of the public can ask the legislative body to hold a new hearing. There are two types, a hearing based on the existing record from the Planning Commission, or a totally new hearing. The former does not allow any new testimony, only restatement of the record. The latter allows a whole new hearing and testimony. The legislative bodies have to make their decisions within 90 days of the Planning Commission's decision or the Planning Commission's recommendation becomes law. (KRS 100.211)

Ninety nine percent of the time the legislative body upholds the Planning Commission's recommendation. The legislative body has appointed citizen members to the Planning Commission and has delegated the hearing process and responsibility per the KRS 100 enabling legislation. Staff, working at the pleasure of the Planning Commissioners, works to ensure that applications are complete, the processes are uniform for all applicants, and that proper due process is afforded to the public. In this way fairness is ensured for both the applicants and the public for every application.

Appeals

The final decision on the zone change may be appealed pursuant to KRS 100.347. The appeal to the Circuit Court must be filed within 30 calendar days after the final action of the legislative body.

Final word about the process

The zoning process itself is a legislative action. The zoning map is established by ordinance through the legislative bodies. Therefore a zone change, or amending the zoning map, is also required to be a legislative action by ordinance. Staff's responsibility is to facilitate the application, create the staff report and analysis and administer the regulations. Staff does not know what the outcome or vote will be prior to the meetings. Planning commissioners have not heard any evidence prior to the meetings with the exception of the contents of the staff report. They will hear the staff report, the applicant's testimony, and the public comments at the same time during the official public hearing. They are all individual citizen volunteers each from a different background. Their decision is not made until their vote is cast. The final vote by the Planning Commission is in the form of a recommendation to the legislative body. The legislative body can agree with the with the planning commission's recommendation or may disagree.

Sources:

City of San Mateo, California Planning Commission Handbook, 2014 Revision

<https://www.cityofsanmateo.org/DocumentCenter/View/40259/1-14-14-Item-1-Planning-Commission-Handbook>

Kentucky Revised Statutes, Kentucky Legislative Research Commission, 2021

<https://apps.legislature.ky.gov/law/statutes/>

Land Use and Zoning in Kentucky, Fifth Edition, Richard V. Murphy, Glenn A. Price, Jr., 2018

AMENDED AND RESTATED AGREEMENT FOR THE ESTABLISHMENT OF THE JOINT CITY-COUNTY PLANNING COMMISSION OF WARREN COUNTY AND THE JOINT CITY-COUNTY BOARD OF ADJUSTMENT

THIS AGREEMENT made and entered into this _____ day of _____, _____, by the Cities of Bowling Green, Plum Springs, Smiths Grove, Woodburn and Oakland, Kentucky and the Fiscal Court of Warren County, Kentucky.

WITNESSETH:

WHEREAS, the Cities of Bowling Green, Plum Springs, Smiths Grove, Oakland and Woodburn, Kentucky, and Warren County, Kentucky, have in the past participated in a joint planning program to assist and promote the orderly development of their cities and county; and,

WHEREAS, the Kentucky Revised Statutes provide that the incorporated cities and their county may continue to participate in a joint planning program; and,

WHEREAS, the Cities of Bowling Green, Plum Springs, Smiths Grove, Oakland and Woodburn, Kentucky, and Warren County, Kentucky have in the past formed a joint planning unit known as the City-County Planning Commission of Warren County, Kentucky; and

WHEREAS, the Kentucky Revised Statutes provide that the legislative bodies of incorporated cities and the Fiscal Court of the County containing those cities must enter and maintain in writing the Agreement to form a joint planning unit; and,

WHEREAS, the Kentucky Revised Statutes provide that said Agreement describes the boundaries of the area involved and contain all details for establishment and administration of the planning unit in regard to planning commission organization, preparation of plans, and aids to plan implementation, method of appropriation of financial support; and, that the Agreement

**Amended & Restated Joint Agreement for the
City-County Planning Commission of Warren County**

Page 2 of 14

shall be by regulation and the Agreement shall be executed by the parties of the Agreement and filed in Office of the Warren County clerk; and,

WHEREAS, it is necessary to amend the original Agreement to provide for certain changes in the organization and administration of the joint planning unit, and,

NOW, THEREFORE, BE IT RESOLVED, THAT the legislative bodies of the Cities of Bowling Green, Plum Springs, Smiths Grove, Woodburn and Oakland, and Warren County, acting by and through its Judge Executive, do hereby make this their amendment to the Agreement creating a Joint City-County Planning Unit and a Joint City-County Planning Commission and do hereby make this their amendment to the Agreement creating a Joint City-County Board of Adjustment dated August 24, 1966 and recorded in Deed Book 366, page 197; dated August 18, 1975 and recorded in Deed Book 585, page 209; dated February 8, 1978 and recorded in Deed Book 463, page 559; dated August 10, 1987 and recorded in Deed Book 585, page 216; dated December 1, 1998, and recorded in Deed Book 778, page 252; and dated January 9, 2001 and recorded in Deed Book 816, page 119 in the Office of the Warren County Clerk; and,

FURTHER, BE IT RESOLVED, THAT the Agreement by and between these parties is as follows:

A. Planning Unit

1. The Cities of Bowling Green, Plum Springs, Smiths Grove, Woodburn, and Oakland, Kentucky, and the County of Warren do hereby continue the joint planning unit and joint planning program as provided in this Agreement and by the Kentucky Revised Statutes.

**Amended & Restated Joint Agreement for the
City-County Planning Commission of Warren County**

Page 3 of 14

2. The area of jurisdiction of the joint planning operation of the Planning Commission shall include all land within the unincorporated areas of Warren County and all land within the corporate limits of the Cities of Bowling Green, Plum Springs, Smiths Grove, Woodburn, and Oakland. The area of zoning enforcement, the planning program, and subdivision regulation control shall include all land within the unincorporated areas of Warren County and all land within the corporate limits of the Cities of Bowling Green, Plum Springs, Smiths Grove, Woodburn, and Oakland.

B. City-County Planning Commission of Warren County, Kentucky

1. The joint planning commission known as the City-County Planning Commission of Warren County, Kentucky is hereby reconstituted. The Commission shall have the powers, duties, and responsibilities set forth in Kentucky Revised Statutes Chapter 100.
2. The Planning Commission, pursuant to Kentucky Revised Statutes 100.141, shall consist of a total of twelve (12) members. These members shall not include elected officials. Members shall be appointed as follows:
 - (a) Warren County - Four (4) members appointed by the County Judge Executive with the approval of the Fiscal Court;
 - (b) City of Bowling Green - Four (4) members appointed by the Mayor with the approval of the Board of Commissioners;
 - (c) City of Plum Springs - One (1) member appointed by the Mayor with the approval of their respective legislative body;

**Amended & Restated Joint Agreement for the
City-County Planning Commission of Warren County**

Page 4 of 14

- (d) City of Smiths Grove - One (1) member appointed by the Mayor with the approval of their respective legislative body;
 - (e) City of Woodburn - One (1) member appointed by the Mayor with the approval of their respective legislative body; and,
 - (f) City of Oakland - One (1) member appointed by the Mayor with the approval of their respective legislative body.
3. Pursuant to Kentucky Revised Statutes 100.143 the member term shall be four (4) years ending June 30 of the designated year. The term of all present citizen members shall continue to be staggered as presently appointed. Appointments to fill vacancies shall be made so that a staggered pattern of terms may be maintained.
 4. As set forth in Kentucky Revised Statutes 100.153, citizen members may be reimbursed for expenses or may receive compensation.
 5. Voting makeup for public hearings based on location for certain land use applications. It is the belief of the six (6) governmental entities who are signatory to this agreement that the Planning Commissioners who vote on land use management issues should, as much as possible, reflect the proportionate population ratios which each Commissioner's appointing government entity bears to the entire population of Warren County. In other words, if the Warren Fiscal Court has a constituency which comprises forty-five percent (45%) of the entire population of Warren County (excluding incorporated cities), then its appointed Planning Commissioners voting on land use management issues should reflect

**Amended & Restated Joint Agreement for the
City-County Planning Commission of Warren County**

Page 5 of 14

approximately the same “voting power” as its constituency bears to the entire population of Warren County. Likewise, if the “small cities” comprise individually less than one percent (1%) of the entire population of Warren County, then their “voting power” should more closely reflect the population of the constituency which they represent. Finally, efforts of this paragraph to achieve proportionate representation should be reviewed periodically, relying on U.S. Census Bureau results, to ensure that these provisions make reasonable efforts at achieving proportionate representation.

- (a) On any matter concerning the operations of the planning unit, the establishment or amendment of the comprehensive plan including the future land use map, establishment or amendment of the zoning regulation, establishment or amendment of the subdivision regulation, or other similar plan or item, the Commissioners who shall vote on the issue shall be the entire twelve (12) member body of commissioners as outlined in paragraph (B) 2 above.
- (b) On any land use management matter including, without limitation, zoning map amendments, Planned Unit Developments, Development Plans, Development Plan Amendments, variances, waivers, conditional use permits, telecommunications tower approvals, subdivision approvals, site plan reviews and right-of-way closings which shall come before the Planning Commission for a public hearing and vote, the Commissioners who shall hear and vote on the issue shall be as follows:

**Amended & Restated Joint Agreement for the
City-County Planning Commission of Warren County**

Page 6 of 14

- (1) In unincorporated areas of Warren County excluding areas as described in paragraph (2) below, and/or within the incorporated city limits of Bowling Green not encumbered by areas as described in paragraph (2) below, the four (4) members appointed by the County Judge/Executive under paragraph (B) 2 (a) above, and the four (4) members appointed by the Mayor of Bowling Green, under paragraph (B) 2 (b) above shall hear and vote on the recommendation to the appropriate legislative body.
- (2) Within the incorporated city limits of Smiths Grove, Oakland, Plum Springs, or Woodburn and up to three quarters (3/4) of a mile of the city limits boundary, as amended, of the small cities – the one (1) member appointed by the Mayor of the jurisdiction, under paragraph (B) 2 (c), (d), (e), or (f), and the four (4) Planning Commissioners appointed by the Judge Executive shall hear and vote on the recommendation to the appropriate legislative body.
- (3) In instances where boundaries described in paragraph one (1) or two (2) above overlap any portion of a parcel subject to an application as described in paragraph (b) above, then the appropriate city representative(s) shall be an additional participating voting member in the public hearing.
- (c) In the event any Commissioner is absent, recused, or if the seat is vacant, a simple majority of the members described above shall constitute a quorum.

C. City-County Board of Adjustment

1. The Board of Adjustment, known as the City-County Board of Adjustment of Warren County, Kentucky, is hereby continued. The Board shall have the powers, duties and responsibilities set forth in Kentucky Revised Statutes Chapter 100.
2. The Board of Adjustment shall consist of seven (7) citizen members, all of whom must be citizen members and no more than two (2) of whom may be citizen members of the Planning Commission. The membership, including citizen members, of the Board of Adjustment shall be appointed as follows:
 - (a) Warren County - Three (3) members appointed by the County Judge/Executive with the approval of the Fiscal Court, and
 - (b) City of Bowling Green - Four (4) members appointed by the Mayor with the approval of the Board of Commissioners.
3. The terms of office shall be four (4) years ending on June 30 of the designated year. The term of all present members shall continue to be staggered as presently appointed. The Board of Adjustment shall otherwise be organized and operated in accordance with Kentucky Revised Statutes 100.217.
4. As set forth in Kentucky Revised Statutes 100.217, citizen members may be reimbursed for expenses or may receive compensation.
5. The area of jurisdiction of the Board of Adjustment shall include all land within the unincorporated areas of Warren County and all land within the corporate limits of the

**Amended & Restated Joint Agreement for the
City-County Planning Commission of Warren County**

Page 8 of 14

Cities of Bowling Green, Plum Springs, Woodburn, Smiths Grove and Oakland, provided, however, that each city may have a separate Board of Adjustment as provided in Kentucky revised Statutes Chapter 100.217 or such city may assign this function to the City-County Board of Adjustment.

D. Financing the Joint Planning Operation

1. Prior to the beginning of the Commission's Fiscal Year (July 1), the Commission shall adopt a budget outlining the expected expenditures and needed revenues. This budget shall then jointly be presented to the Mayor and Board of Commissioners of the City of Bowling Green and the County Judge/Executive and Fiscal Court of Warren County.
2. This budget shall contain funds for the basic administration of the program, pursuant to Kentucky Revised Statutes 100.177, and of that part of the budget, the City of Bowling Green shall pay fifty percent (50%) of such budget and the County of Warren shall pay fifty percent (50%) of such budget. However, any party may provide additional funding for the staffing, planning, administration, or enforcement of any jurisdiction-specific project or program.
3. The Cities of Smiths Grove, Plum Springs, Oakland, and Woodburn shall make a minimum annual contribution of \$1,200.00. Said contributions may be made by the Warren Fiscal Court on behalf of the 5th and 6th class cities of Smiths Grove, Oakland, Plum Springs, and Woodburn.

**Amended & Restated Joint Agreement for the
City-County Planning Commission of Warren County**

Page 9 of 14

4. Notwithstanding the provisions of Section D-2 and D-3 above, regarding the cities' contributions to the Joint Planning Operation, the budget of the City-County Planning Commission may be amended at any time, or from time to time, to request additional contributions to the planning program.

E. Approval of Amendments to the Zoning Ordinance/Resolution and Comprehensive Plan

Amendments to the Zoning Ordinance/Resolution and Comprehensive Plan may be proposed by any participant to this Agreement or by the Planning Commission. As required by Kentucky Revised Statutes 100.211(2), amendments to the text of the Zoning Ordinance/Resolution shall be first referred to the Planning Commission for recommendation. Following the recommendation of the Planning Commission the proposed amendment shall be submitted to the appropriate legislative body. "Appropriate Legislative Body" as used in this section shall be defined as those member legislative bodies whose geographic limits are affected by the said amendment. It is agreed that the appropriate legislative body shall either adopt or reject the proposed amendment within ninety (90) days of the Planning Commission's recommendation. The failure of the appropriate legislative body to act on the recommendation of the Planning Commission within ninety (90) days of the date upon which the Planning Commission makes such recommendation shall be deemed, pursuant to this agreement, to constitute an affirmative vote of the majority of the appropriate legislative body, by operation of law.

**Amended & Restated Joint Agreement for the
City-County Planning Commission of Warren County**

Page 10 of 14

F. Enforcement Officers

1. The enforcement officers for the joint City-County Planning Commission shall be the following:
 - (a) Executive Director of the City-County Planning Commission or their designee;
 - (b) Codes Enforcement Officer(s) of the City-County Planning Commission;
 - (c) Building Inspector(s) and Code Enforcement Officer(s) of the City of Bowling Green, whose area of enforcement shall be limited to the corporate limits of the City of Bowling Green, Kentucky;
 - (d) The Building Inspector of the City of Smiths Grove, whose area of enforcement shall be limited to the corporate limits of the City of Smiths Grove, or their designee;
 - (e) The Building Inspector(s) of Warren County, whose area of enforcement shall include all that portion of Warren County not included in the corporate limits of the City of Bowling Green, Kentucky.

G. Ratification of Existing Laws

1. This Agreement hereby ratifies, adopts, and promulgates all existing rules, regulations, ordinances, orders, and resolutions either adopted by the Cities of Bowling Green, Smiths Grove, Oakland, Woodburn, and Plum Springs, Warren County, and the existing City-County Planning Commission of Warren County until otherwise amended.
2. The parties agree to be bound by this Agreement, the Zoning Ordinance/Resolution, the Comprehensive Plan, and Kentucky Revised Statutes Chapter 100. The parties also agree

**Amended & Restated Joint Agreement for the
City-County Planning Commission of Warren County**

Page 11 of 14

that any statutes, rules, regulations, ordinances, orders, and resolutions, hereto passed or hereafter passed which is contrary to any of the statutes, rules, regulations, ordinances, orders, and resolutions described in the preceding sentence shall be void and controlled by said statutes, rules, regulations, ordinances, orders and resolutions.

H. Effective Date

This Agreement shall be in full force and effect upon execution of the last party to execute this Agreement.

I. Modification of Agreement

This Agreement represents the entire Agreement between the parties. Any modifications of this Agreement or additional obligation assumed by any party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

J. Assignability

This Agreement is assignable.

K. Partial Invalidity

The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision

L. Choice of Law

It is the intention of the parties of this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and under and pursuant to the laws of the Commonwealth of Kentucky and that, in any action, special proceeding or other proceeding that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the Commonwealth of Kentucky shall be applicable and shall govern to the exclusion of the law of any other forum, without regard to the jurisdiction in which any action or special proceeding may be instituted.

M. No Waiver

The failure of any party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

N. Paragraph Headings

The titles to the paragraphs of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

**Amended & Restated Joint Agreement for the
City-County Planning Commission of Warren County**

Page 13 of 14

IN WITNESS WHEREOF, the undersigned parties, acting by and through their Chief Executive, have caused this Agreement to be executed and their seals herein to be affixed as of the day and the year first above written.

ATTEST:

CITY OF BOWLING GREEN

BY: _____

My Notary Expires: _____

MAYOR; Dated: _____

ATTEST:

CITY OF SMITHS GROVE

BY: _____

My Notary Expires: _____

MAYOR; Dated: _____

ATTEST:

CITY OF PLUM SPRINGS

BY: _____

My Notary Expires: _____

MAYOR; Dated: _____

**Amended & Restated Joint Agreement for the
City-County Planning Commission of Warren County**

Page 14 of 14

ATTEST:

CITY OF WOODBURN

BY: _____

My Notary Expires: _____

MAYOR; Dated: _____

ATTEST:

CITY OF OAKLAND

BY: _____

My Notary Expires: _____

MAYOR; Dated: _____

ATTEST:

WARREN COUNTY FISCAL COURT

BY: _____

My Notary Expires: _____

MAYOR; Dated: _____



**BY-LAWS OF THE CITY-COUNTY PLANNING COMMISSION
WARREN COUNTY, KENTUCKY ("COMMISSION")**

Section 1 - MEMBERSHIP

- (1) A citizen member, shall be required to undergo training with regard to the rules, regulations and statutes on planning and zoning in accordance with KRS 147A.027.

Section 2 - OFFICERS AND DUTIES

- (1) The officers of the Commission shall consist of a Chairperson, Vice Chairperson and Secretary. The Chairperson and Vice Chairperson shall be members of the Commission and shall be eligible for re-election upon the expiration of their term. The Secretary shall be the Executive Director of the Commission, or their designee. The Secretary shall not have voting power.
- (2) The Chairperson and the Vice Chairperson shall serve for terms of one (1) year each or until their successor has been duly qualified and elected. Such terms shall commence at the first regular meeting of the Commission in July of each year.
- (3) The Chairperson shall preside at all meetings and hearings of the Commission and decide all points of order and procedure and administer oaths of witnesses. The Chairperson shall have the authority to appoint all committees of the Commission. In addition to the foregoing, the Chairperson shall perform such other duties and responsibilities as from time to time presented by the Commission.
- (4) The Vice Chairperson shall act in the capacity of the Chairperson in their absence or inability to vote on certain matters as outlined in the Joint Agreement, and in the event of the position of the Chairperson becoming vacant, the Vice Chairperson shall succeed to this office for the unexpired



term of the Chairperson. In addition to the foregoing, the Vice Chairperson shall perform such other duties and responsibilities as from time to time presented by the Commission.

- (5) If neither the Chairperson nor the Vice Chairperson are present for any meeting of the Commission, or unable to participate in any matter before the commission as prescribed by the Joint Agreement, the meeting or item for public hearing shall be called to order by the Executive Director or attorney. Upon determining that a quorum exists, the Executive Director or attorney shall immediately open the floor for nomination and election of a temporary chairperson. No other business shall be conducted until a Temporary Chairperson has been elected. The Temporary Chairperson shall preside at the meeting until the Chairperson or Vice Chairperson are present. The Executive Director shall not have the power to vote while so serving.
- (6) The Secretary shall keep the minutes of the Commission, shall attend to the giving of notice of meetings of the Commission and be responsible for the authenticating of records of the Commission. In addition to the foregoing, the Secretary shall perform such other duties and responsibilities as from time to time are prescribed by the Commission.

Section 3 - COMMITTEES

- (1) The Committees of the Commission shall consist of a Nominating Committee, Personnel Committee and a Budget Committee, together with such other ad hoc committees as from time to time created by the Commission or the Chairperson.
- (2) The Nominating Committee shall nominate all officers for election by the Commission. The Committee shall have such other duties and responsibilities as from time to time prescribed by the Commission or the Chairperson.



- (3) The Budget Committee shall be responsible for creating and recommending an annual budget for the operations of the Commission. The Committee shall have such other duties and responsibilities as are from time to time prescribed by the Commission or the Chairperson.
- (4) The Personnel Committee shall be responsible for hearing all matters related to personnel policies of the Commission and shall present its findings and recommendations to the Commission for action. The Committee shall have such other duties and responsibilities as are from time to time prescribed by the Commission or the Chairperson.
- (5) The number of Committee members shall be determined by the Chairperson.
- (6) Committee meetings may be conducted by video teleconference.

Section 4 - MEETINGS

- (1) All meetings of the Commission shall be open to the public as provided in KRS Chapter 61.810.
- (2) Regular meetings of the Commission shall be held at such place as the Commission may from time to time designate. The dates, times and locations for such meetings shall be established by the Commission by the adoption of an annual calendar and a filing schedule. The schedule of meetings may be amended from time to time by the Commission as necessary to accomplish the Commission's business.
- (3) Special meetings may be called upon the request of the Chairperson or of a majority of the members of the Commission. Notice of Special Meetings shall be given by the Secretary to the members of the Commission at least twenty-four (24) hours prior to such meetings and shall state the purpose, date, location and time of the meeting. The Secretary shall give notice to interested media organizations and post a notice at the Commission Office in accordance with KRS 61.823(4). Any Special Meeting which will involve



a Public Hearing must otherwise comply with all public notice requirements of KRS 424 and the Zoning Ordinance.

- (4) Video teleconference electronic meetings may be conducted provided that proper notice is given in accordance with KRS 61.823. Public hearings must comply with all public notice and hearing requirements of KRS 100, KRS 424, the Zoning Ordinance and these By-Laws.

Section 5 - QUORUM

- (1) A simple majority of the voting makeup of the Planning Commission required for each application type as established by the joint interlocal agreement Section B.5 shall constitute a quorum.
- (2) A simple majority of all members present where there is a properly constituted quorum shall be necessary to transact any official business except that a vote of a simple majority of the total membership shall be necessary for the adoption of amendment of the Commission's by-laws, for the elements of the Comprehensive Plan or regulations, or for the hiring, dismissal, or disciplining of employees.
- (3) Video teleconference participation by members of the Commission shall count towards a quorum for transaction of business as allowed in Section 3 and applicable items in Section 4 of these By-Laws.

Section 6 - ORDER OF BUSINESS

- (1) The Secretary shall prepare an agenda for each meeting and the order of business shall generally be as follows:
 - a. Roll Call/Determination of quorum
 - b. Approval of minutes
 - c. Financial Report (if applicable)
 - d. Subdivisions and Site Development Plans
 - e. Old Business



- f. Public hearings
 - g. Discussion Items
 - h. Other business as permitted by the Chairperson
- (2) The Commission, by simple majority vote may recess a regular or special meeting if all business cannot be finalized on the day of the hearing. No further public notice shall be necessary for the reconvening of such meeting. However, the time, date and location of such meeting shall be designated and announced by the Chairperson prior to recess. Upon reconvening the recessed meeting in which a public hearing was in process, only those members of the Commission who were present when any public hearing was commenced may participate, deliberate, and vote in the reconvened hearing.
- (3) Unless otherwise directed by the Chairperson, postponement of a scheduled hearing of a case will be considered as a withdrawal and must be given public notice as if for a new filing.

Section 7 - PUBLIC HEARINGS

- (1) Per KRS Chapter 100, the Commission holds public hearings prior to: adopting or revising the Comprehensive Plan, Subdivision Regulations or other related documents; making recommendations to the legislative bodies on text changes, zoning map amendments and other land use decisions; and other applications such as variances or conditional uses that require a public hearing prior to a decision as outlined in either KRS Chapter 100 or local zoning ordinances. In addition to these hearings required by law, the Planning Commission may hold a public hearing whenever it decides that such hearing will be in the public interest.
- (2) The order of presentation of any public hearing shall generally be as follows:
- a. The Chairperson shall call the hearing.



- b. The Staff of the Commission shall present its report concerning the application, the Comprehensive Plan regarding the proposed zoning map amendment or other issues before the Commission for hearing.
- c. The applicant shall present its case, including an opening statement and the testimony of any witnesses.
- d. Any persons representing any opposition may present their case, including an opening statement and the testimony of any witness.
- e. Likewise, any persons wishing to make a statement or ask a questions who are not represented may speak.
- f. Following the questions, statements, or testimony of each person, the opponents of such witnesses shall be entitled to cross-examine such witness.
- g. The applicant may present rebuttal witnesses.
- h. At the conclusion of the presentation of evidence and testimony, the objectors may present a closing statement, followed by a closing statement of the applicant.
- i. Following the closing statements by the applicant and the opponents, the Commission staff may present a closing statement.
- j. Following the closing statement by the staff, the Commission shall consider the petition.
- k. The Rules of Evidence shall not govern the presentation of proof before the Commission. Minimum due process standards shall govern the admission of evidence.
- l. The Chairperson may establish appropriate time limits for the presentation of opening or closing statements or presentation of evidence; the Chairperson may also limit the number of arguments deemed to be redundant.
- m. During the course of the hearing, the Chairperson will accept questions regarding procedures, interpretation of statutes,



regulations or other rules. Commission members may direct questions to the staff, the applicant, the proponents or opponents at any time during the hearing.

- n. All exhibits which shall be tendered to the Commission for examination shall be introduced and marked with the appropriate exhibit number.
- o. All witnesses presented before the Commission shall testify under oath.

Section 8 - DECISIONS

- (1) Decisions on an action by the Commission which requires an action by a legislative body shall be forwarded by the Secretary after approval of the summary minutes are approved by the Commission.
- (2) For those hearings containing a general development plan which results in a statement of development plan conditions the Secretary shall not forward the Commission's recommendation to the appropriate legislative body until a recordable set of development plan conditions containing all of the conditions volunteered by the applicant and agreed to by both the Commission and the applicant has been tendered by the applicant to the Secretary.
- (3) Upon failure to submit the recordable development plan conditions within the timeframe as set out in Section 8(1) and 8(2) above, the Secretary may place a request for action on the agenda of the next Commission meeting at which time the Commission shall reconsider the application. Additional fees will be levied for the rehearing.

Section 9 - MINUTES

- (1) The summary minutes of the meeting of the Commission, together with the video record, shall constitute the record of the Commission actions.

Summary minutes of the meeting or copies of the video record shall be made available by online means or at the expense of the requesting party.

Section 10 - EMPLOYEES AND CONTRACTS

- (1) The Commission may employ a staff or contract with planners or other persons as it deems necessary to accomplish its assigned duties and functions. The Commission shall designate one staff member to serve as Executive Director.
- (2) The Commission may employ or contract with an attorney to act as general counsel to the Commission. This attorney should be qualified to practice law in the Commonwealth of Kentucky and not be a member of the Commission or hold an office that appoints members to the Commission. The attorney shall attend all regular Commission meetings at the request of the Chairperson or Director. Compensation shall be payable from the funds of the Commission.

Section 11 - COMPENSATION TO CITIZEN COMMISSION MEMBERS

- (1) Citizen Commission members shall be compensated at a rate designated from time to time by the Commission from the Commission's appropriation.
- (2) Reimbursement for expenses may be authorized by the Commission for all Commission members.

Section 12 - FISCAL YEAR AND FINANCIAL

- (1) The Fiscal Year of the Commission shall be from July 1 to June 30.
- (2) Following the close of the fiscal year, the Commission shall have an audit prepared by a certified public accountant, licensed in the Commonwealth of Kentucky, who shall be selected by the Commission.
- (3) The funds of the Commission shall be deposited in such commercial bank(s) as may from time to time be designated by the Commission.



- (4) All checks of the Commission shall require at least two of the following signatures: Chairperson or Vice Chairperson, and the Executive Director.

Section 13 - DISQUALIFICATION OF MEMBERS

- (1) Any member of the Commission who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question. Further the member shall not participate in the deliberations of the matter when there is a conflict of interest and shall not be counted for the purpose of a quorum.
- (2) Any member of the Commission may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the power to remove a member of the Commission shall submit a written statement to the Commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the Commission, which shall be open to the general public. The member so removed shall have the right of appeal in the Circuit Court in accordance with KRS 100.157

Section 14 - GOVERNANCE

- (1) Proceedings of the Commission shall be governed by these By-laws; no other rules of parliamentary order shall be construed to govern the proceedings of this Commission.

Section 15 - PROCEEDINGS/RECORDS

- (1) Any proceedings of the Commission and all records of the Commission, unless excepted by appropriate action of the Commission or By-laws, shall be open to the public.



Section 16 - APPLICATION PROCEDURES

- (1) Every matter on which the Commission is authorized or required to act shall be presented to the Commission in writing. Applications furnished by the Commission may be supplemented by other materials as necessary.
- (2) The Commission shall, from time to time, adopt a filing fee and price schedule setting the fee to be charged in conjunction with filing various types of applications, services and publications.
- (3) An applicant for a zoning map amendment may withdraw its application at any time prior to action of the Commission or legislative body. Such request for withdrawal shall be in writing and shall be presented to the Commission for inclusion in the official record of the requested application.

Section 17 - MISCELLANEOUS

- (1) These rules may be amended at any regular or special meeting by a simple majority of the total membership of the Commission.

ADOPTED BY THE CITY-COUNTY PLANNING COMMISSION OF WARREN COUNTY
THIS THE 17th DAY OF June, 2021.

Chairperson

Attest

Just What Is the Job of a Planning Commissioner?

by PCJ Editor, Wayne Senville

The primary goal of the *Planning Commissioners Journal* has always been to help citizen planners – especially members of local planning and zoning boards – do their job better. But just what is the job of a planning commissioner?

We want to re-examine this broad question in light of what our talented contributors have had to say over the past twenty years. So go get yourself a cup of coffee or tea, sit back, and thumb through the following pages.

Some of the keenest observations on the role planning commissioners play have – not surprisingly – come from commissioners themselves. Over the years, many planning board members have drawn on their own experiences in writing for the PCJ.

An Obligation to Contribute

“Recognize that you have an obligation to contribute to your planning and zoning meeting, even if you don’t have a set of initials following your name and can’t name the planner who laid out the streets of Paris. It’s not a ‘chance’ to contribute; it’s an ‘obligation’ by virtue of your appointment. Study any staff reports, maps, and the like, and come prepared to contribute ... Planning commissions are places for people who care and want to make a difference to their communities.” – *Steven R. Burt, Sandy City, Utah* {100}

Ask Questions

“Once appointed, don’t be reluctant to ask questions of other board members and the planning staff. The staff is there to assist and advise the board. At your board’s public meetings, ask questions. Other board members, or citizens in attendance, may have the same question in the back of their mind. The old adage ‘the only dumb question is the one not asked’ is true.” – *Stephen F. DeFeo, Jr., Methuen, Massachusetts* {234}

Think Before You Respond

“Think carefully before you respond to demands from citizens and developers. Often a salient issue will come to the attention of citizens before you, as a board member, have all the



facts. Resist the urge to express your opinion until you are sure about where you stand on the issue.” – *Cheryl R. Roberts, Huntersville, North Carolina* {234}

Put Aside Your Own Biases

“Put personal preferences and prejudices aside to deliberate on technical issues and application merits, and be proactive to seek changes to local zoning laws where deficiencies have been identified.” – *Louis Joyce, Alloway Twp., New Jersey* {467}

“Try very hard to see both sides of an issue. It’s easy to vilify developers as uncaring, manipulative, and simply out

to make a profit. But remember that it is not a crime to make a reasonable profit ... With this said, commissioners have a duty to protect the public, follow the general plan, and enforce the city code – and sometimes a project just does not conform to that mandate.” – *Fedolia “Sparky” Harris, Elk Grove, California* {467}

Make the Right Decision, Not the Popular One

As Carolyn Braun noted in “Planning From Different Perspectives” {170}:

“As planning commissioners, I’m sure you have heard difficult requests from friends or neighbors that do not comply with the code. It is hard not to be empathetic with your neighbors. They stand before you, looking at you, hoping you – of all people – will understand and help them. After all, you live there. Silently, you wonder whether granting the request would be that bad. After all, it really wouldn’t hurt

continued on next page

Using this Article

Throughout this article you’ll see brackets with a number inside like this: {467}. This is the identifying number we’ve given to each article we’ve published.

When you or your community join our new *PlannersWeb* service you will be able to access the full text of each article simply by going to our web site: www.plannersweb.com; then logging in as a *PlannersWeb* member; and then inserting the article number (or the article title) in the search field.

We’ll also be posting on the *PlannersWeb* site a copy of this article – complete with hyperlinks.





Just What is the Job...? continued from previous page

anyone. What's a couple of feet in the greater scheme of things?

Similarly, you may be called on to decide applications that have evoked strong neighborhood opposition. ... Silently, you wonder how you can approve this request with so many people in opposition. How could this possibly be best for the community? ...

It is tempting as a commissioner to simply make a popular decision. It has been my experience, however, that in the long run, consistent decisions give you more credibility. Rest assured, it won't always be easy."

"The Effective Planning Commissioner"

That's the title of a column Elaine Cogan wrote for the *PCJ* for some eighteen years. Cogan, who is a founding partner in the Portland, Oregon, planning and communications firm of Cogan Owens Cogan, has for more than thirty years served as a consultant to communities undertaking strategic planning or visioning processes. She's also the author of *Now that You're on Board: How to Survive ... and Thrive ... as a Planning Commissioner* – which will be available on our *PlannersWeb* site.

In her *PCJ* column, Cogan often focused on those special attributes that can help planning commissioners be more effective – such as patience and passion:

Patience

"Patience is an essential attribute if you are to be an effective decision maker, especially in the contentious situations that often confront the planning board. You need to exercise patience over your own desire to rush to judgment after a cursory review of the 'facts' as they are presented by staff or an applicant, or seem to be borne out by your own experience. You also need to be patient with other board members who may have a different perspective or be slower to grasp complicated concepts.

Most importantly, you must be patient with the public at that inevitable public hearing or meeting. ... Each citizen deserves to be heard with patience, no matter how misguided you may think they are." – from "What Counts Most as a Planning Commissioner" {249}

Passion

"Passion is a powerful and admirable quality if it is not

expressed in a hysterical or zealous, take-no-prisoners mode. It can be a positive model when you as a commissioner show a calm but passionate advocacy for the value of planning as a vital contribution to your community's present and future livability – and when you recognize that citizens can also be rightfully passionate about their neighborhoods, the natural environment, schools, playing fields, or other matters of concern. ...

Sometimes passion can cause you to be a loner. You may have patiently listened to all the arguments on a contentious issue, weighed the information, debated openly and fairly with your colleagues, and still reached a conclusion that is not supported by the majority on the planning board. This may not be a comfortable position and would be ineffective if you are too often on the losing side. However, if you can express that passionate disagreement with conviction while not disparaging those who have other points of view, you will engender respect, and may even win over others." – from "Making the Case for Passion" in *Now that You're on Board*.



to use it. The consensus-builder can be anyone on the board who has the patience, aptitude, and interest. ..."

Since our very first issue in 1991, we've invited com-

ments from planners and planning commissioners on the first drafts of all articles submitted for publication. When space has allowed, we've also included some of these comments

can play. You'll read later about the role of the chair, but as she noted in "... And the Consensus Is" {311}, there's also an important role for the consensus-builder:

"Knowing when to vote and when to rely on consensus can contribute substantially to the smooth running of your planning board. First, it is important to acknowledge that most, if not all, decisions on legal matters require a recorded vote. Some issues require a simple majority; others two-thirds or more. These procedures should be spelled out clearly and followed precisely.

Many other issues, however, are best resolved without a vote. Voting can polarize people and create a winner/loser environment. Consensus implies that the group can come to general agreement without forcing individuals to take sides.

Is there a consensus-builder on your board? If you are the chair, do not assume you have to take that role if it is not a comfortable position for you. Your primary responsibility is keeping order and giving everyone a fair opportunity to speak. If you are not the chair but have that skill, do not hesitate

Consensus-Builders

Elaine Cogan has also written about the different roles members of a planning commission

alongside the published article – as was the case with Cogan’s article on consensus building:

“As Chairman of the Plan Commission in the Town of Dodgeville, Wisconsin, my conviction about the value of consensus building couldn’t be stronger. Democracy is, at its heart, dependent upon good citizens with fair minds who can work their way through all of the information and arguments and come to an agreement about their decision.” – Lois Merrill, Dodgeville, Wisconsin.

“Regardless of the circumstances our Chairman will go out of his way to assure that whoever wants to be heard receives their opportunity. We seem to reach consensus, at least to a great degree, in near all of our deliberations without a specific ‘consensus builder.’ . . . Any of our members will take the lead as they deem necessary.” – Bob Steiskal, Jr., Gulf Shores, Alabama.

Getting Prepped

How to run, participate in, and benefit from meetings are topics we’ve regularly covered. But it’s important to remember that the “job” of a planning commissioner doesn’t start when the meeting is called to order and end when it is adjourned.

James Shockey – who’s served as both a planner and a plan-

ning commissioner in Colorado – reminded commissioners to:

“Make sure to take the time to read and understand the information presented in the staff reports prior to the meeting. Staff really appreciates commissioners who have read their packet and we can always tell by the questions asked at the meeting who has or hasn’t.” – from “Sitting on Both Sides of the Table” {467}

Along similar lines, Cynthia Eliason – another planner who’s also served as a planning commissioner (in California) – emphasized:

“Do your homework! There is nothing worse than coming to the meeting and hearing the ripping open of meeting packets for the first time.” {467}

What’s On Your Agenda?

How much thought do we give to our meeting agendas? In many cases, not enough. As Elaine Cogan described in “First on the Agenda is the Agenda” {251}:

“The agenda is the template for your meetings. It should be developed thoughtfully so that the planning board has adequate time for matters that require attention and/or decisions and less time for ‘house-keeping’ or more routine subjects. It should delineate plainly when public comment is invited and the actions

Meeting of the O’Fallon, Illinois, Planning Commission. Chairman Gene McCoskey is at far right of photo at bottom. Note how staff uses the large screen to allow the public to easily view information about the project under review.



W. SEVILLE

expected of each item (review only; action; referral).

Many commissions leave the agenda writing to staff and may see it for the first time when they come to the meeting. This does not serve you or the public well. The best approach is for the chair, or a committee of your board, to review the agenda before it is final and for commissioners to receive it and any backup materials several days in advance.

Allow ample and early time for issues which most concern the public. . . . Put the contentious or controversial issues on the agenda early, and give them the time they deserve. Do not be offended if most of the crowd leaves as soon as you turn to other matters.”

Setting the Right Tone

One of the most important steps a planning commission can take is to set the right tone at the very start of a meeting. During my 2007 cross-country trip on U.S. Route 50, I attended a meeting of the O’Fallon, Illinois, Planning Commission. Chairman Gene McCoskey did a terrific job in creating a welcoming atmosphere. He opened the meeting by providing brief introductions of the commissioners and staff; a review of how the meeting would be run and when public comment would be taken; and an explanation of the planning commission’s role in the project review process.

McCoskey and his fellow commissioners listened intently during lengthy, sometimes angry, public comments about a development proposal on the

continued on next page





Just What is the Job...? *continued from previous page*

evening's agenda. They asked a few questions to clarify points, but basically sat and listened, and then offered the developer and his team the chance to respond. By showing an open mind and being respectful to all, the commission left those attending – whatever side they were on – knowing they had been heard.

You can listen to a four minute audio clip of McCoskey's opening remarks. Go to: <www.rte50.com>, then in the left sidebar scroll down to June 12: Introductions. You can also access the nearly one hundred posted Route 50 trip reports.

For more on the importance of setting the right tone at the start of the meeting, see Elaine Cogan's "... In the Beginning" {352}

Chairing the Commission

One place where leadership skills are especially important – along with sound judgment and an even temperament – is in the role of chair. Here's some of what Carol Whitlock, long-time chair of both the City of Merriam (Kansas) and Johnson County Planning Commissions, had to say:

"Always be fair. This is perhaps the most important responsibility of the chairperson.

Remember it is your job to give everyone their 'day in court,' not to decide who is right or wrong. (You will do that also, but outside of your job as chairman). ...

Do not allow the audience to break in when someone else has the floor. If patiently telling members of the public to wait their turn doesn't work, stop the meeting and let everyone sit and stew until it comes back under control. No need to yell, pound the gavel, or demand control. Things will settle down if all business stops until peace reigns. Only one time have I ever had to threaten to get the police to clear the room. ...

Patiently listen until every person who wishes to speak has had their say. This is where [a] time limit comes in to help you out. But more importantly, if everyone understands that they will be heard, they are much more apt to sit patiently and not disrupt the meeting.

Develop a good working relationship with your planning director (or whoever is your key staff support person). This is vital. In my years' of experience as chairperson, I have also found that meeting with our planning director before each public meeting has strengthened our relationship, while

providing me with a heads up about any unique or 'hot' items on the agenda." – from "Chairing the Commission" {183}

Show Respect

As Whitlock noted, one of the essentials of running a good meeting is showing respect to members of the public. This is important not just as a matter of civility, but also because you might actually learn something from your fellow citizens – even if you disagree with what they're saying. What's more, if the commission is to be effective in its job of planning for the future of the community, it needs the respect and support of the public.

Elaine Cogan has often spoken on the importance of respect, as in her article, "Meaningful Dialogue With the Public" {153}:

"To keep and maintain the trust of the public, it is imperative that your planning commission understands – and practices – the fine art of inviting their comments and questions and responding in a cordial and respectful manner.

It is most important to establish ground rules and enforce them. Ask people who wish to speak to sign in ahead of time and refer to that list throughout the meeting. You can then call on each one by name. If you accompany your words by a

nod or a smile, you show a welcoming acceptance. ...

Show by your body language that you are listening. Lean forward, with hands discretely on the table or in your lap. Never roll your eyes, shake your head, or tap a pencil or pen – all sure signals you are impatient or distracted.

Do not fall for 'red herrings' or baited questions. If necessary, repeat what you or other commissioners have said or explain your answer in more detail. ...

Always be polite. You may have to agree to disagree, but insults and innuendo are never appropriate. ..."

The "Riggins Rules"

Eighteen years ago we heard about the "Riggins Rules" from Arizona planner Bev Moody. They were put together in 1967 by the late Fred Riggins, then Chairman of the Phoenix Planning Commission, who titled them "Suggested Do's & Don'ts for the Conduct of Public Hearings and the Department of Members of Boards, Commissions, & Other Bodies." They've since been re-titled as the "Riggins Rules" in his honor.

While we hope you'll read all 39 of the Riggins Rules {513}, here are a few excerpts:

"• Do be on time. If the hearing is scheduled at 7:30, the gavel should descend at the



exact hour, and the hearing begin, if there is a quorum. If you have to wait ten minutes for a quorum and there are 100 people in the room, the straggler has ... created a very bad beginning for what is a very important occasion for most of those present.

- Don't mingle with friends, acquaintances, unknown applicants or objectors in the audience before the meeting or during a recess period, if it can be politely avoided. You will invariably create the impression ... that there is something crooked going on, especially when you vote favorably on the case of the applicant you were seen conversing with.

- Do your homework. Spend any amount of time necessary to become thoroughly familiar with each matter which is to come before you. It is grossly unfair to the applicant and to the City for you to act on a matter with which you have no previous knowledge or with which you are only vaguely familiar. And you will make some horrible and disturbing decisions.

- Do be attentive. Those appearing before you have probably spent hours and hours preparing and rehearsing their arguments. The least you can do is listen and make them think that you are as interested as you should be. Refrain from talking to other members, passing notes and studying unrelated papers.

- Don't use first names in addressing anyone at all during the course of the hearing. This includes audience, applicants, members of your particular body, even if the person concerned is your brother or your best friend. Nothing, repeat nothing, creates a more unfavorable impression on the public than this practice.

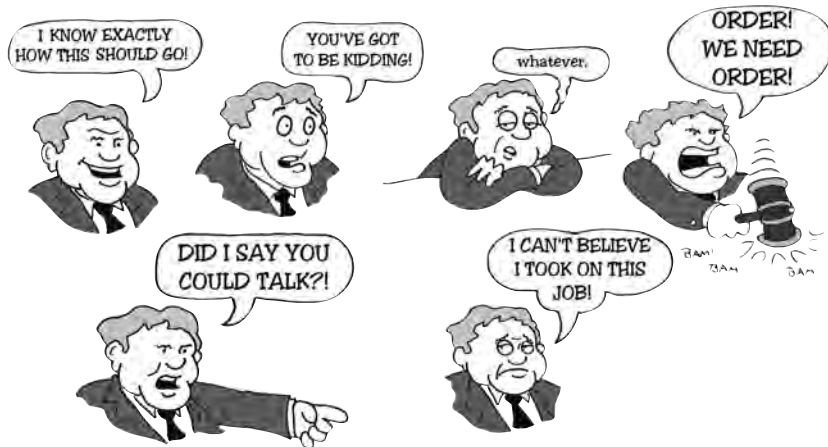
- Don't try to make the applicant or any other person appearing before you look like a fool by the nature of your questions or remarks. This is often a temptation, especially when it is apparent that someone is being slightly devious and less than forthright in his testimony. But don't do it.

- Don't forget that the staff is there to help you in any way possible. It is composed of very capable professional people with vast experience. Lean on them heavily. They can pull you out of many a bad spot if you give them a chance. Or they may just sit and let you stew, if you do not give them the respect which is their due."

If Our Meetings Could Talk

Quite a few of the Riggins Rules relate to two critically important topics we've covered extensively: ethical matters (such as ex parte contacts and conflicts of interest) and the relationship between commissioners and staff. We'll turn to them shortly. But first, allow us a few minutes to talk more broadly about the nature of meetings – and how they can be made more productive.

On this point, we need to introduce (or re-introduce) you to Mike Chandler, who for eleven years wrote "The Planning Commission At Work" column for the *PCJ*. During this time, Chandler was also the "go to" speaker at planning commission training workshops around the country. In one of his *PCJ* columns he asked what we'd hear if our meetings could talk:



"During our planning commission training sessions we spend a considerable amount of time exploring the nature of meetings. One of the more interesting exercises involves having the participants complete the following question: 'If our planning commission meetings could talk what might they say?'"

As you might suspect, this question has generated some very interesting responses. We've had meetings tell us: 'I'm happy that's over. I feel good. I've got more to do. What a great meeting. I need a drink. If that happens one more time I'll do something you will regret.' Who ever said meetings don't have a sense of humor!

Another exercise that generates much discussion involves determining why some planning commission meetings succeed while others fail.

Commonly cited reasons for successful commission meet-

ings include: the meeting started on time; the commission followed the agenda; the public was able to participate; the meeting accomplished a predetermined task; and, the meeting did not last too long.

Reasons for meeting failure usually include the absence of the attributes listed above. In addition, commission meetings may not be successful if commissioners fail to do their homework; if the commission chair is weak or ineffectual; or if the meeting sequence is haphazard or disjointed.– from "Making the Most of Your Meeting Time" {451}

Before leaving behind the arena of meetings, there are two more "pieces of business" we want to bring to your attention – first, the importance of rules of order, and second, the danger of ex parte contacts.

continued on next page

For more on how to hold effective public meetings and hearings:

- Wayne Senville, "Dealing With Contentious Public Hearings" {380}
- Ric Stephens, "Ten Things to Avoid" {347}
- Elaine Cogan, "Meeting Formats Should Follow their Functions" {248}
- Ric Stephens, "Late Nights with the Commission" {138}
- Debra Stein, "Dealing With An Angry Public" {233}
- Elaine Cogan, "How Well Do You Use Your Time?" {474}



Just What is the Job...?
continued from previous page

Rules of Order

Many planning commissioners are not familiar with the mechanics of rules of order. But they can be quite important.

As then planning commissioner Steven Burt reminded readers in "Being a Planning Commissioner" {100}:

"Be aware that the motion maker has a decided advantage in influencing the outcome of a vote. Often, if there is indecision on the part of one or more commissioners, the person making a clear, strong motion will carry votes to his or her position."

In "The Commission Will Come to Order" {388} the late David Allor provided a very helpful two page "Model Outline of Motions for Planning Commissions and Zoning Boards," which he specially adapted from Robert's Rules of Order. We urge your planning commission to take a look.

Ex Parte Contacts

For many years, planner Greg Dale has been our "in-house" expert on ethical questions facing planning board members. Dale is a founding partner of the Cincinnati-based firm of McBride Dale Clarion, and a regular at planning commissioner training workshops. He's covered topics ranging from conflicts of interest, to bias, to dealing with confidential information. But perhaps the most important subject Dale's reported on involves "ex parte" contacts. From his most recent article on the topic, "Revisiting Ex Parte Contacts" {129}:

"Fifteen years ago, one of my first *Planning Commissioners Journal* articles dealt with the topic of 'ex parte contacts.' I defined this as any contact that you have with the party involved, or potentially involved, in a matter before the planning commission outside of the public hearing process. I pointed out the perils of ex parte contacts, both from a

legal and an ethical perspective.

... As I think further about the issue, there are several reasons why I feel more strongly about the problems with ex parte contacts now.

First, over the last fifteen years, I have continued to conduct numerous planning commission training sessions at the local, state, and national level. I always discuss ex parte contacts with commissioners and it is striking how almost universal their reaction is against allowing them. Perhaps I am just preaching to the choir at planning commissioner workshops, but there appears to be a very broad recognition that ex parte contacts are potentially damaging to the process.

Second, public interest in planning and development decisions has increased as development pressures in many places have continued to mount. As many of us realize, development decisions are being made under increasingly intense scrutiny. This often includes a focus on the fairness of the process.

Quite simply, in my opinion, ex parte contacts are a bad idea and ought to be avoided... My concern is not so much with the legality of ex parte contacts

in this situation – that is for your legal counsel to address – but with how the public is likely to perceive such contacts even if they are legally permissible. ...

The simplest, clearest, and best policy is for a commission to agree not to engage in ex parte contacts. That means telling people who contact you that you cannot talk to them about a matter pending before the commission, while encouraging them to come to the commission meeting to ask their questions or give their opinion.

... One other caution on ex parte contacts ... treat email communications just as you would hard copy or oral communications. It is amazing to me how people tend to view emails as somehow being under the radar screen. The reality is that email communications ... about matters before you are likely to be considered public records, and you may be required to produce them."

Remember that your job is to make decisions or recommendations based on the evidence presented to you during the public review process, and that the public has a right to know what information you use as the basis for your decision."



Not Ex Parte Contacts

I recall when Greg Dale submitted the first draft of this article, one concern I had was to be sure planning commissioners realized that there are, in fact, many times when they can and should speak with others about planning issues. Dale agreed, and added the following section:

“It might seem to some that the concerns I’ve expressed about ex parte contacts would result in planning commissioners being insulated from the community, at the same time that we are asking them to reflect its planning values. Here is an important distinction to make: ex parte concerns relate primarily to matters that are pending before the commission, primarily related to requests for development approvals such as zone changes, planned unit developments, site plan approvals, and other similar requests that involve a specific, legally prescribed process of review.

On the other hand, we do expect planning commissions to concern themselves with long range, community-wide planning policies and issues outside the development review process. This requires planning commissioners to be in tune, and in touch, with citizens who are interested in planning issues. ...

It is entirely appropriate for commissioners to participate in community organizations and to use those opportunities to discuss planning issues ... as long as these do not involve specific case matters pending before the commission.”

Citizen Planners

In thinking about the role of planning commissioners, how

many of us are aware of the early history of planning commissions in America? Let’s take a short trip with planning historian Laurence Gerckens – national historian for the American Institute of Certified Planners and a frequent contributor to the *PCJ* – as he recounts how citizen planners helped turn around one Midwestern city {392}

“It’s easy to sit back and wait for problems to arrive at the planning commission. All of a commissioner’s time can be spent stamping out brushfires and processing standard reviews. But it is worth recalling that citizen planning commissioners were put in that position ... to provide insights into the problems and potential of the community, and to provide leadership in the solution of problems before they arise.

Consider the history of the Cincinnati Planning Commission: On January 4, 1914, a group of civic minded individuals and representatives of the community development committees of a number of Cincinnati organizations founded the

‘United City Planning Committee.’ ... Through the medium of community planning, these Cincinnatians were seeking a more rational, publicly open, and less expensive system for the provision of needed capital facilities than the system of secret agreements, payoffs, and bribes that determined public development policy in Cincinnati at the time. ...

The Committee charged [Alfred] Bettman with drafting state enabling legislation authorizing the creation of local, citizen dominated municipal planning commissions, giving these groups the power to create and adopt a general development plan for their communities. ... In May of 1915 the Ohio legislature enacted the first planning enabling law in the United States ...

The Cincinnati City Planning Commission ... helped bring order, rationality, and economy to Cincinnati through: the integration of future land-uses, transportation facilities, and public utilities and facilities in a long-range comprehensive plan; the use of the land-use

zoning power to shape future community form; and the use of carefully prepared six year capital budgets designed to allow for development while keeping tax expenditures at a low, even rate.

The bold and creative efforts of the citizen-member dominated Planning Commission shaped not only the city of Cincinnati, but also, through its example and leadership, the community planning practices of the entire country.”

– from *“Community Leadership & the Cincinnati Planning Commission”* {392}

It Happened In Chicago

Let’s take one step even farther back in time. In 1893 an event occurred in Chicago that profoundly affected the role citizens would come to play in shaping the future of their communities. Americans in the late 19th century were wrestling with the effects of rapid urban growth and development. But when they came to visit Chicago that year – as they did by the

continued on next page



CHICAGO HISTORICAL SOCIETY

millions – they were moved by a strikingly beautiful vision of the future.

As one reporter described the scene: “The world has been vouchsafed one perfect vision which will never suffer from decay ... then or now, no words can express the beauty of the Dream City, for it is beyond even the unearthly glamour of a dream.”

– Candace Wheeler writing for *Harper's New Monthly Magazine*, May 1893.

As you've probably guessed – especially if you've taken a look at the photo! – the vision of the future was found at the World's Columbian Exposition, the great Chicago World's Fair of 1893.

Gerckens put the Chicago World's Fair in perspective for planners:

“Architect Daniel Hudson Burnham, Director of Works for the Chicago World's Fair of 1893 undertook to realize the first city-scale unified design of buildings, pedestrian plazas and public monuments in America. Painted all in white, this ‘Great White City’ thrilled visitors with its beauty, cleanliness and order. It initiated the City Beautiful Movement in the United States and catapulted Burnham into leadership of the newly emerging city planning profession.

Thousands of visitors left Chicago with the belief that things could be made better back home. They began to organize local groups to plan for a visually and functionally unified new ‘civic center,’ for metropolitan park systems and tree-lined boulevards with coordinated public benches, street lights and transit stations. They sought to realize architecturally integrated

streets through laws regulating building heights and setting building setback lines.

Led by major businessmen, unofficial City Plan Committees undertook to raise the quality of the public environment to make physical America a fitting subject for public-spirited support and patriotic respect, capable of inspiring both the ambitions of youth and the visions of the industrious. The idea of America would take positive physical form through the effort of community planning commissions; it would be realized in community actions directed toward shaping and protecting the public environment. ...

The modern American planning commission is the guardian of the public physical environment. When this responsibility is forsaken, all citizens of the community, present and future, suffer losses that are ecological, cultural, and economic, as well as aesthetic.” – from “*Community Aesthetics & Planning*” [461]

Leadership

After reading Gerckens' remarks, we might ask ourselves whether we have visionary leadership in our cities and towns today – and whether planning commissioners should aspire to take on this role? As civic consultant Otis White has noted:

“The planning commission can be the perfect place for ... leadership to emerge. First, because it's where many community disputes receive their earliest hearings, so if the community needs to learn new ways of resolving disagreements, the commission can be where it learns them. Second, with its mandate for planning, the commission is already concerned with the community's future. If new ideas are needed, where better for them to be developed and aired?

What's needed in those circumstances, though, are commissioners with an interest in broader community leadership, along with the temperament,

experiences, and skills to take a leadership. ... The key is to understand how communities navigate change and where your own talents and interests lie. ... You have to be part analyst (What is my community's greatest needs? Where is it stuck?), part strategist (How could we get past this sticking point?), and part self-critic (What am I good at?).” – from “*Making a Difference: The Planning Commissioner As Community Change Agent*” [586]

The Big Picture

Over the years *PCJ* articles have focused not just on the role of the individual planning commissioner, but also on the role of the planning commission as a body – and how it can be more effective.

Many planning commissions spend much of their time in reviewing development applications or rezoning requests. Yes, these are important responsibilities, but one of the biggest challenges facing commissions is keeping their eye on the “big picture.”

That was the theme of one of the very first articles we published – written by the late Perry Norton, one of America's most respected planners. Norton not only served as the first Executive Director of the American Institute of Planners in the 1950s, but three decades later in his retirement pioneered the use of online forums to discuss planning issues.

In his first *PCJ* article, “Remembering the Big Picture” [468], here's some of what Norton had to say:



“When a shopping center is proposed, when the question of what is wetland and what isn’t hits the fan, when people line up to protest the conversion of a single family residence to some sort of a group home, the local area newspapers are quick to point out that the ‘planners’ did this, or the ‘planners’ did that.

And who are these planners? Well, they’re not those professionally trained planners, with degrees in planning. They are the members of local planning boards or commissions. They are, for the most part, volunteers, unpaid volunteers I might add, who give hours of their time, mostly in the evenings – carrying out the mandates of local and state land use planning laws.

The work, at times, gets tedious. Hours and hours of discussion as to whether a proposed land use meets the requirements of the zoning or subdivision ordinance, is consistent with all the codes, is not discriminatory, is or isn’t a landmark, and so on. There are, indeed, so many items on the agenda that board members sometimes wonder what happened to the Big Picture.

The Big Picture is, indeed, a vital part of a planning board’s responsibilities. ... The public, through legislatures, gives planning boards broad mandates. Again, the specifics vary from

one location to another, but the fact remains that people turn to planning boards to secure a high quality of living environment.

You get the picture. What society wants from its planners is something more than the processing of permits. It would like the processing of some vision, as well. Not an easy row to hoe. But enormously fruitful if faithfully tended.

The question is often posed, however: how do we deal with the Big Picture when there are so many little pictures we’re lucky to get home in time for the 11 p.m. news? One thing is certain: the board has to make it happen.”

The Planning Universe

If you’ve been a regular reader of the *PCJ*, you know that we’ve often focused on what we’ve called the “planning universe” – those individuals and groups (or planets, if you will) in the planning commission’s orbit: lawyers; developers; planning consultants; the media; and so on.

But there are three that are especially important to planning commissions: citizens; the governing body; and last, but not least, planning staff.

Citizen Input

We’ve already touched on the need to be respectful to citizens

during public hearings, in listening to what they have to say. But gaining input from citizens outside the formal hearing process is just as important.

As then Arlington County, Virginia, planning commissioner Monica Craven explained:

“An effective planning commission reaches out to the community and does not limit its interaction with the community to a single public hearing. With the help of the planning staff, the planning commission can organize and participate in outreach efforts such as public forums and walking tours, to name a few.” – from “*Planning Commissioner Perspectives*” {322}

Along similar lines, Elaine Cogan spoke of the value in planners and planning commissioners going out to actively solicit public feedback:

“It was a sunny Friday. People were at their local mall as usual, shopping, strolling, meeting their friends and neighbors. Prominent among the storefronts, in the center of all the activity, was something new: a display about Our Town – what it is and what it might become, depending on the planning decisions that soon would be made.

Maps and drawings and possible alternatives in simple text were displayed attractively. Staff and commissioners stood nearby to engage onlookers in conversation and entice them to participate.

People were invited to stay as long as they liked – to write their comments on the displays and handy pads of paper, talk to planners, fill out questionnaires, and otherwise participate in a low-key but important exercise to help determine their community’s future.

From more than 25 years experience designing and facilitating public participation processes, it is obvious to me that the most successful are those where we go out to the people – not expect them to come to us.” – from “*Getting Out to Where the People Are*” {383}

Engage the Community

As Otis White noted in “*Getting Power By Giving It Away*” {313}: “By itself, a planning commission has limited powers. But allied with an involved and supportive community, its powers can be enormous.”

continued on next page

More articles on citizen involvement in planning:

- Michael Chandler, “Citizen Planning Academies” {309}
- Thomas Miller, “Citizen Surveys: Taking Your Community’s Pulse” {377}
- Elaine Cogan, “Habla Usted Espanol?” {112}
- Elaine Cogan, “On Gauging Public Opinion” {314}
- Kathleen McMahon, “Public Outreach Through Video” {256}
- Kit Hodge, “The Next Generation of Your Planning Commission” {250}



Just What is the Job...?
continued from previous page

That means that neighborhood associations and other community groups should be places planning commissioners are familiar with.

In “Engaging the Public” {161}, planner Larry Frey pointed out that:

“One of the best ways to engage citizens in planning is by going out to their neighborhoods. Neighborhood-based planning is an old concept with tremendous power, but it is not used enough. While it may work best in municipalities which tend to have more distinct neighborhoods, rural areas can benefit as well, by identifying activity centers that target organized groups. ... Meetings should be held in the neighborhood, allowing input to flow more freely and pertinent issues to unfold.”

For more on how neighborhood associations and groups can help strengthen the local planning process, take a look also at Lila Shapero’s “Bowling Together: The Role of Neighborhood Associations” {371} As Shapero noted:

“Bringing neighborhood associations on board helps makes them part of the solution, rather than an obstacle, in planning the community’s future. At the same time, their input can deepen planners’ and planning commissioners’ understanding of neighborhood issues.”

Lisa Hollingsworth-Segedy drew our attention to another way of better understanding peoples’ issues and concerns:

“My grandmother used to tell me, ‘We have two ears and one mouth because listening is twice as important as talking.’ ... A few years ago, Jim [Segedy] was working with a rural Midwestern community to develop a new comprehen-

sive plan. The interviews with elected and appointed officials had gone well, and the public meetings were well attended, but the actual usable community input was sparse. So in an infrastructure focus group, I asked, ‘What was the most exciting day in your town?’

Right away several folks talked about the tornado that had hit a few years before. From their stories of the storm striking with no warning, residents suddenly realized that a storm warning siren network was an important infrastructure and public safety need they had overlooked when writing their new plan. ... The act of listening to someone’s story allows them to listen to it as well – this is empowerment at the most basic level.” – from *“Inviting Them In: Using Story as a Planning Tool”* {421}

Planning Commissions & Governing Bodies

In thinking about the relationship between a planning commission and the local governing body, it’s important to recognize the very different roles each plays – while also keeping in mind how the two are intertwined.

In one of the early issues of the *PCJ* we ran an article by Pamela Plumb, who had served both as Mayor of Portland, Maine, and on the City Council – and was also a past president of the National League of Cities. Plumb provided an overview of the relationship between the two bodies:

“There has always been a delicate dance in the relationship between Town Councils and their appointed Planning Boards. Perhaps it comes from the community emotion that inevitably surrounds local land use issues. Perhaps it is rooted in a lack of clarity about their different roles. Whatever the origins of this tension, the relationship is frequently a source of debate and occasionally a source of friction. ...

The two groups have distinctly different jobs. Councilors are policy makers. They are elected by and are responsive to the public whom they represent in all its various constituencies. The Board members, on the other hand, are not policy makers. They are appointed to work within the ordinances adopted by the Council. They work within already established policy and do not change policy based on public comment.

Even if the room is packed with citizens arguing that a permitted use be denied in a site plan hearing, it is not the Planning Board’s role to change what is or is not permitted. It is their role to apply the given ordinance. If the public does not like what the ordinance permits, then the Council is the place to get it changed. Similarly, if the Board is concerned about the impacts of applying a given ordinance, their option is to recommend changes to the Council.

Even in the process of rewriting or developing new ordinances, the Council is still the policy maker ... [it] gives a sense of direction to the Board. The Board then uses its specialized background and expertise to make recommendations back to the Council. The recommendations may be creative and far reaching. They may be more complex or technically innovative than the Council ever imagined. But, it is the Council that makes the final decision with whatever political considerations it deems appropriate.

Each role is vital to a smoothly functioning community. But they are separate. If the Board tries to set policy or the Council tries to interfere with the application of the ordinance or fails to value the technical advice of the Board, confusion and trouble will follow.” – from *“Town Councils and Planning Boards: A Challenging Relationship”* {584}



Not Having the Final Word

As Mike Chandler once observed: “Not having the final word can be a difficult thing – especially when the commission expends great amounts of time and energy only to have its advice rejected by the governing body (though, hopefully, this

will not happen too often)."

But, as he added: "Don't let this discourage you. Instead, look for ways your commission can advance the cause of good planning, and strengthen its relationship with the governing body. Remember that as a planning commissioner you're responsible for focusing on the long-term. Most elected officials appreciate this forward thinking role because it allows them to gauge the public's receptivity to future courses of action." — from *"Linking Elected Officials with Planning"* {139}

Remain Above Politics

Don't forget this advice from Jim Segedy:

"The planning commission's marching orders are to provide the best advice to the governing body as laid out in the comprehensive plan, mindful of the potentially evolving notion of the health, safety, and welfare of the whole community. Planning commissioners MUST remain above politics." — from *"Putting Some Oomph Into Planning"* {560}

Consider also some cautionary words Greg Dale wrote about the relationship between elected officials and planning commissioners.

"As an appointed planning commissioner you are not designated to represent any special interest group. Neither are you appointed to represent the 'voice' of an elected official. More specifically, as a planning commissioner you have an ethical obligation to remain in a position of objectivity and fairness.

Your position should not be used to seek political favors, nor should you create a perception that you are seeking political goodwill in your action. Any time you take a position at the urging of an elected official,

you run the risk of tainting your credibility as an objective decision-maker. In addition, contacts that you have outside of the public meeting process may fall in the category of ex parte contacts." — from *"Who Do You Work For?"* {545}

Staff Relations

It almost goes without saying that if planning commissioners and staff don't have a good working relationship, the community's planning efforts will be badly handicapped. It is essential for both commissioners and staff to understand their respective roles, and to work cooperatively.

In "Sitting on Both Sides of the Table" {467}, several planning commissioners who have also worked as professional planners spoke to this:

- "The ideal situation is that the board and staff see themselves as a team, each with distinct but equal roles. Staff is there to do the heavy lifting regarding the board's submission standards and plan reviews and the board's job is to determine if the submission meets the relevant approval criteria." — Aaron Henry, Danvers, Massachusetts.

- "Open communication is the best way to have a great

working relationship. Talking outside of the monthly meetings is a great way to build a rapport between staff and commissioners. Communication is the key." — Austin Bless, Winnebago, Minnesota.

- "Don't take the staff or the professional planner's word on everything. Ask for an explanation. Commissioners need to understand that the staff's job is to interpret the regulations but the decision making process is not just a checklist. There is room for subjectivity as well, otherwise there is no need for the commission." — Tim Jackson, New Orleans, Louisiana.

Along these lines, Greg Dale in "Independent and Informed" {133} noted that: "Planning commissions should take full advantage of staff expertise in making decisions. However, both commission and staff should recognize the obligation of the commission to act in an independent manner."

We'll leave the final word in our overview of the role of the planning commissioner with Elaine Cogan. In "Staff Needs a Little TLC, Too" {440} Cogan reminded planning commissioners to:

"Resist the temptation to 'micro-manage' ... you are not expected to be a professional



planner. Indeed, you would be less effective as a citizen planning commissioner if you were. Even if you are a successful professional or businessperson, it is not appropriate to try to tell the planning director whom to hire or fire or how you think the agency should be managed. You should have more than enough to do studying the issues and making policy decisions."

From my own experience as a planning commissioner, I can say "amen" to Elaine Cogan's remarks — and to the many thoughtful comments and suggestions we've heard from commissioners, staff, and others across the country over the past twenty years. Thank you all for making my job as editor of the PCJ so much easier.

PlannersWeb

We hope you enjoyed this overview of what planning commissioners do. As we mentioned at the start, when our redesigned and updated *PlannersWeb* site is up and running this summer, you'll be able to access the nearly 500 articles we've published — including all the articles referenced in what you just read. Join us as charter members as we move online. ♦

Wayne M. Senville has been publisher and editor of the *Planning Commissioners Journal* since its founding in

1991. Senville was also honored to serve as a member of the Burlington, Vermont, Planning Commission for eleven years, including three as Chair.



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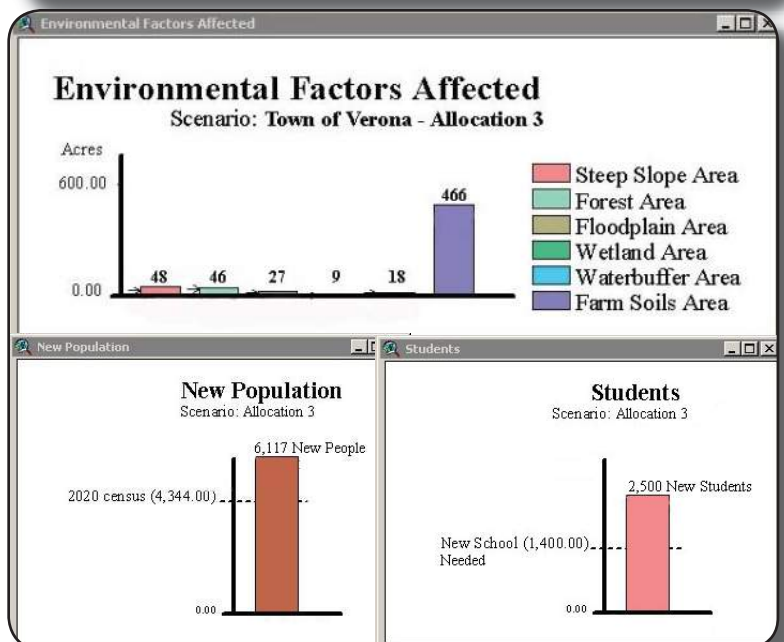
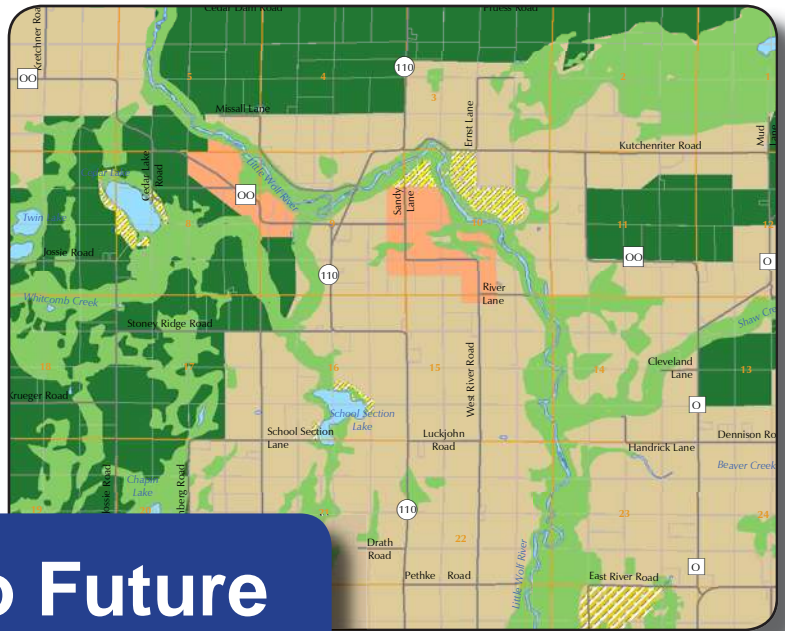
Citizen's Guide to Future Land Use Mapping

Prepared by:
Douglas Miskowiak
Project Planner
Center for Land Use Education
University of Wisconsin-Stevens Point

August 2006



Center for Land Use Education





Center for Land Use Education



Cover photo credits: (top) Future Land Use map developed by the Town of Union Plan Commission; (center) staff photo; (bottom) collage of charts from UW-Madison, LICGF.

The Center for Land Use Education is located at the University of Wisconsin - Stevens Point

No state tax revenue supported the printing of this document

Project Partners

This bulletin is part of CLUE's collaboration with the United States Department of Agriculture, Natural Resource Conservation Service, the Global Environmental Management (GEM) Education Center, and the University of Wisconsin-Extension, entitled, "Partnership for Community Planning—Models for Land Use Education, Planning, and Management".

Contributions

The author would like to acknowledge the following organizations and people for their contribution to this document. Any mistakes or omissions remain the responsibility of the author.

Waupaca County Board, Waupaca County Core Planning Committee, and local municipal plan committees, for providing CLUE access to the Waupaca County Comprehensive Planning Process.

Mike Koles, Waupaca County UWEX Community Resource Development Educator and Dave Thiel, Waupaca County Economic Development Corporation Executive Director for facilitating CLUE's exploration of innovative planning techniques and research.

Richard Heath, Bay-Lake Regional Planning Commission; Mike Koles, Waupaca County UWEX; Jason Laumann, Northwest Regional Planning Commission; Nic Sparacio, Foth and Van Dyke; Ron Tchida, Global Environmental Management Education Center; Steve Ventura, Land Information and Computer Graphics Facility; and CLUE staff for helping edit this document.

Disclaimer

Maps crafted by Foth and Van Dyke are applied in this document as part of a partnership between Waupaca County and the Center for Land Use Education. The Center for Land Use Education provided technical and educational services in the Waupaca County Comprehensive Planning Process. Map documents are owned by Waupaca County and its municipalities.



Introduction

Have you ever wondered how planners create the future land use map? You know – that map that shows what the community wants to look like 25 years from now. It shows where the community wants houses to develop and where they want to protect farmland and open space. This guide is for citizens, plan commissioners, and local public officials that wonder, “How is a future land use (FLU) map developed?”

After reading this guide you will:

- Know what a future land use map is
- Recognize the information and techniques used to develop a preferred FLU map
- Understand how the public can be involved
- Learn how to use the FLU map for effective decision-making

Though this guide is not intended to make experts out of citizens, it should equip them to more effectively work and communicate with professional planners.



What is a Future Land Use Map?

Map of a Community's Desired Future

The FLU map shows a community's preference for how it wants to use its public and private lands within a given timeframe, commonly 25 or more years. The map shows the community's shared vision regarding where houses and businesses should be built, where farmland and other open spaces should persist, and where recreational opportunities should expand, among others (see Figure 1).

Not an Exact Prediction

The FLU map is not an exact prediction of future land use patterns, although planners do use forecasting and analysis tools to allocate land uses in probable locations. FLU mapping instead estimates what the community may look like if population, housing, and employment forecasts prove true, and if land policies, implemented to reach the desired future, are successful. Human behaviors are difficult to predict because they are not dictated by biophysical factors alone (i.e., food, water, shelter). The ways humans make decisions, hold values, develop culture, and use technology influence how land is allocated and make accurate forecasting difficult. For example, it is unlikely that planners could, with any accuracy, predict the closing of a large corporate plant over a 20-year time span.

Guide for Policy Making

The FLU map is not a policy, but rather a guide for land use policy making. Planning officials should aim to develop land policies that work to achieve the desired future land use pattern delineated on the FLU map.

Since the FLU map is the community's collective vision of their preferred future, it becomes the local governing body's responsibility to implement policies that help to make the community's vision a reality.

Not an Official Map or a Zoning Map

The future land use map should not be confused with an official map or a zoning map. Whereas a FLU map is used as a guide for policy making, official and zoning maps are actual policy documents designed to achieve a preferred future. An official map may show existing and planned streets, highways, historic districts, parkways, parks, playgrounds, railroad right-of-ways, waterways, and public transit facilities. A zoning map displays where zoning district boundaries are located. The zoning map accompanies text that describes what uses are permitted or conditionally permitted within each zone.

Indicator of Policy Performance

The adopted FLU map can be used as a measurable indicator of land policy performance. As land uses change subsequent to planning, changes can be monitored in comparison to the adopted FLU map. Local planners and commissioners use the comparison to identify if land uses are changing in the locations and in the amounts desired, according to the plan. If land uses are not changing as planned, local officials must reconsider land policies or reassess planning goals and objectives.







FLU Mapping is Part of a Process

FLU mapping is part of a land use or comprehensive planning process. A rational approach is commonly used to tackle land use and comprehensive planning in discernible stages.¹ CLUE describes a rational approach for preparing a plan in five stages:

1. **Data Collection and Analysis:** Data is collected and analyzed to help decision-makers base judgments on good information.
2. **Issue Identification:** The public identifies issues, opportunities, and desires to help planners focus the planning effort on relevant community concerns.
3. **Goal and Objective Setting:** The community sets goals and objectives to address identified planning issues.
4. **Strategy Formulation:** Land policies, educational strategies, and physical designs are crafted and assessed to attain

¹ For simplicity, CLUE describes a rational approach to planning in linear fashion. In practice, however, planning happens iteratively to address additional needs and new information.





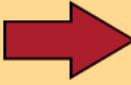
Figure 2. FLU Mapping in the Planning Process

Planning Phases	Pre-Planning			
Planning Stages	 Community Diagnosis	 Process Design	 Data Collection & Analysis	 Issue Identification
Planning Tasks (related to future land use mapping)	<ul style="list-style-type: none"> • Determine purpose and readiness for planning. • Explore preliminary issues and concerns. • Profile existing plans and implementation tools for their effectiveness. • Build capacity to conduct planning. • Identify participants and stakeholders. 	<ul style="list-style-type: none"> • Design the planning process. • Identify opportunities for public participation and education. • Establish roles, responsibilities, and membership of groups involved in planning. • Establish budget and identify funding sources. 	<ul style="list-style-type: none"> • Collect “place-based” data (i.e., land use, land cover, soils, etc). • Collect population, housing, and employment forecasts. • Develop current land use, trends, and patterns, maps. • Inventory current land uses and existing land features. 	<ul style="list-style-type: none"> • Identify key community issues, challenges, opportunities and desires. • Verify and support issues using local data and analyses.
Public Participation (selected examples—not an exhaustive list) (communities should select methods relevant locally)			<ul style="list-style-type: none"> • Public awareness and education. • Public mapping exercise. Community members verify accuracy of maps and current land use data. 	<ul style="list-style-type: none"> • Public awareness and education. • Public forum, focus groups, or workshops to identify community issues, opportunities, and desires.

community goals and objectives.

5. Plan Review and Approval: A public hearing is held to voice concerns and comments about plan strategies. The Plan Commission recommends the preferred plan to the local elected body for adoption.

A tangible FLU map commonly emerges in the “Strategy Formulation” stage, however, the other stages are critical to the development and approval of the FLU map (see Figure 2.)

Planning			Post-Planning	
 Goal & Objective Setting	 Strategy Formulation	 Plan Review & Approval	 Implementation	 Monitoring & Assessment
<ul style="list-style-type: none"> • Set goals and measurable objectives related to planning issues. • Develop measurable indicators to monitor progress towards stated goals and objectives. 	<ul style="list-style-type: none"> • Develop alternatives to meet goals and objectives. • Identify places suitable for achieving goals and objectives. • Identify possible implementation strategies. • Assess the environmental and social impacts. • Select preferred alternative and strategies. 	<ul style="list-style-type: none"> • Present plan for public review. • Modify plan to resolve inconsistencies and reflect public concerns. • Plan commission recommends final draft of plan for adoption. • Governing body holds public hearing and formally adopts plan. 	<ul style="list-style-type: none"> • Develop or amend required implementation tools. • Apply implementation strategy. 	<ul style="list-style-type: none"> • Monitor progress towards achieving stated plan goals, objectives and indicators. • Review and revise plan and associated implementation tools as needed.
<ul style="list-style-type: none"> • Public awareness and education. • Public input to provide opportunity for public to voice concerns over goals and objectives. • Community plan commission to set realistic and measurable goals and objectives. 	<ul style="list-style-type: none"> • Public awareness and education. • Public selects relevant development constraints. • Interactive GIS. Public reviews and modifies FLU alternatives. • Community plan commission modifies and selects preferred alternative. 	<ul style="list-style-type: none"> • Public awareness and education. • Public hearing to garner public input concerning the plan. 		

How is a Future Land Use Map Created?

This guide describes the process of creating a FLU map in three phases:

1. Explore the Landscape
2. Measure the Future Demand for Land
3. Develop and Assess FLU Alternatives

Phase I. Explore the Landscape

Where are we now? Where have we been?

Before looking to the future, planners often ask, “Where are we now and where have we been?” Understanding the present and the past are essential before mapping the locations of future land uses. Information about existing conditions and past trends provides valuable insights into where a community might be headed. Maps are a good way to deliver this information. Maps help the public, officials, and planners communicate more effectively with each other. The existing land use map and other thematic maps help planners and citizens alike take inventory of their communities, learn from it, and use it to make better future land use decisions.

Existing Land Use Map

The Existing Land Use (ELU) map is a typical product that emerges out of a comprehensive or land use planning process. It displays the location and extent of various land uses, such as residential, commercial, parks, and agriculture under current conditions, usually a date in the recent past (see Figure 3).

Data

To map ELUs, planners begin with data available to them. Ortho-rectified aerial photography, or orthophotography, and tax parcels are both useful for mapping ELU. With orthophotography, technicians delineate land uses into distinct geographic areas by examining, interpreting, and then digitizing areas of the photo. For example, if the technician who examines the photo sees a roof, lawn, and a driveway, she will digitize (digitally draw) a polygon around that area and record it as “residential” in the database. With parcels, a tax assessor personally examines the property, identifies land uses, their acreages, land and structural improvement values, and then records it for the entire parcel (see Table 1 on page 10).

When digital data are unavailable (now rare in Wisconsin), hardcopy land use maps can be used as a starting point. Hardcopy maps likely show ELUs from an earlier time and must be physically verified for accuracy using a windshield survey. The technician will physically take the map and drive the landscape looking for changes to land use. Other data, such as permitting records can also be used to identify changes that have occurred after the hardcopy map was published.

Land Use Classification

Land use classification codes represent land uses on the map. Once a technician identifies and interprets an area on the ground, she labels that area according to a classification. There are several standard



Table 1. Benefits and Drawbacks of Tax Parcels and Interpreted Orthophotos for Identifying Existing Land Uses. The green cells indicate benefits, the red cells drawbacks and the white cells are neutral.

	Tax Parcels	Orthophoto Interpretation
Data Updates	Updated at land transaction.	Updated when a new aerial flight is budgeted, planned, and flown, new photographs are shot, and interpretation is completed. Time intervals vary.
Costs	Costs are built into the land records keeping and tax assessment process.	The process of planning, flying, stitching photographs, and then interpreting photographs is expensive.
Accuracy	Accuracy lies with the tax assessor.	Accuracy lies with the photo interpreter.
	Incorrect classifications that error on less valuable property are not likely to be contested.	Better suited for mapping natural resource-based land uses.
	Multiple land uses within single parcels are identified and acreage is noted in the database, but their locations cannot be identified within the parcel.	Delineates multiple use landscape based on photo inspection.
	Identified residential parcels 42.9% more accurately than aerial photo interpretation (Carlson).	
Flexibility	Basic classification defined by the Department of Revenue. Can lead to consistency among various communities' maps.	Various pre-defined or locally defined classifications can be used. Land use classifications can range from very basic to very specific.

coding schemes that can be applied to classify land uses. The American Planning Association has created a coding scheme called the Land Based Classification Standard (LBCS) that classifies the Activity, Function, Structure, Site Development, and Ownership of the land. For classifying land use, the activity and function codes are predominantly used. The WI Department of Revenue has codes which tax assessors follow to assess real estate and are attached to parcel data (see Table 2). Other coding schemes are also used. For example, Bay-Lake Regional Planning Commission developed their own classification system in 1975 based on Standard Industrial Codes. Planners sometimes deviate from standard classifications when it benefits their clients or better represents local land

uses. Planners, however, strive to apply classifications in a uniform fashion. Using uniform classifications allows communities to more easily compare their land uses and identify actual similarities and differences.

Planners try to limit the number of classifications they use, especially for FLU mapping. Limiting the number of classifications helps make map reading and decision-making more manageable, but conversely limits the amount of information available to make decisions. Therefore, ELU maps often contain a higher number of classifications than FLU maps.

Thematic Maps

In addition to the ELU map, other map products are created that also support



Table 2. Land use classification examples (Department of Revenue and Land Based Classification Standards)

Department of Revenue Tax Assessment Codes			Land Based Classification Standards	
Type	Class	Code	<i>Note: Only the Function codes are displayed below. LBCS has classifications for Function, Activity, Ownership, Site, and Structure. These classifications, their definitions, and color coding suggestions are found at http://www.planning.org/lbcs/.</i>	
Residential	1	A	Function Codes	
Commercial	2	B	1000 Residence or accommodation functions	
Manufacturing	3	C	2000 General sales or services	
Agriculture	4	D	2100 Shopping	
Undeveloped	5	E	2110 Goods-oriented shopping	
Agriculture Forest	5m	5m	2120 Service-oriented shopping	
Forest Lands (Prod)	6	F	2200 Restaurant-type activity	
Other	7	G	2210 Restaurant-type activity with drive-through	
			2300 Office activities	
			2310 Office activities with high turnover of people	
			2320 Office activities with high turnover of automobiles	
			3000 Manufacturing and wholesale trade	
			4000 Transportation, communication, information, and utilities	
			5000 Arts, entertainment, and recreation	
			6000 Education, public admin., health care, and other inst.	
			7000 Construction-related businesses	
			8000 Mining and extraction establishments	
			9000 Agriculture, forestry, fishing and hunting	



Figure 4. Town of Union Plan Committee uses thematic maps to help make decisions.

FLU mapping. Maps that display natural, cultural, and historic resources, ownership patterns, land use trends, and an endless host of other thematic maps can be created to learn more about the community and how it could grow or change. In Waupaca County 2003-2007, thematic maps were used by local plan commissions to make future land use and policy decisions (see Appendix A and Figure 4).

Other maps analyze land use patterns and trends to help planners and the public better understand, “How did we get where we are?” and “Where have we been?” Two maps, created by the UW-Madison, Land Information and Computer Graphics Facility, provide great examples. One map identifies a unique residential land use pattern just outside Madison, Wisconsin. After further inspection, planners noted that development was attracted here in

large part due to the glacial end moraine. The moraine provided soils suitable for septs and access to scenic vistas of rolling farmlands and forests (see Figure 5). In addition, this area is outside of the city of Madison’s extraterritorial jurisdiction.

The second map displays changes in developed land uses over a three-decade timeframe (see Figure 6). Historical land use data uncovered that development in Dane County has become more sprawling and less dense over time. With information from analyses like these, local decision-makers have the best possible information to make important land use decisions about the future.

How is the Public Involved?

Planners know by experience that existing land use data and other thematic data are not 100 percent accurate. For example,

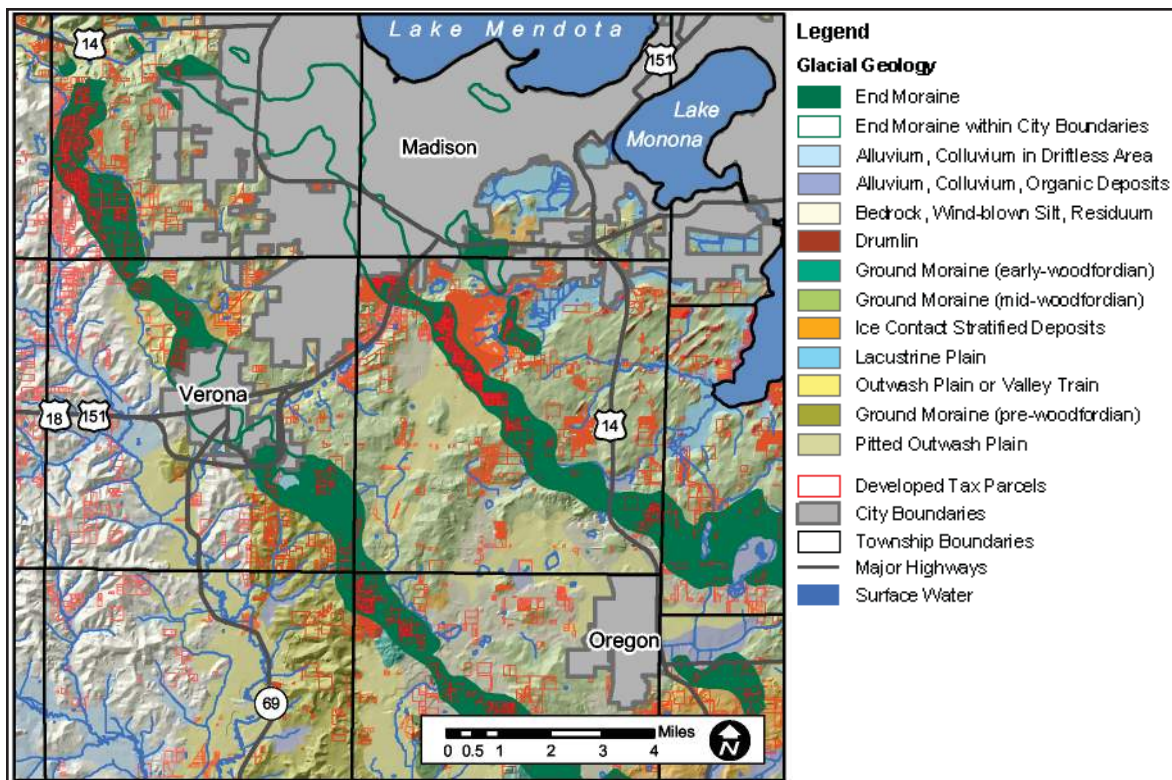


Figure 5. Glacial driven development. Courtesy UW-Madison, LICGF, Created by Douglas Miskowiak, 2000.

orthophotos can be misinterpreted and changes might have occurred since data were last acquired. Map information and its accuracy are important to the credibility of the process. Maps are planning products that the public can relate to, because they see how the map affects or relates to places they know. Mark Walter, the director of Bay-Lake Regional Planning Commission, put it this way. “Maps should bring about a certain amount of confidence that the public can connect to the remainder of the process. If the credibility of the maps is questionable, the credibility of the entire process can come into question.”

To help, the public is often involved to ensure that data are accurate. Because local plan commissioners and members of the public have an intimate knowledge of their

community, they are well suited for updating and revising maps. In Waupaca County, each local planning commission was responsible to check each map for accuracy. Commission members identified errors on the map and sent them back to the consultant to make changes. For existing land uses, a windshield survey is often used to check the accuracy of the map. Planners or citizens conducting a windshield survey typically compare a draft hardcopy ELU map by inspecting land uses while driving along local public roadways. When an area of the map differs with that on the landscape, the discrepancy is noted on the map and changes are made in the computer database.

Involving the public to check data provides an opportunity for public understanding and ownership of the data. Involving local

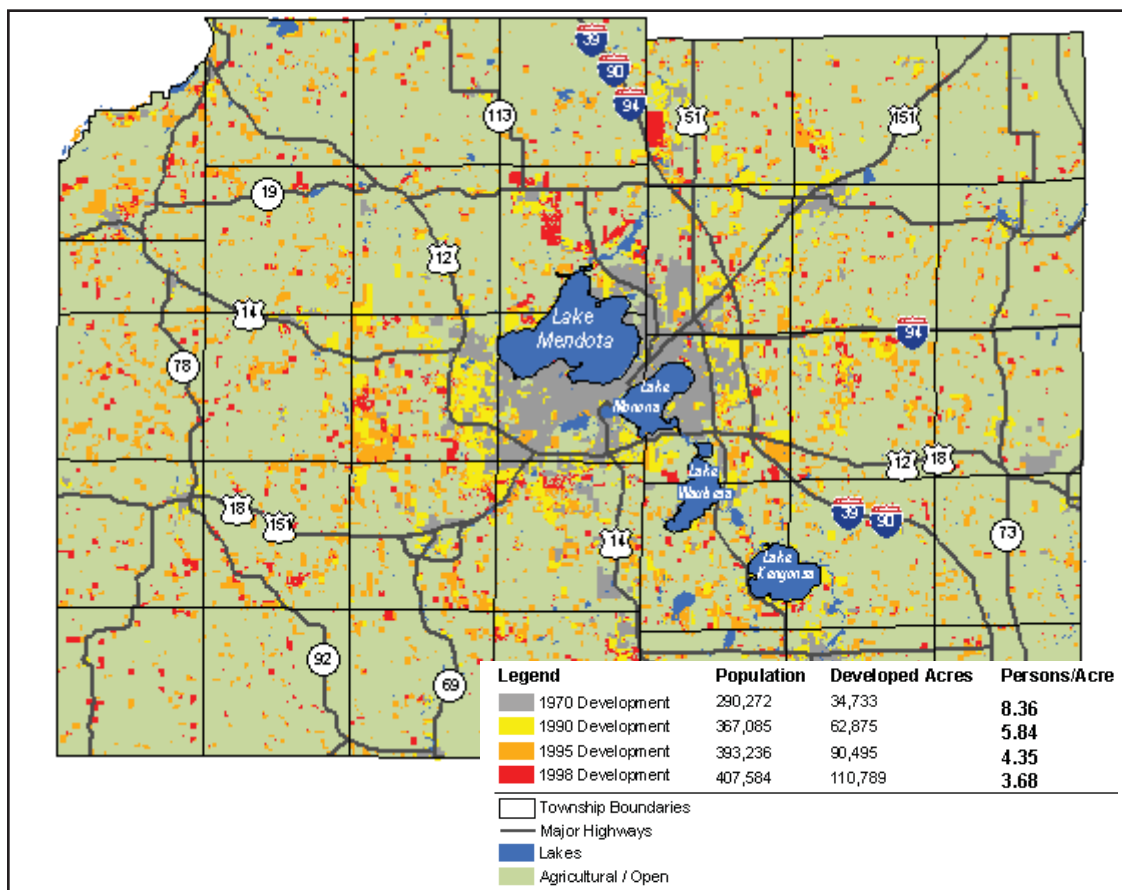


Figure 6. Patterns of Development: 1970-2000. Courtesy UW-Madison, LICGF, created by Douglas Miskowiak and Math Heinzel, 2000.

commissioners and citizens not only helps the planner, but builds the capacity of the public as well. Helping to update data helps the public better understand the data, know how it is created, know what it represents on the land, and understand its limitations. Helping to build the data also gives decision-makers greater confidence in using the data for decision-making.

Phase II. Measure Future Demand for Land

How much land is needed?

New houses and businesses require land. New residents and business owners demand more public services and amenities, such as roads and community parks. These uses also require land. Communities seeking to maintain or grow their agricultural, forestry, and tourism-based economies must allocate land to accommodate them. Land uses consume land. In Phase II, planners estimate how much land is needed to support these future uses.

Decision-makers need to know if land policies are realistic. By estimating how much land is needed to support future land uses, planners provide decision-makers with a reality check. Can the community absorb 250 new houses at “two-acre minimum” densities, grow their agricultural economy, and still protect the natural and cultural resources that residents value? Estimates of land demand compared to available land supplies offers fundamental information to base good decisions.

How is Demand for Land Measured?



Future Residential

Measuring future demand for residential land is common in comprehensive planning. To measure how much future residential

land is needed, planners determine two things:

1. How many housing units are expected?
2. At what density will housing units be developed?

To identify how many future units are expected, planners collect information about human populations, households and housing units.

- **Population Projections:** Estimates of future populations based on past trends of births, deaths, and migration in and out of communities.
- **Households:** A measure of the actual number of households in a community not including group quarters. A household includes all persons who occupy a room or group of rooms as their separate living quarters. A residence where ten or more unrelated persons live is considered a group quarters.
- **Housing Units:** An estimate measure of the total number of houses, apartments, group of rooms or a single room intended for occupancy as a separate living quarters authorized by building permits. Group quarters and transient living quarters, such as nursing homes or motels and mobile homes are excluded from U.S. Census estimates (http://quickfacts.census.gov/qfd/meta/long_241962.htm.)

Once planners acquire population and household data, they compare it to acreages of existing residential land use to identify the current trend. This method of measuring residential demand for land is labeled the “ratio method.” Many planners use this method for assessing future residential demand in comprehensive plans.



If planners know:

- Existing population, households, or housing units,
- Existing residential acreage, and
- Future population, households, or housing units

Planners can then identify:

- How many residential acres are needed in the future, under this trend or at various other densities

For example, in 2000 the Town of Helvetia in Waupaca County had 649 people and 362 housing units. Existing residential acreage in 2000 was 374 acres. In 2000, just over one acre of land is consumed for every housing unit. If that trend continues over the next 30 years and 200 housing units are added, then 200 acres of residential land will be consumed. If density decreases to ten-acres per housing unit, then Helvetia should expect to allocate 2,000 acres of residential land.



Future Commercial and Industrial

The process used to measure demand for future commercial and industrial land varies depending if the community is urban or rural. Planners interviewed in 2005 all state, with reservations, that they measure future demand for commercial and industrial land using the ratio method. Business growth, especially in rural areas, is sporadic. Predicting growth with accuracy is difficult. The relationship between job growth and land needs is far less linear than that between population growth and land needs. To compensate, planners rely on the local public to help provide a better estimate of what they predict or what they want to come to the community.

In urban areas or highly urbanizing rural areas, the ratio method may not prove any more accurate, but planners can conduct

more sophisticated analyses to measure business demand more accurately. The U.S. Census Bureau has data available to better analyze trends in commerce and industry. The Census Bureau conducts an economic census that provides statistics on local employment and business. Using data like these and conducting other analyses in the community can help uncover how many jobs are expected and how many square feet of new business space is needed. These statistics can then be converted into acreage of land needed to accommodate future business.



Future Parks and Open space

Parks and open spaces provide opportunity for recreation, tourism, and even wildlife habitat. The value of park and open space is attributed to enhancing physical and emotional health and economic development. Communities determined to maintain or increase quality of life and economic development will consider assessing demand for parks and open spaces. Decision-makers need to know if the needs of residents and other resource users are met. Do existing resources meet current needs? What resources are needed to accommodate the future needs of our residents, children, tourists, and sports enthusiasts?

Professional planners commonly use three approaches to assessing needs for parks and open space.

Standards Approach

The standards approach compares a community's park and open space resources to a national minimum standard, commonly set by the National Recreation and Park Association (NRPA). This approach measures the number of facilities,



Table 3. Dodge County Parks Assessment

Space (Acreage) Needs: Dodge County 2000-2020

Type of Park	Existing Acreage	Standard	Minimum to meet Standard		Amount Above (or Below) Minimum Standard	
			2000	2020	2000	2020
Neighborhood:						
Playgrounds	93.6	2.5/1000 People	214.7	246.3	(121.1)	(152.7)
Parks	106.7	2.5/1000 People	214.7	216.3	(108.0)	(139.6)
Subtotal:	200.3	4.5/1000 People	386.5	443.3	(186.2)	(243.0)
Community:						
Playgrounds	755.4	3.0/1000 People	257.7	295.5	497.7	459.9
Parks	529.0	5.0/1000 People	429.5	492.6	99.5	36.4
Subtotal:	1284.4	8.0/1000 People	687.2	788.1	597.2	496.3
County:						
Parks	382	4.0/1000 People	343.6	394.1	38.4	(12.1)
Totals:	1866.7	16.5/1000 People	1417.3	1625.5	449.4	241.2

* Average inventory records include Harnischflegler County Park purchased in 2004.

playground equipment, or number of open space acres to a number of people. Dodge County uses this approach to assess their parks (see Table 3). For example, Dodge County falls 121.1 acres short of meeting the minimum playground standard of 2.5 acres per 1000 people.

Demands Approach

The demands approach assesses needs by studying the users of parks and open spaces. Public participation methods are used to identify if current resources are adequate or if additional facilities are desired by users. Bay-Lake Regional Planning Commission asks community members about what they desire before assessing needs for future parks and open spaces. After hearing from the community, planners at Bay-Lake can better assess how much land is needed for parks and open space in the future.

Resource Approach

The resource approach entails identifying

specific areas where new parks and open spaces are appropriate based upon their unique or exceptional characteristics. The resource approach is helpful to a community vying to market to residents and tourists based on physical and natural resources. Dane County Parks Department uses the resource approach to identify unique natural resources for protection that fit broader community goals and objectives.

***Future Productive Agriculture and Forest Lands***

Measuring future demand for productive agricultural and forest land is not common in comprehensive planning. Some communities see agriculture and forestland as a bank of empty land available for new homes and businesses. Communities, however, are starting to recognize the value of agriculture and forestry to local economies. For example, in Marathon County, agriculture accounts for 12 percent of the total workforce and 15 percent of



total economic activity or \$1.25 billion annually.

As competition for land increases, communities will need to measure farmland and forestland as developed uses that also consume and compete for available land. The approach used to measure demand for these uses will depend upon the local community's desires, resources, and needs. For example, if a community desires to keep local farms, dairies, and cheese makers competitive they might consider measuring local milk supplies. They might ask, "How many cows are needed to meet the local demand for milk?" Planners can then measure how much land is needed to feed those cows and safely spread wastes. Communities interested in buffering residential uses from the smells and noises of farms will consider how much land is needed to provide an adequate buffer. A 100 foot buffer of farms can consume hundreds of acres per township. An analysis can determine if this policy is realistic.

For forests, communities might consider assessing at what point forestland becomes unprofitable or presents significant barriers for timber harvest. If a community parcels off their forest lands for development, even in 10- or 40-acre segments, will timber companies find managing smaller parcels worthwhile? In this instance, instead of measuring total forested acres, planners instead will measure forest lands in large contiguous masses.

How is the Public Involved?

The public is often involved to provide input about what they desire about their communities. Planners can collect this information through various public participation tools, such as a survey or a public meeting. Public input may reveal a host of information that might include a:

- Strong desire to protect farmland,
- Satisfaction of existing parks and open space, or
- A preference for low density development

Planners interpret this data and use it to help identify how public preferences relate to future demand for land. For

example, if existing parks are overcrowded, planners may allocate more acreage per person in future estimates. Sometimes, however, the public's desires compete for limited land. For example, remaining land supplies may not be able to accommodate both low density housing and still protect critical amounts of farmland. In this instance, the public must communicate with planners to search for

alternative solutions and make tradeoffs (i.e. higher densities or develop more farmland).

Sometimes, however, the public's desires compete for limited land... In this instance, the public must communicate with planners to search for alternative solutions and make tradeoffs...



Phase III. Develop and Assess FLU Alternatives

Where to Grow? What are the Consequences?

In the final phase of FLU mapping several alternatives are developed then assessed with the goal of deriving a single preferred FLU map. In this phase, land uses are allocated and boundaries are drawn on a map. Once alternatives are developed, a host of indicators can be measured to determine the scenario's impact on the community and its resources. Indicators might include: acres of land consumed, traffic generated, school children added, water quality, or what the community might look like.

Developing and assessing FLU alternatives provides planners and the public a glimpse into an alternative future. Density proposals, land policies, and public preferences can be tested through computer modeling. In this phase, scenarios are adapted until a preferred FLU alternative is derived. The preferred alternative is adopted in the community's comprehensive plan. It should display the public's shared vision of the future and reflect community goals and objectives.

How are FLU Alternatives Developed?

Three actions are taken to develop and assess a single FLU alternative. They include:

1. Measure available land supplies
2. Allocate land uses on a map
3. Assess the consequences

1. Measure Available Land Supplies

Measuring land supply serves to inform decision-makers about the adequacy of available lands to accommodate future land uses. Here, two methods are described

that are commonly used by professional planners.

Method A: Measuring Existing Land Uses

Many professional planners use existing land uses as a rough gauge of land supply. Each land use category is measured, commonly in acres. Active land uses, such as residences, businesses, infrastructure, and parks are commonly considered unavailable for development. Passive uses, such as farm and forest land are labeled as potentially available and open for new development.

This method does not adequately consider in-fill development and property ownership, and confuses the difference between existing land use and available land supply. For example, the existing land use map will not identify dilapidated residential properties that are candidates for redevelopment. Conversely, because many existing land use maps do not display property boundaries, they do not determine realities linked to property ownership. For example, the ELU map might show a five acre property that has two acres developed as residential and three acres forested. Those three forested acres are often considered available for development with this method. In reality, the intent of the entire five acres is for private residential. It is unlikely that the remaining three acres of forest will be actively managed for timber. It is also unlikely that the owner's intent is to split the parcel further. Many zoning ordinances also restrict further splitting. The remaining three acres is likely unavailable to accommodate new development within the timeframe of the current plan.



Method B: Constraints or Growth Management Factors Analysis

A Constraints, or Growth Management Factors analysis, is a more systematic way to measure available land supplies. The method entails defining and identifying land features that restrict, limit, or modify development from occurring on or near them. For example, surface waters and adjacent wetlands are land features that restrict development. In Wisconsin, development cannot occur on or within 75 feet of these features. Existing development including homes, businesses, and road right of ways are also considered land features that restrict development. Steep slopes, fractured soils, and productive farmlands are good examples of land features where development might instead be limited or modified. Perhaps a limited number of homes can be built in those places or development might be required to adhere to erosion or aesthetic regulations. The result of the analysis is measured to identify how much land is restricted and how much land is available to accommodate new growth.

This method provides a much more realistic estimate of land available for development that is tailored for each community, their resources, and public desires.

The analysis can be highly political and should involve the public to define the categories that restrict, modify, or limit development. Should steep slopes restrict rather than modify growth? Answers to questions like these rarely can be addressed sufficiently by professional planners alone. These issues must be wrestled with within the community. Decision-makers, with help from planners, should look back to community goals and objectives and input from public participation to properly define which category land features fall within. Members of an Ashland County planning committee in 2004 identified these categories and were surprised to see how much land was available for development even when various land features were restricted or limited (see Figure 7).

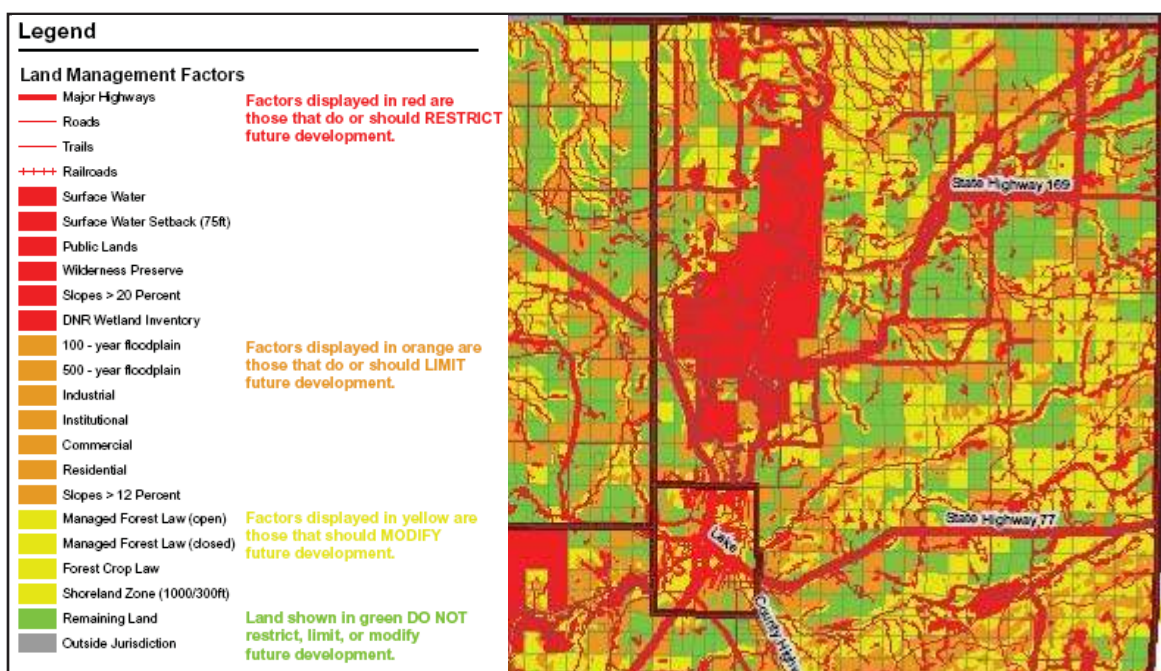


Figure 7. Ashland County Land Management Factors Map.

2. Allocate Land Uses on a Map

Once supply and demand for land is measured, it is time to begin allocating or placing land uses on a map. This phase is also referred to as scenario building. The result of this phase should be to build various alternative scenarios so they can be evaluated for how well they meet community goals and objectives.

Various methods are available to conduct land use allocation and scenario building. The University of Wisconsin-Madison, Land Information and Computer Graphics Facility (LICGF) describes four land allocation methods. These concepts are adapted from LICGF and synthesized below:

Method A: Gestalt Logic:

Users view the landscape as a single whole system and take all they know about the landscape and apply it for decision-making. Information available on maps is a good way to supplement individuals' knowledge about a landscape. Generally, Gestalt logic is applied manually, on paper maps. In Waupaca County, plan commissioners used a hardcopy map to manually draw "bubbles" or polygons that represent preferred FLU locations (see Figure 8). Gestalt logic is most useful for smaller scale applications. As geography becomes larger, it is increasingly difficult to analyze the landscape and make objective decisions. However, among those professional planners interviewed, Gestalt logic is the most commonly used allocation technique.

Methods B: Interactive:

Like Gestalt logic, users process information about an entire landscape and apply it for future land allocation decisions, but they apply the information in a digital format. Instead of manually drawing



Figure 8 displays an alternate method of bubble mapping using Gestalt logic. Instead of drawing bubbles on the map, this rural citizen is placing stickers that represent residential development on the map. Courtesy UW-Madison, LICGF.

polygons, they are digitized or captured in a Geographical Information System (GIS). GIS allows users to view a variety of land information to help them make better informed decisions. The GIS also allows users immediate feedback concerning the consequences of their decisions. In the Town of Verona in Dane County and the Town of Clover in Bayfield County, an interactive tool called "PlaceIt," helped plan commissioners make future land allocation decisions (see Figure 9a and 9b).

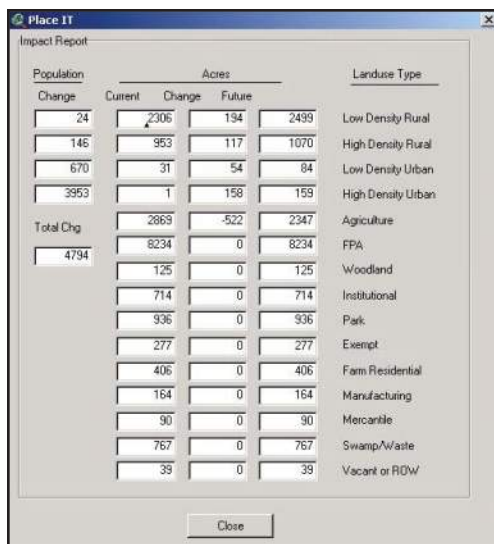


Figure 9a: Picture of people using Place-It on an interactive touch screen. Courtesy UW-Madison, LICGF.



Method C: Scenarios:

A user establishes criteria, restrictions, or preferences and then allocates development. This approach sets out to design an alternative future, and then asks, “What policies and conditions are required to achieve that future?” Although this approach is common, it may be difficult to identify all of the policies and conditions required to achieve the preferred option. This approach is often conducted using suitability analyses with GIS. Criteria and preferences are defined, often with public input, and then preferences are spatially located using GIS software and data. Depending on the type of suitability analyses technique used, each spatial area receives a score denoting the degree of suitability (Figures 10a and 10b).



Population Change	Acres		Landuse Type
	Current	Future	
24	2306	134	Low Density Rural
146	953	117	High Density Rural
670	31	54	Low Density Urban
3953	1	158	High Density Urban
Total Chg	2869	-522	Agriculture
4794	8234	0	FPA
	125	0	Woodland
	714	0	Institutional
	936	0	Park
	277	0	Exempt
	406	0	Farm Residential
	164	0	Manufacturing
	90	0	Mercantile
	767	0	Swamp/Waste
	39	0	Vacant or ROW

Figure 9b: Image of an Impact Report from Place-It. Courtesy UW-Madison, LICGF.

Method D: Agents:

Future development is predicted based upon various policy options. With this method users ask. “What future might result if this policy is chosen?” Policy options and user preferences are identified and then run using the computer model. The outcome is what the future can be expected to be like, if future assumptions hold true and selected policies are implemented. The alternatives are then assessed for their consequences and measured in comparison to community goals and objectives.

3. Assess the Consequences

Good decision-making is well informed. Logically, local officials ultimately need to know what consequences are likely to result before decisions are implemented. What are the benefits and drawbacks of each alternative? Does one alternative consume more farmland than another? Does one alternative require more money than another to implement? Will more water and sewer services be required? What will it look like?

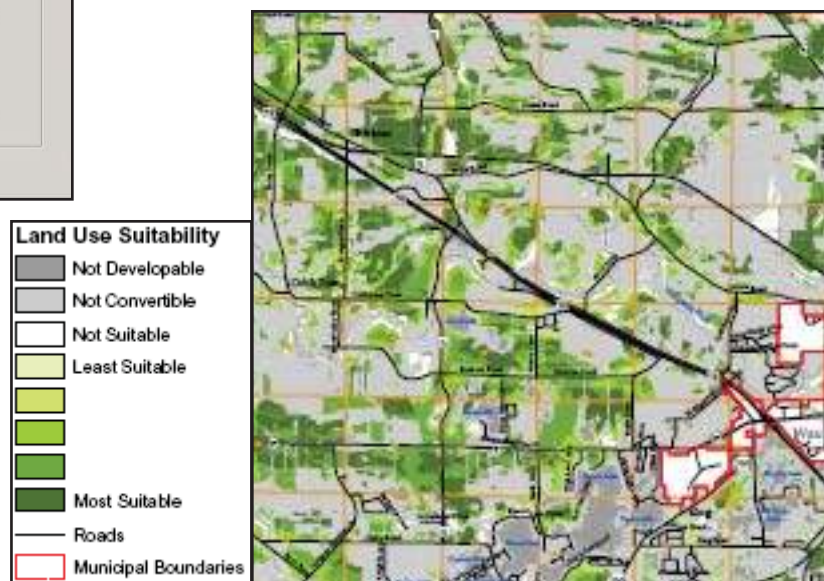


Figure 10a. Residential suitability map created with What-If software.

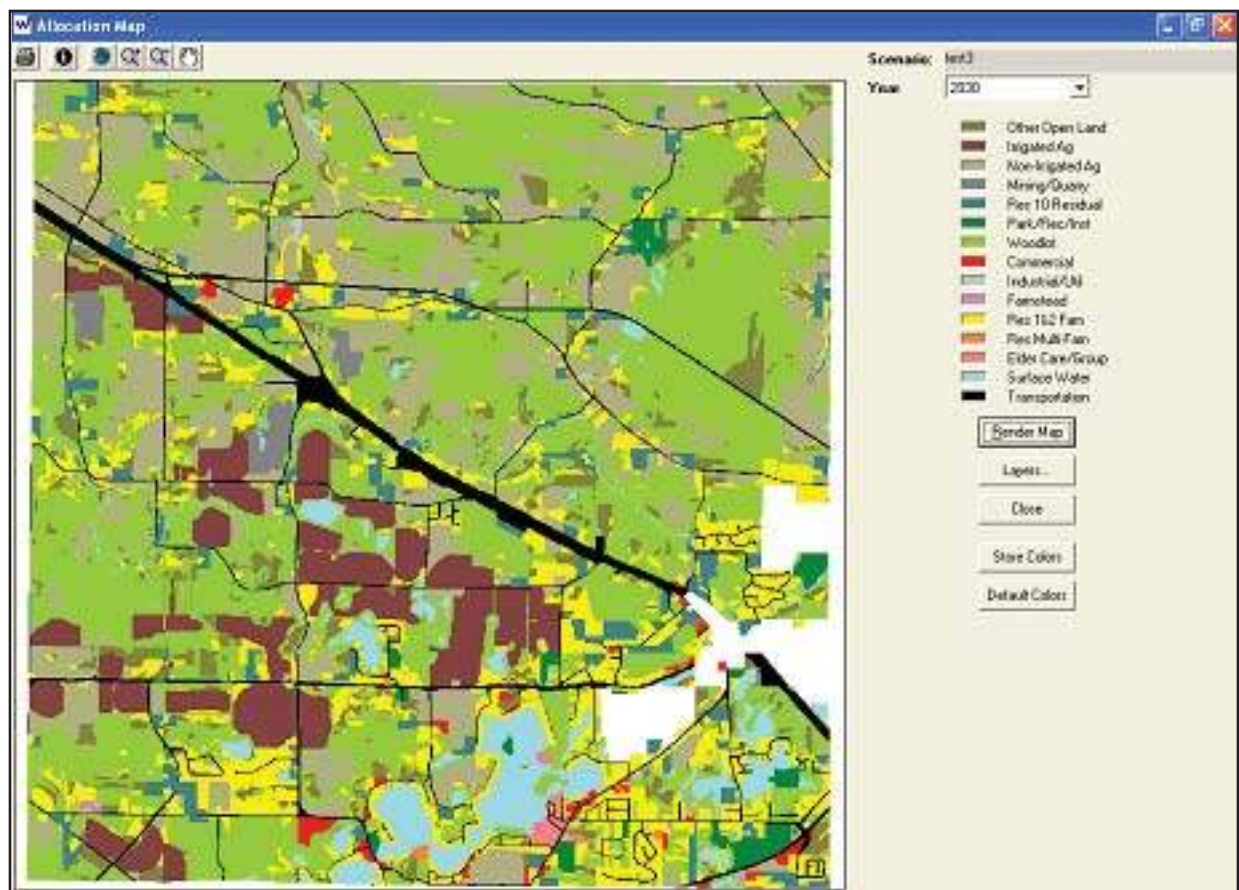


Figure 10b. Future land uses allocated in a rural town using What-If software.

Questions like these can be addressed in the land allocation process using impact assessment tools. Among planners interviewed, however, most say they address the consequences of decision-making in an informal manner. Most consequences are discussed qualitatively rather than measured quantitatively. Issues such as farmland consumption, rural character, and service requirements are often discussed as potential impacts that typically accompany various development options.

For communities more interested in the hard numbers, technology is available to help conduct impact assessments. For example, a GIS can be used to simply add and compare the amounts of farmland consumed among alternatives to see which has the

least impact. Other more sophisticated analyses can be developed to measure the impact impervious surfaces have on water quality or what various policy options look like in three dimensions (see Figures 11a, 11b, 11c, 11d, 11e, and 11f on the following pages). Information like this can help local officials make those unpopular or tough decisions. The technology can provide a level of confidence in decision making that is legally defensible and rational.

The type of assessment performed depends upon the issues and all too often the budget of local communities. MSA associates stated that they are technically capable of providing fiscal impacts analyses, housing market assessments, and cost benefits analyses, but communities must budget for them in the process.

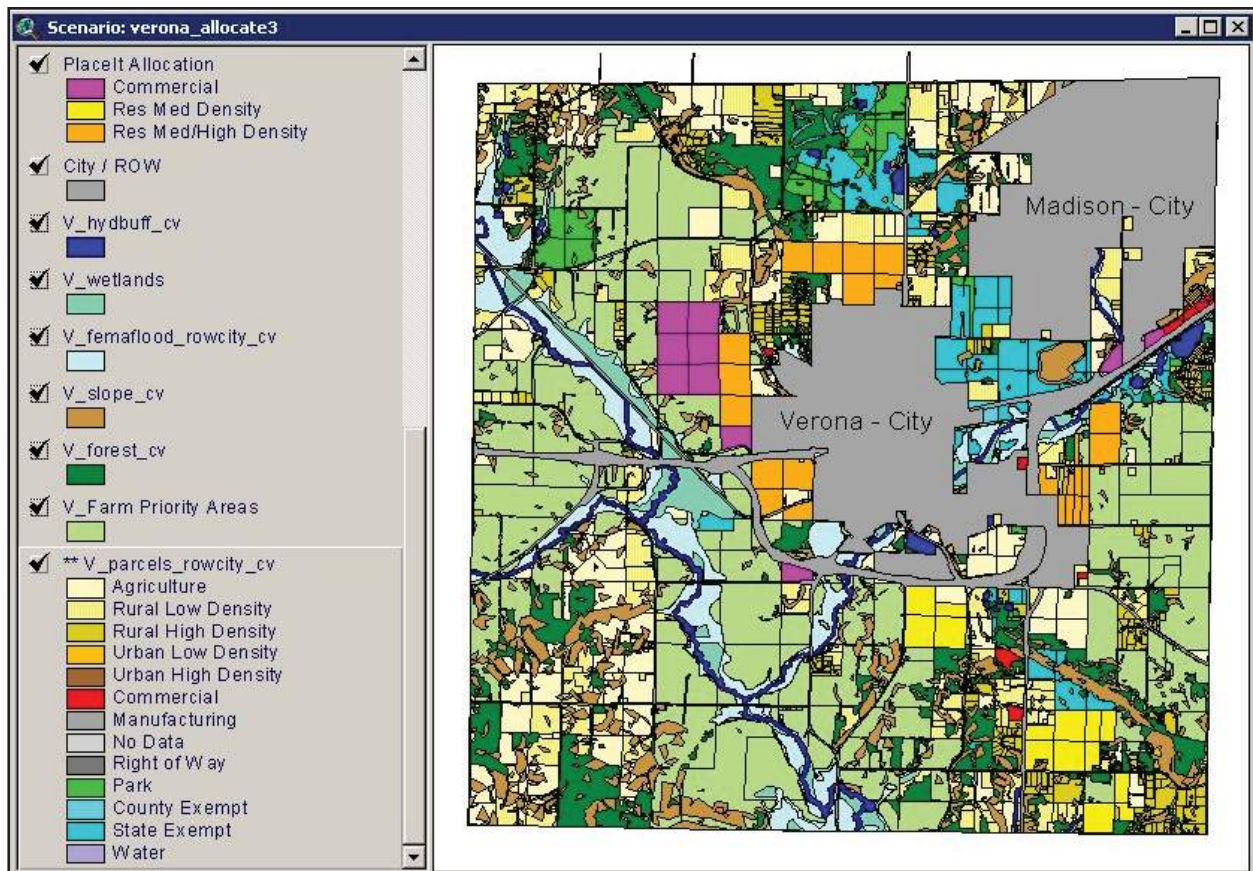


Figure 11a. Land Use Allocation Map

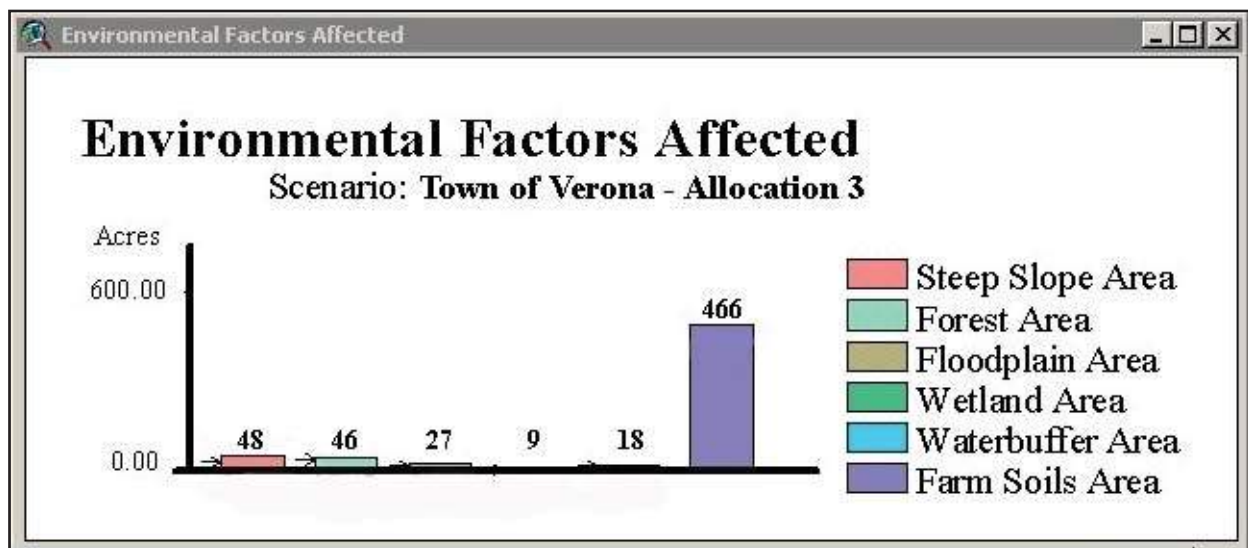


Figure 11b: Land Use Acreage consumed based on allocation shown in Figure 11a.



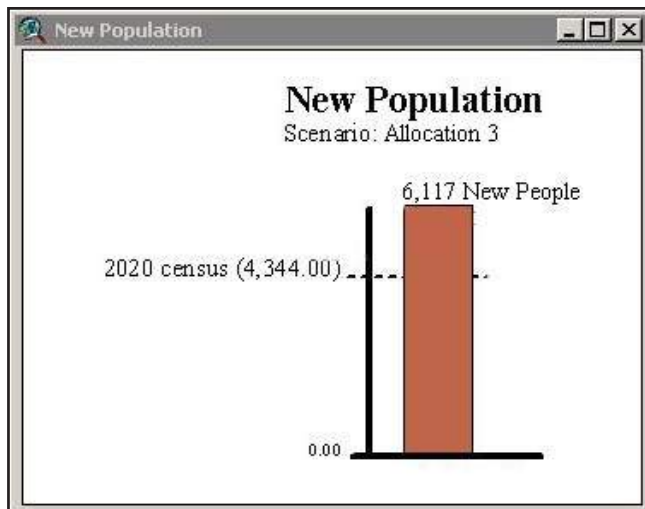


Figure 11c (above): Population added based on allocation shown in Figure 11a.

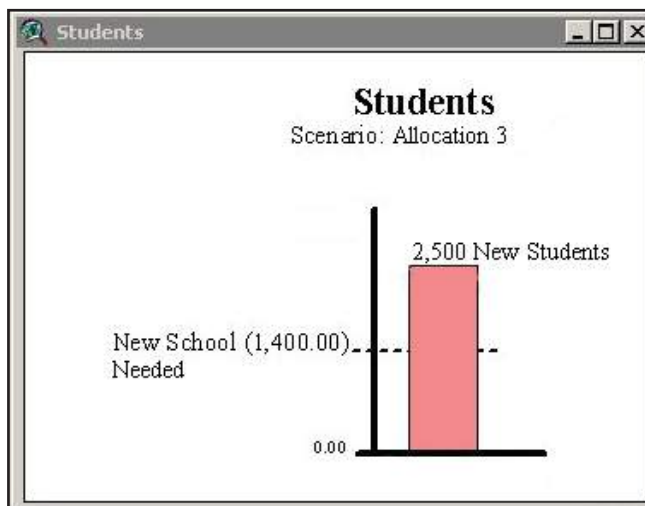


Figure 11d (left): Students added based on allocation shown in Figure 11a.

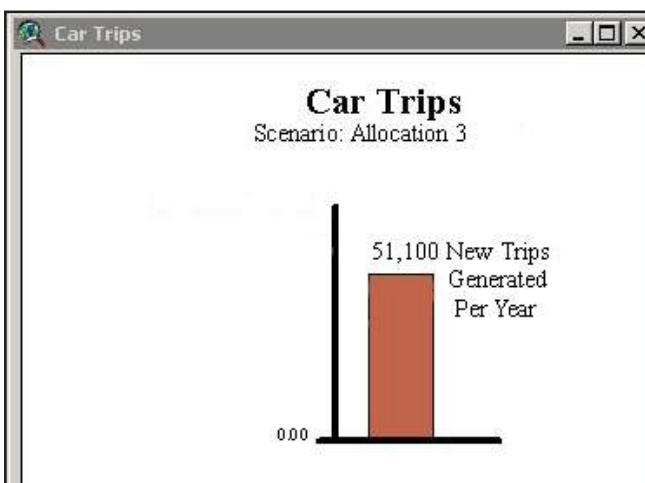


Figure 11e (below): Car trips added based on allocation shown in Figure 11a.

How is the Public Involved?

At this stage in the planning process, there are often increased opportunities for public involvement. At a minimum, a public hearing is required by Wisconsin Statutes to provide the public an opportunity to view the commission's work and provide input.

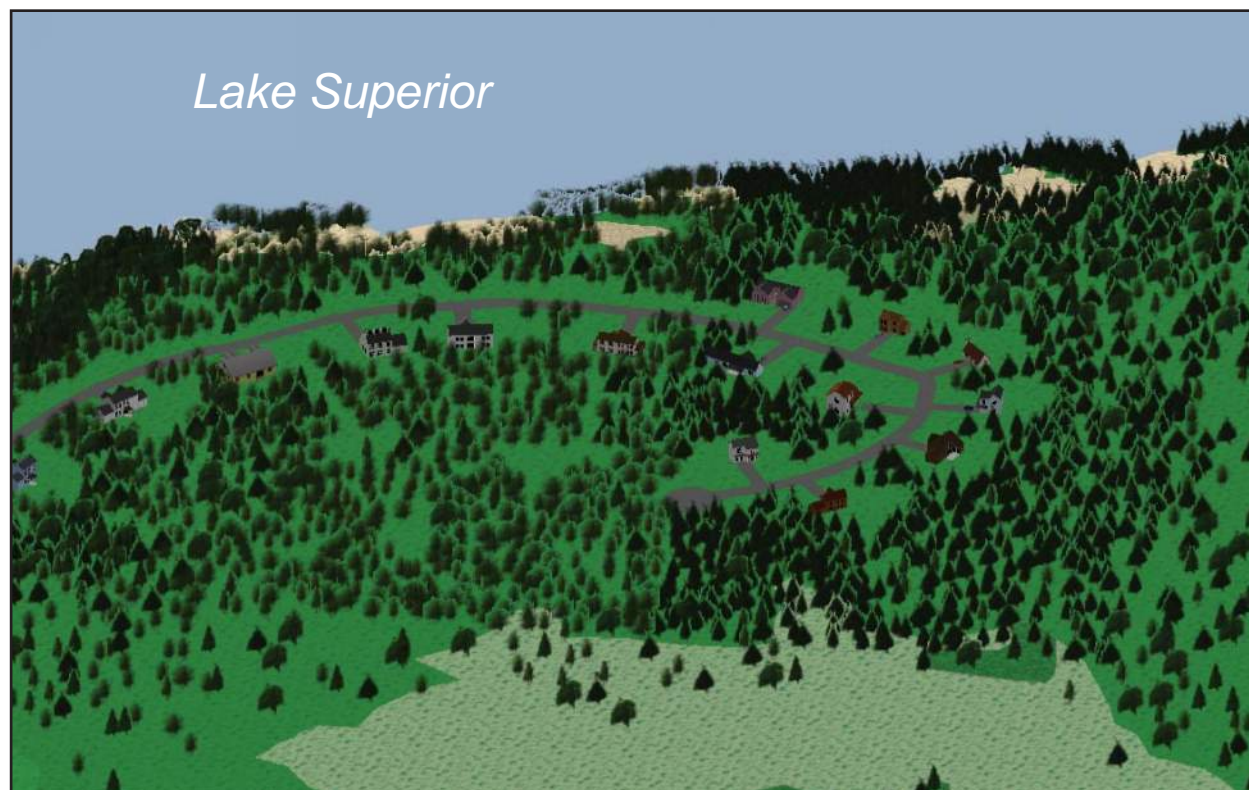
Oftentimes, local planning processes provide public participation opportunities in addition to the minimum requirements. Very commonly the public is invited to attend the planning sessions when the FLU maps are being crafted. In Waupaca County, many local units have welcomed the public to craft FLU maps alongside appointed commissioners and professional planners. Many communities create the FLU maps themselves, often with support from professional planners.

The public isn't always able to be directly involved. Other venues, such as open houses are commonly used to provide an opportunity for public education and input. Here the public can view alternatives, ask questions, contemplate tradeoffs, and share their input and personal preferences.

Sometimes, communities prefer to hire a planner to draft several FLU alternatives rather than develop the alternatives themselves. Here the commission and the public have opportunities to review the options, ask questions, and alter, reject, or accept crafted alternatives. After the open house or other venue, planners use the input to craft new maps that better fit the community. Though this option means less work for local commissions, communication of preferences is essential for planners to develop a representative FLU map.



Figure 11f. 3-D Visualization showing two development scenarios. Above is a traditional subdivision. Below is a conservation subdivision. Visualizations created by Douglas Miskowiak and Gina John using ArcScene with data from Northwest Regional Planning Commission.



Conclusion

The FLU map is arguably the most important single document in a community's comprehensive plan. In a single image, it is used to illustrate the community's shared vision of what the future should be like. Ideally, it is created with masses of technical and scientific information and guided with robust public involvement. Although a process in and of itself, FLU mapping is part of the larger process of comprehensive planning. FLU mapping happens along each stage of a typical planning process.

The process often involves professionals, officials, and citizens. Each has a unique role in the creation of a realistic and attainable FLU map. Planners provide information about land supply and demand. Citizens bring to the discussion their preferences, expectations, and local

knowledge. Planners apply these data and public input using a variety of allocation and assessment methods to build a realistic and defensible FLU map.

Based on certain physical and political realities, tradeoffs are commonplace. Some community preferences might need to be traded in order to achieve broader community goals. Once a preferred map is adopted into the plan, local officials then move toward implementing policy options to attain the plan's vision. Innovative implementation tools help communities find win-win solutions. Working together, planners, citizens, and officials can develop a FLU map that is legally defensible, rational, and works to help a community attain its goals.



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Interviews with Professional Planners.

Thank you to the following individuals for providing their time and personal insights to help me better understand the current status and practice of FLU mapping in Wisconsin.

- Tim Semmann from Portage County Planning. Interviewed on March 29, 2005.
- David Boyd, Jason Valerius, Dan Rolfs, Reid Dunbar, and Neil Stechshulte from MSA Professional Services. Interviewed on April 6, 2005.
- Cathi Weilgus and Dana Jensen from Vandewalle and Associates. Interviewed on April 6, 2005.
- Dean Perlick and Nathan Olson from Dodge County Planning. Interviewed on April 7, 2005.
- James Engel, Colleen Steininger, Gary Gibson, and Bill Bailey from the Town of Luddington, Eau Claire County. Interviewed on April 13, 2005.
- Jason Lauman and Sheldon Johnson from North West Regional Planning Commission. Interviewed on April 14, 2005.
- Mark Walter and Richard Heath from Bay-Lake Regional Planning Commission. Interviewed on April 18, 2005.



Appendix A: Table of maps provided in the Waupaca County process

Waupaca County Comprehensive Planning Maps

The maps posted below helped inform local decision-makers about the many cultural, natural, historical, and agricultural features on the landscape. Maps from Waupaca County, developed by Foth and VanDyke, Green Bay, Wisconsin. For a closer examination of these plan maps, please visit www.wcedc.org/CP/.

Agricultural Resources: This map displays data regarding existing agriculture operations and the features of the natural and built environment that support agricultural operations and land uses.



DATA	SOURCE
Soils	USDA/NRCS
Agricultural Infrastructure	UW-Extension Waupaca County
Existing Dairy Farms	UW-Extension Waupaca County
Existing Agricultural Land	East Central RPC, updated by local plan committees

Community Facilities: This map displays data regarding existing public services and community facilities. Public services shown on this map include basic services, like police protection and street maintenance that are available to the general public and are funded by public tax dollars or user fees. Community facilities include both public and private facilities that provide other essential services like schools, churches, and health care. Public recreational facilities and public utility sites are also shown.



DATA	SOURCE
Community Facilities	Waupaca County, local plan committees

Emergency Service Areas: This map displays data regarding the service areas of the ambulance service providers and first responder volunteer groups that serve Waupaca County.



DATA	SOURCE
Emergency Service Areas	Waupaca County, WDNR

Fire Protection Services: This map displays data regarding the service areas of the fire and rescue departments and districts that serve Waupaca County.



DATA	SOURCE
Fire Protection Areas	Waupaca County, WDNR

School Districts: This map displays data regarding the district boundaries of the schools that serve Waupaca County



DATA	SOURCE
School Districts	Waupaca County, WDNR

Environmental Features: This map displays data regarding many of the natural features that can impact the suitability of land for potential land uses.



DATA	SOURCE
Natural Heritage Inventory	WDNR
Surface Waters	WDNR
Wetlands	WDNR
Steep Slopes > 12%	USDA/NRCS
Rock Outcrops	USDA/NRCS
State Natural Areas	WDNR

Natural Resource Protection: This map displays land in Waupaca County that has a protected status or is publicly owned.



DATA	SOURCE
MFL/FCL	Waupaca County
Publicly Owned Lands	Waupaca County

Historical Resources: This map displays data regarding historic, archeological, and other community cultural resources.



DATA	SOURCE
Historical Resources	Waupaca County, WI State Historical Society

Land Cover: This map displays data regarding primary vegetative cover as recorded by satellite imagery in 1991, 1992, and 1993.



DATA	SOURCE
WISCLAND Land cover	WDNR

Existing Land Use: This map displays data regarding the use of land as of 2004. Lands are classified based on their use as residential, commercial, industrial, woodlands, agricultural, recreational, institutional, or transportation. This is not a planned land use or future land use map. Rather, this map shows the physical arrangement of land uses at the time the map was produced.



DATA	SOURCE
Existing Land Uses	East Central RPC, updated by local plan committees

Existing Transportation Features: This map displays data regarding the existing transportation system including road, street, and highway features, airports, railroads, and waterways.



DATA	SOURCE
Transportation Features	Waupaca County, WDNR, WDOT

Existing Land Use Regulations: This map displays data regarding existing zoning regulations, extraterritorial jurisdiction, and wellhead protection areas.



DATA	SOURCE
Land Regulations	Waupaca County, WDNR

TIF Districts and Industrial Parks: This map displays data regarding tax increment finance districts near industrial park locations.



DATA	SOURCE
TIF Districts and Industrial Parks	Waupaca County

