

**CITY OF LAKE GENEVA  
PLAN COMMISSION MEETING**

**MONDAY, FEBRUARY 16, 2015 - 6:30 PM  
COUNCIL CHAMBERS, CITY HALL**

**MINUTES**

**1. Meeting called to order at 6:30 pm by Mayor Connors.**

**2. Roll Call**

Present: Al Kupsik, John Gibbs, Doug Skates, Cindy Flower, Tyler Frederick  
Also Present: Planner Mike Slavney, Atty. Dan Draper, Mayor Connors, Assistant Gregoles  
Not Present: Sara Adams

**3. Approve Minutes of January 19, 2015 Plan Commission meeting as distributed.**

MOTION #1

Skates/Kupsik moved to approve the minutes of January 19, 2015 Plan Commission meeting as distributed.  
The motion carried unanimously.

**4. Comments from the public as allowed by Wis. Stats. §19.84(2), limited to items on this agenda, except for public hearing items. Comments will be limited to five (5) minutes.**

PUBLIC SPEAKER #1 – Mary Jo Fesenmaier - 955 George Street - LG

Fesenmeyer commented on the specifics found in the packet with regard to recommending approval or denial of agenda item #7. *(Those specific details can be found in the Staff Report filed with the electronic agenda packet for this meeting.)*

PUBLIC SPEAKER #2 – Deborah Chiczewski – 6815 W Ardmore, Chicago (Owner Caboose #21)

Chiczewski voiced her objection to agenda item #7 stating her specific concerns.  
She was speaking for herself, her husband and on behalf of the owners of Caboose #22 and # 3.

PUBLIC SPEAKER #3 – Jan Peterson – 721 S Curtis Street - LG

Peterson voiced her objection to agenda item #7 stating her specific concerns.

PUBLIC SPEAKER #4 – Cheryl Ryan – 795 Curtis Street - LG

Ryan voiced her objection to agenda item #7 stating her specific concerns and gave a handout to the commission for review. (LG Regional News article dated October 2003 “Commission Denies Rezone” – copy attached to these minutes).

PUBLIC SPEAKER #5 – LD Rockwell – Wisconsin Sierra Club – SE Gateway Group Chair N6619 Grove Road, Elkhorn

Rockwell voiced his objection to agenda item #7 stating his specific concerns and gave a handout to the commission for review regarding Smart Growth. (copy attached to these minutes).

PUBLIC SPEAKER #6 – Maureen Ziegerhorn - 301 E Townline Road

Ziegerhorn voiced her objection to agenda item #7 stating her specific concerns.

PUBLIC SPEAKER #7 – Dave Shouder - 420 Manning Way – LG

Shouder voiced his objection to agenda item #7 stating his specific concerns.

PUBLIC SPEAKER #8 – Daniel Lehman - 439 Manning Drive - LG

Lehman voiced his objection to agenda item #7 stating his specific concerns.

PUBLIC SPEAKER #9 – Marilee Holtz – 398 Mill Street Fontana  
Holtz voiced her objection to agenda item #7 stating her specific concerns.

PUBLIC SPEAKER #10 –Tim Dunn - 499 Manning Way - LG  
Dunn voiced his objection to agenda item #7 stating his specific concerns.

PUBLIC SPEAKER #11 – Lauren Hansen / Engineer for this development  
Hansen addressed the public and commission regarding the concerns stated regarding agenda item #7. He addressed the zoning, wetlands, storm water control, temporary rentals and density issues.

PUBLIC SPEAKER #12 – Josh Basso / Basso Builders LG  
Basso addressed the public and commission regarding the concerns stated regarding agenda item #7. He addressed the conservancy area, conservancy easement, temporary rentals, traffic patterns regarding Manning Way etc.

PUBLIC SPEAKER #13 – Sara Lehman - 439 Manning Way - LG  
Lehman voiced her objection to agenda item #7 stating her specific concerns.

## 5. Acknowledgment of Correspondence.

### ACKNOWLEDGEMENT #1

Letter of Objection received regarding agenda item #7 – Tax Key ZMEA 00052 & ZYUP 00130C / Basso development from: *Deborah & Ralph Chiczewski*

## 6. Downtown Design Review

**A. Application by Andrea Brewer for Raw Salon and Spa, 706 Main Street, Lake Geneva, WI 53147 for a change in the exterior awning with signage at the storefront at 706 Main Street, Tax Key No. ZOP 00307.**

### DISCUSSION

Joanne Cunningham addressed the commission regarding the application details.

### MOTION #2

Kupsik/Skates moved to approve the application by Andrea Brewer for Raw Salon and Spa, 706 Main Street, Lake Geneva, WI 53147 for a change in the exterior awning with signage at the storefront at 706 Main Street, Tax Key No. ZOP 00307, including staff recommendations. The motion carried unanimously.

**B. Application by Meridien Condo Association (Bella Vista), 335 Wrigley Drive, Lake Geneva, WI 53147 for a tile re-roofing color change at 335 Wrigley Drive, Tax Key No. ZMER 00040.**

### DISCUSSION

Mark Nortrowski, agent for the applicant, addressed the commission's concerns regarding color of the tile, existing tile age, what will be done with the old tiles etc.

### MOTION #3

Skates/Gibbs moved to approve the application by Meridien Condo Association (Bella Vista), 335 Wrigley Drive, Lake Geneva, WI 53147 for a tile re-roofing color change at 335 Wrigley Drive, Tax Key No. ZMER 00040. The motion carried unanimously.

**C. Application by Oakfire Properties, LLC, 1335 Edgewood Drive, Lake Geneva, WI 53147 for exterior modifications and signage to an existing building at 831 Wrigley Drive, Tax Key No. ZOP 00340.**

## DISCUSSION

Peter Jergens / Geneva Bay Construction / 133 Darwin Street, LG

Jergens addressed the commission regarding the details of the application and answered their questions and concerns. Samples of materials were passed around for the commission to review as well as 2 photo handouts that are attached to these minutes.

## MOTION #4

Kupsik/Skates moved to approve the application by Oakfire Properties, LLC, 1335 Edgewood Drive, Lake Geneva, WI 53147 for exterior modifications and signage to an existing building at 831 Wrigley Drive, Tax Key No. ZOP 00340, to include staff recommendations. The motion carried 5/1 (Flower).

- 7. Item continued from January meeting, discussion and recommendation on a request filed by Basso Builders, 405 Skyline Drive, Lake Geneva WI, 53147 for a Zoning Map Amendment to change the zoning, on a CSM created from two parcels, from Rural Holding Zoning District (RH) & Single Family Zoning District (SR-4) to Multi-Family Residential-8 (MR-8) at the property located on Skyline Drive and Curtis Street, Current Tax Key No's. ZYUP 00130C & ZMEA 00052.**

## DISCUSSION

Atty. Draper addressed the commission, clarifying that they are approving a zoning map change only. He further stated that they are not approving any particular project or plans. That would come at a later time.

Planner Slavney also addressed the commission adding that if anything beyond a single 4 unit building is proposed on this property it would need further city approval through a Conditional Use Permit or a Planned Development. Either of those things would require a Public Hearing and Notices similar to the geographic coverage we had for the zoning map amendment.

Slavney also commented on the State Law regarding the comprehensive plan and that the city has had a comp plan for decades. It was amended in the early 1990's, 1998 and the mid 2000's. The city is required by state law to amend the plan every ten years with a thorough review and update. The Smart Growth plan that was sited allows for amendments to occur more often than ten years. During the development of these comprehensive plans we've talked about how often that should be and it was determined that we should make available the ability for any property owner to request a change in the comp plan in any given year. The comp plan amendment process is described by state statutes and needs to be done with a public hearing and a 30 day public notice. That is really the only requirement. The city adopted a plan amendment process that if it goes as quickly as possible, it takes 5 months and provides for 4 months of public review of any requested change to the plan. This particular property came through last year under that process. It was brought before the Plan Commission as I recall as early as May 2014 and voting for the comp plan finally took place in October and November of 2014. A similar process will happen in 2015. This was the only request during that period and because of that it received a thorough review by the Plan Commission.

Slavney further stated that on our zoning map the rural holding designation is a holding zone. That means that a development oriented zoning district is anticipated but has not been assigned yet. The non-wetland portion of this property has always been identified as having potential for development. This is the first request to assign any kind of specific development oriented zoning to the property. During the plan amendment process it was determined that a multi family plan designation was appropriate for this property.

Skates asked if there is a way to change the way we Notice the public going forward. Planner Slavney stated that the Statues require that there be a public notice in the paper for a minimum of 30 days before the public hearing to consider Comprehensive Plan Amendments and that the proposed plan amendment go to the Plan Commission for recommendation and that a public hearing be held in front of the common council. Those are the minimum requirements that are spelled out in statutes and the City met those requirements for public notice and certainly provided a lot more review than the minimum time period allowed.

Slavney is the circuit rider planner for 24 other communities in addition to Lake Geneva, many here in Walworth county. During the period of the Smart Growth law where these requirements have been in place since 1999, all of the Comprehensive Plan Amendments, the individual parcel type of amendments, have gone through the process that he described above that is required by statutes and have not gone beyond that. He has also written or supervised over 200 Comprehensive Plans that were thorough rewrites, the ten year anniversary plan. In none of these processes were individual notices mailed out, it was all the general public notice, although typically for a ten year anniversary there are usually other events that provide opportunity for input, including the public hearing at the end of the process. The process that we went thru is more extensive than most communities use for a property specific amendment, but there is nothing that would prohibit any jurisdiction from going further than what we have outlined as the current process right now.

#### MOTION #5

Kupsik/Skates moved to approve the recommendation on a request filed by Basso Builders, 405 Skyline Drive, Lake Geneva WI, 53147 for a Zoning Map Amendment to change the zoning, on a CSM created from two parcels, from Rural Holding Zoning District (RH) & Single Family Zoning District (SR-4) to Multi-Family Residential-8 (MR-8) at the property located on Skyline Drive and Curtis Street, Current Tax Key No's. ZYUP 00130C & ZMEA 00052, to include any staff recommendations and suggested Plan Commission Findings for Recommendation to Common Council listed on the Staff Report and below:

- A. *If, after the public hearing, the Commission wishes to recommend approval, then the appropriate fact finding would be in agreement with Items 1 and 3, and one or more factors of Item 2, of the following.*
1. *The proposed Zoning Map Amendment furthers the purposes of the Zoning Ordinance as outlined in Section 98-005 and the applicable rules and regulations of the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA).*
  2. *One or more of the following factors have arisen that are not properly addressed on the current Official Zoning Map:*
    - a. *The designations of the Official Zoning Map should be brought into conformity with the Comprehensive Plan;*
  3. *The proposed amendment to the Official Zoning Map maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.*

The motion carried unanimously.

- 8. Review and Recommendation on an Application for Land Division Review for an Addendum to Restriction/Modification Affidavit of Correction by Kelly T. Smith, 1525 W. Altegeld Street, Chicago, IL 60614 for land located in the extra-territorial plat review area at N1864 Wildwood Drive, Tax Key # ITE 00005, and being in the Town of Linn.**

#### DISCUSSION

Jim Howe, attorney with Godfrey Lawfirm – agent for applicant  
Howe addressed the commission regarding the details of the application.

#### MOTION #6

Mayor Connors/Flower moved to approve the recommendation on an application for Land Division Review for an Addendum to Restriction/Modification Affidavit of Correction by Kelly T. Smith, 1525 W. Altegeld Street, Chicago, IL 60614 for land located in the extra-territorial plat review area at N1864 Wildwood Drive, Tax Key # ITE 00005, and being in the Town of Linn. The motion carried unanimously.

**9. Public Hearing and recommendation on a Conditional Use Application filed by Michael Keefe, PO Box 460, Lake Geneva, WI 53147 to operate a Commercial Indoor Lodging facility at an existing Commercial Apartment in a Central Business (CB) zoning district located at 725 W. Main Street, Tax Key No. ZOP 00276.**

DISCUSSION

Thomas Keefe - N1419 Academy Rd, LG

Keefe addressed the commission with details regarding the application.

Keefe clarified comments and concerns of the commission, including parking arrangements, heating for the unit, etc. Exception regarding ownership as they are under contract to close on the property this week.

PUBLIC SPEAKERS - None

MOTION #7

Flower/Skates moved to close the public hearing. The motion carried unanimously.

DISCUSSION

There was general discussion amongst the commission regarding the details of the application.

MOTION #8

Kupsik/Skates moved to approve the recommendation on a Conditional Use Application filed by Michael Keefe, PO Box 460, Lake Geneva, WI 53147 to operate a Commercial Indoor Lodging facility at an existing Commercial Apartment in a Central Business (CB) zoning district located at 725 W. Main Street, Tax Key No. ZOP 00276 to include staff recommendations, that the building have a one hour fire door, an escape window, hardwired carbon monoxide and smoke detectors, the lighting be repaired in the stairway and they work with their neighbor to put emergency lighting in the stairway as well. The motion carried unanimously.

**10. Public Hearing and recommendation on a Conditional Use Application filed by Lake Geneva YMCA, 203 S. Wells Street, Lake Geneva WI, 53147, to operate a Group Day Care Center (9+ Children) (Summer Camp) in a Planned Development Zoning District (PD) at 203 S. Wells Street, Tax Key No. ZA181600002.**

DISCUSSION

Mike Cramp, executive director with the Lake Geneva YMCA – 203 S. Wells Street, LG Cramp addressed the commission regarding the details of the application.

PUBLIC SPEAKER #1 - None

MOTION #9

Kupsik/Gibbs moved to close the Public Hearing. The motion carried unanimously.

MOTION #10

Skates/Flower moved to approve the recommendation on a Conditional Use Application filed by Lake Geneva YMCA, 203 S. Wells Street, Lake Geneva WI, 53147, to operate a Group Day Care Center (9+ Children) (Summer Camp) in a Planned Development Zoning District (PD) at 203 S. Wells Street, Tax Key No. ZA181600002 to include fact finding as included in the staff report. The motion carried unanimously.

**11. Adjournment**

MOTION #11

Skates/Gibbs moved to adjourn the meeting at 8:15 pm. The motion carried unanimously.

*/s/Jackie Gregoles, B&Z Administrative Assistant*

**THESE MINUTES ARE NOT OFFICIAL UNTIL APPROVED BY THE PLAN COMMISSION.**



PIZZA NAPOLETANA

*OakFire*

RESTAURANT • 1882 • BIRRA

**FISH FRY**

FRIDAY

137

138

OYSTERS  
CRAB CAKES  
SEAFOOD DELICIES

COMBACT  
CARDS  
ONLY

MOST



PIZZA NAPOLETANA

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BREAKFAST • LUNCH • DINNER

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Source: Lake Geneva Regional News

# Commission denies rezone

October 02, 2003

By Steve Targo

Lake Geneva Regional News

The existing characteristics of a Lake Como neighborhood prompted the Geneva Township Planning Commission Monday to recommend denial of a rezone request from Howard Basso of Basso Builders, 405 Skyline Drive, Lake Geneva.

Basso requested the rezone in order to authorize the construction of two five-unit apartment buildings on Beach Road.

Numerous Lake Como residents opposed the "Beach Road Apartments" proposal because the site is located in a residential neighborhood.

"Aesthetically, this community does not need apartment buildings," resident Robert Giovannoni said.

Residents and commission members expressed concerns about the precedent that would be set if the commission approved the request.

Many residents said the neighborhood has a high density of people and traffic. They expressed concerns about the potential impact that the proposal can have on the neighborhood.

Some residents were opposed to the removal of numerous trees on the property. Basso and Commission Chairman Joe Kopecky said the trees on the site are "scrub" trees.

Basso said the trees need to be removed regardless of the type of development that occurs on the property.

"Either way, there will be building going on (there) so it is not going to stop any trees from being cut," Basso said.

In his presentation of the Beach Road Apartments plans, Basso said the proposal calls for vinyl siding and a 35-year roof on the buildings.

Kopecky and Basso clarified confusion concerning Basso's rezone request.

\*Public Speaker #4  
Handout  
2-16-15

Resident Chris Madison said a sign on the Beach Road property states Basso requested a variance. Kopecky said the statement on the sign was an error.

The Monday agenda states Basso requested an "R-4" zoning classification for the property.

Basso said he wants an "R-5" class, which will authorize the proposed Beach Road Apartments.

Many residents asked Basso why he wants to build two apartment buildings on the property.

Basso said he proposed two buildings because of an 18-foot slope in the center of the property.

Residents and commission members said they oppose the apartment buildings, but they praised Basso for houses his company has already built in the Lake Como subdivision.

Residents and commission members asked Basso to build houses on the Beach Road property.

"I just don't feel, down in Como, that they need apartment buildings," commission member Pauline Malsch said.

Malsch and commission member Andy Schmidt also praised Basso Builders.

Schmidt said he would like to see Basso build homes instead of apartment buildings on the property.

"I would hate to see apartment buildings infiltrate the subdivision any further," Schmidt said.

Commission member Dave Van Lue spoke for the preservation of the existing character of the neighborhood.

"I think we should just keep it all residential (in the neighborhood)," Van Lue said. "No rezones."

Secretary Mary Van Lue presented two letters and a petition of 39 signatures which oppose the proposal.

Van Lue said the petition was submitted by Jackie Lickerman. A letter of opposition from Robert and Connie Decker contained five signatures of residents who oppose the request and the proposal, Van Lue said.

Mark Vallengo, who owns seven lots east of Beach Road, also wrote a letter of opposition, Van Lue said.

# Rezoning Hearings

- [Rezoning Application Form](#)
- [Zoning Map and Text Amendment - Required Application Materials](#)
- [Planning & Zoning Fee Worksheet](#)
- [Zoning Map and Text Amendment - Administrative Procedures](#)

## REZONING PUBLIC MEETING SCHEDULE

Filing Deadline: January 12, 2015, 3:00 p.m.	Public Meeting: April 20, 2015
Filing Deadline: July 10, 2015, 3:00 p.m.	Public Meeting: October 19, 2015

Rezoning meetings are held at the Washington County Circuit Court House, Room #1. Meetings begin promptly at 7:00 p.m.

**Please Note:** The public meeting date, time and location is subject to change. The applicant will be notified, in writing, of the meeting date, time and location.

The rezoning process is a formal legal proceeding by which an individual, a group of individuals, or the governing body may apply to change either the zoning classification of a particular property or a group of properties, or amend text contained in regulatory documents adopted by the Board of County Commissioners of Washington County. Applications to change a zoning classification are considered a Map Amendment. Presiding governmental bodies may periodically initiate rezonings on sections of the jurisdiction they govern comprising several parcels. This process is known as a Comprehensive Rezoning. Applications requesting modifications in the language included in the regulatory documents of the County are considered text amendments.

### Map Amendments:

A petition to amend the Washington County Zoning Maps by rezoning a particular property (a piecemeal map amendment) may be submitted by the owner of the property, the contract purchaser or the agent for either party.

*In accordance with Maryland State Law in order for a piecemeal rezoning to be granted, petitions for zoning map amendments, when not part of a comprehensive rezoning undertaken by the governing body, must be judged by the "change or mistake rule."*

### Change in Character of the Neighborhood:

It must be shown that there has been a change in the character of the neighborhood, since the last Comprehensive Zoning Plan, where the request for rezoning is located. As part of this premise, an applicant is to provide an accurate and acceptable definition of the neighborhood where the change is alleged to have occurred, the specific events that have caused the change and describe the character of the neighborhood before and after the change.

### Mistake in Original Zoning:

A mistake in the current zoning can be shown to have occurred when there has been a failure to take into account projects or trends probable of fruition. Decisions based on erroneous information, facts that later prove to be incorrect, events that occurred since the current zoning, or ignoring facts in evidence can all contribute to a legitimate mistake having occurred.

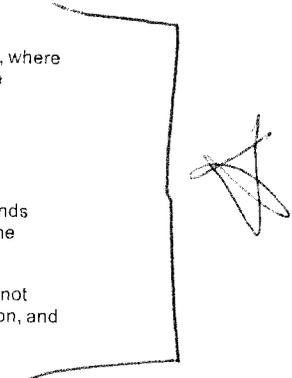
\*Even when one or the other is sufficiently sustained, it merely allows the local governing body to change the zoning and it does not require the change. When conditions are right for a change, the new zone must be shown to be appropriate, logical for the location, and consistent with the Comprehensive Plan.

### Text Amendments:

A petition can be filed with the Washington County Planning Department to amend the text of the following documents: Adequate Public Facilities Ordinance, Comprehensive Plan, Forest Conservation Ordinance, Solid Waste Plan, Subdivision Ordinance, Water & Sewer Plan and Zoning Ordinance.

Text Amendments are not judged under the "change or mistake" law that is required for Map Amendments. The applicant does have to provide which section of the Ordinance they are requesting to be amended, the desired verbiage, a detailed explanation of the reasons why the text amendment is being sought and the rationale for the change.

**\*Select Administrative Procedures, at the top of the page to get a detailed listing of filing procedures. \***



**Section 98-902 Amendment of Zoning Regulations**

**Section 98-902 Amendment of Zoning Regulations**

through

application is not complete or does not fulfill the requirements of this Chapter, he shall return the application to the Applicant. If the Zoning Administrator determines that the application is complete, he shall so notify Applicant.

(b) Upon notifying the Applicant that his application is complete, the Zoning Administrator shall review the application and evaluate and comment on the written justification for the proposed text amendment which may be provided in the application per Subsection (3)(a)-(c), above.

(c) The Zoning Administrator may also evaluate the application to determine whether the requested text amendment is in harmony with the recommendations of the City of Lake Geneva's Comprehensive Master Plan, particularly as evidenced by compliance with the standards of Subsection (4)(c)1.-5., below:

1. The proposed text amendment furthers the purposes of this Chapter as outlined in Section 98-005.
2. The proposed text amendment furthers the purposes of the general Article in which the amendment is proposed to be located.
3. The proposed text amendment furthers the purposes of the specific Section in which the amendment is proposed to be located.
4. The following factors have arisen that are not properly addressed in the current zoning text:

a. The provisions of this Chapter should be brought into conformity with the Comprehensive Plan. (If a factor related to the proposed amendment, note pertinent portions of the Comprehensive Plan.);

b. A change has occurred in the land market, or other factors have arisen which require a new form of development, a new type of land use, or a new procedure to meet said change(s);

c. New methods of development or providing infrastructure make it necessary to alter this Chapter to meet these new factors;

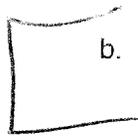
d. Changing governmental finances require amending this Chapter in order to meet the needs of the government in terms of providing and affording public services.

5. If the proposed text amendment is concerned with the provisions of Article II and/or III: The proposed amendment maintains the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts.

(d) The Zoning Administrator shall forward the report per (4)(b), and if prepared the report per (4)(c), to the Plan Commission for the Commission's review and use in making its recommendation to Common Council. If the Zoning Administrator determines that the proposal may be in conflict with the provisions of the City's Comprehensive Master Plan, the Zoning Administrator shall note this determination in the report.

(5) **Review, Public Hearing, and Recommendation by the Plan Commission:** Common Council shall not make an amendment to this Chapter without allowing for a recommendation from the Plan Commission per the provisions of this Subsection.

(a) The Plan Commission shall schedule a reasonable time and place for a public hearing to consider the application within 45 days after the acceptance and determination of the complete application as determined by the Zoning Administrator. The Applicant may



**Section 98-903 Amendment of Official Zoning Map**

**Section 98-903 Amendment of Official Zoning Map**

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appear in person, by agent, and/or by attorney. Notice of the proposed amendment and the public hearing shall conform to the requirements of Section 62.23(7)(d) of the Wisconsin Statutes. Said notice shall contain a description of the proposed text change. In addition, at least ten days before said public hearing, the City Clerk shall mail an identical notice to the Applicant, and to the Clerk of any municipality whose boundaries are within 1,000 feet of any portion of the jurisdiction of this Chapter. Failure to mail said notice, provided it is unintentional, shall not invalidate proceedings under this Section.

(b) Within 60 days after the public hearing (or within an extension of said period requested in writing by the Applicant and granted by the Plan Commission), the Plan Commission shall make a written report to the Common Council stating its findings regarding Subsection (4), above, and its recommendations regarding the application as a whole. Said report shall include a formal finding of facts developed and approved by the Plan Commission concerning the requirements of (4)(b)1. through 5., above.

(c) If the Plan Commission fails to make a report within 60 days after the filing of said complete application (and in the absence of a Applicant-approved extension per (b), above), then the Common Council may hold a public hearing within 30 days after the expiration of said 60 day period. Failure to receive said written report from the Plan Commission per Subsection (5)(a), above, shall not invalidate the proceedings or actions of Common Council. If such a public hearing is necessary, Common Council shall provide notice per the requirements of Subsection (a), above. *State Law Reference: Section 62.23(7)(d).*



(d) If the Plan Commission recommends approval (or denial) of an application, it shall state in the minutes or in a subsequently issued written decision, its conclusion and any finding of facts supporting its conclusion as to the following: that the potential public benefits of the proposed amendment outweigh (or do not outweigh) any and all potential adverse impacts of the proposed amendment, as identified in Subsections (4)(b)1.-5. above, after taking into consideration the proposal by the Applicant.

(6) **Review and Action by Common Council:** Common Council shall consider the Plan Commission's recommendation regarding the proposed text amendment. The Council may request further information and/or additional reports from the Plan Commission, Zoning Administrator, and/or the Applicant. The Council may take final action on the application at the time of its initial meeting, or may continue the proceedings at the Applicant's request. Common Council may approve the amendment as originally proposed, may approve the proposed amendment with modifications (per the recommendations of the Zoning Administrator, the Plan Commission, authorized outside experts, or its own members), or may deny approval of the proposed amendment. If the Common Council wishes to make significant changes in the proposed text amendment, as recommended by the Plan Commission, then the procedure set forth in Section 62.23(7)(d) of the Wisconsin Statutes shall be followed prior to Council action. Any action to amend the provisions of the proposed amendment, or to reverse the recommendation of the Plan Commission, requires five votes of the Council regardless of quorum size. The Common Council's approval of the requested amendment shall be considered the approval of a unique request, and shall not be construed as precedent for any other proposed amendment.

(7) **Effect of Denial:** No application which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.

(8) **Fee:** A fee is required for this procedure. Refer to Section 98-935.

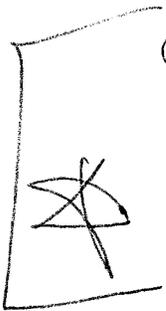
**Section 98-507 Woodland Overlay Zoning District****Section 98-508 Steep Slope Overlay Zoning District***through*

groundcover in areas which are susceptible to variable runoff flows and moderate to rapid water movement.

- (3) **Determination of Drainageway Boundaries:** General drainageway boundaries are depicted on the Official Zoning Map. Upon the proposal of development activity on any property which contains a drainageway depicted on the Official Zoning Map, the petitioner shall prepare a detailed site analysis per the requirements of Section 98-510. This analysis shall depict the location of all drainageway areas on the subject property as related to the provisions of Subsection (1), above.
- (4) **Mandatory Drainageway Protection Requirements:** Drainageways shall remain in an undisturbed state except for the land uses permitted in Section 98-204 per the requirements in Subsection 98-206(10). Vegetation clearing to maintain drainageway functions is permitted with the written approval of the Director of Public Works. All areas designated as drainageways shall be located within a public easement or dedication for maintenance purposes to preserve proper drainage flow.

**Section 98-507 Woodland Overlay Zoning District**

- (1) **Definition:** Woodlands are areas of trees whose combined canopies cover a minimum of 80% of an area of one acre or more, as shown on Environmental Corridors Composite Maps for the City of Lake Geneva and its environs, prepared by the SEWRPC.
- (2) **Purpose of Woodland Protection Requirements:** Woodlands provide a wide variety of environmental functions. These include atmospheric benefits such as removing air-borne pollutants, carbon dioxide uptake, oxygen production, and evapotranspiration returns. Water quality benefits include substantial nutrient uptake rates (particularly for nitrogen and phosphorus) and surface runoff reduction in terms of both volumes and velocities. Woodlands provide unique wildlife habitats and food sources. Woodlands are excellent soil stabilizers, greatly reducing runoff-related soil erosion. Woodlands also serve to reduce wind velocities which further reduces soil erosion. Finally, under proper management techniques, woodlands serve as regenerative fuel sources.
- (3) **Determination of Woodland Boundaries:** General woodland boundaries are depicted on the Official Zoning Map. Upon the proposal of development activity on any property which contains a woodland depicted on the Official Zoning Map, the petitioner shall prepare a detailed site analysis per the requirements of Section 98-908(3)(h). This analysis shall depict the location of all woodland areas on the subject property as related to the provisions of Subsection (1), above.
- (4) **Mandatory Woodland Protection Requirements:** Woodlands shall remain in an undisturbed state except for the land uses permitted in Section 98-204 per the requirements of Subsection 98-206(10) and areas subject to the following mitigation requirements. Selective cutting operations are permitted by right in all woodland areas (per the requirements of Section 98-206(2)(f)). Clear cutting is permitted as a conditional use in all woodland areas (per the requirements of Section 98-206(2)(g)).



development districts and mixed-use districts the regulations need not be uniform.

(c) *Purposes in view.* Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to encourage the protection of groundwater resources; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to preserve burial sites, as defined in s. 157.70 (1) (b). Such regulations shall be made with reasonable consideration, among other things, of the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city.

(d) *Method of procedure.* 1. a. Upon the request of the city council, the city plan commission, the board of public land commissioners, or if the city has neither, the city plan committee of the city council shall prepare and recommend a district plan and regulations for the city. Following the formulation of tentative recommendations a public hearing shall be held by, at the council's option, the council, the plan commission, the board of public land commissioners or the plan committee. The entity holding the hearing shall consider any comments made, or submitted, by the commanding officer, or the officer's designee, of a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the city. At least 10 days' prior written notice of any such hearings shall be given to the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed plan and regulations, and to the commanding officer, or the officer's designee, of any military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the city, but failure to give such notice shall not invalidate such district plan or regulations. Publication of a class 2 notice, under ch. 985, of the tentative recommendations and hearings thereon must be made once during each of the 2 weeks prior to such hearing. If the proposed district plan and regulations have the effect of changing the allowable use of any property within the city, the notice shall include either a map showing the property affected by the plan and regulations or a description of the property affected by the plan and regulations and a statement that a map may be obtained from the city council.

b. The council may make changes in the tentative recommendations after first submitting the proposed changes to the plan commission, board of public land commissioners or plan committee for recommendation and report and after publishing a class 2 notice, under ch. 985, of the proposed changes and hearings thereon as well as the notice to the clerk of any contiguous municipality and to the commanding officer, or the officer's designee, of any military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the city, as required in subd. 1. a. Hearings on the proposed changes may be held by, at the council's option, the council, the plan commission, the board of public land commissioners or the plan committee. The entity holding the hearing shall consider any comments made, or submitted, by the commanding officer, or the officer's designee, of a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the city. If the proposed changes to the proposed district plan and regulations have the effect of changing the allowable use of any property within the city, the notice shall include either a map showing the property affected by the changes or a description of the property affected by the changes and a statement that a map may be obtained from the city council.

2. The council may adopt amendments to an existing zoning ordinance after first submitting the proposed amendments to the city plan commission, board of public land commissioners or plan committee for recommendation and report and after providing the notices as required in subd. 1. b. of the proposed amendments and hearings thereon. In any city which is not located in whole or in part in a county with a population of 500,000 or more, if the proposed amendments would make any change in an airport affected area, as defined in sub. (6) (am) 1. b., the council shall mail a copy of such notice to the owner or operator of the airport bordered by the airport affected area. A hearing shall be held on the proposed amendments by, at the council's option, the council, the plan commission, the board of public land commissioners or the plan committee. The entity holding the hearing shall consider any comments made, or submitted, by the commanding officer, or the officer's designee, of a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the city. If the proposed amendments have the effect of changing the allowable use of any property within the city, the notice shall include either a map showing the property affected by the amendments or a description of the property affected by the amendments and a statement that a map may be obtained from the city council. If the council does not receive recommendations and a report from the plan commission, board of public land commissioners or plan committee within 60 days of submitting the proposed amendments, the council may hold hearings without first receiving the recommendations and report.

2m. a. In case of a protest against an amendment proposed under subd. 2., duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed amendment, or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of three-fourths of the members of the council voting on the proposed change.

b. In any city which is not located in whole or in part in a county with a population of 500,000 or more, if a proposed amendment under subd. 2. would make any change in an airport affected area, as defined under sub. (6) (am) 1. b. and the owner or operator of the airport bordered by the airport affected area protests against the amendment, the amendment shall not become effective except by the favorable vote of two-thirds of the members of the council voting on the proposed change.

3. The council may repeal or repeal and reenact the entire district plan and all zoning regulations in accordance with subd. 1. The council may repeal or repeal and reenact a part or parts of the district plan and regulations in accordance with subds. 2. and 2m.

4. The city council shall maintain a list of persons who submit a written request to receive notice of any proposed zoning action that may be taken under subd. 1. a. or b. or 2. that affects the allowable use of the person's property. If the plan commission, the board of public land commissioners, or city plan committee of the city council completes action on any tentative recommendations that are noticed under subd. 1. a., proposed changes to a proposed district plan and regulations that are submitted under subd. 1. b., or proposed amendments that are submitted under subd. 2., and the city council is prepared to vote on the tentative recommendations, proposed changes to a proposed district plan, and regulations or proposed amendments, the city council shall send a notice, which contains a copy of the tentative recommendations, proposed changes to a proposed district plan, and regulations or proposed amendments, to each person on the list whose property, the allowable use of which, may be affected by the tentative recommendations or proposed changes or amendments. The notice shall be by mail or in any reasonable form that is agreed to by the person and the city council. The city council may charge each per-

2-16-15

Public Speaker #5 - Handout

WI; John Muir Chapter's Sierra Club provides a long history of supporting Smart Growth. Anti-sprawl and pro-land use policies in discussing this proposal.

The Smart Growth Law enacted in 1999, [Wisconsin Statute 227.01](#), which requires that county and local general, shore land, subdivision, Mapping & zoning ordinances; enacted or amended on or after January 1, 2010, be consistent with the comprehensive plan adopted by the unit of government enacting or amending such ordinances. The law requires that the following nine elements be addressed in a comprehensive plan:

1. Issues and Opportunities;
2. Housing;
3. Transportation;
4. Utilities and
5. Community Facilities;
6. Agricultural,
7. Natural, and Cultural Resources;
8. Economic Development;
9. Roads, and utilities by up to 18 percent.

The City of Franklin completed studies and ran the numbers' finding that new development costs them all. Each new home costs at least \$10,000 per year. Builders paid only \$813 in impact fees while local property taxpayers paid the rest. (*Franklin Impact Fee Task Force, Impact Fee Needs Assessment, 1995, page 1.*)

### **Smart Growth Cuts Tax Costs**

According to the UW Planning Professor Jack Huddleston, Smart Growth and efficient development can reduce the cost of new housing development by up to 10 percent, saving taxpayers \$400 million over poorly planned sprawl development. Growth and good land use planning means we need to build fewer roads, schools and sewers to service new development. Smart Growth Saves Taxpayers and Local Governments Money

One Michigan study found that good land use planning and Smart Growth cuts money spent on roads, utilities, and housing significantly. A study of 18 Michigan communities by the Southeast Michigan Council of Governments proves that those with smarter growth cut their cost of housing, roads, and utilities by up to 18 percent.

### **Residential Development Costs 3 Times More than Open Space**

More than 80 studies from American Farmland Trust and others show that residential land use is a net drain on municipal tax reserves. Houses don't cover the cost of schools, roads and other public costs.

American Farmland Trust – Farmland Information Center, Cost of Community Services Studies Fact Sheet, 2001, [www.farmlandinfo.org/fic/tas/fafs-cocs.html](http://www.farmlandinfo.org/fic/tas/fafs-cocs.html)

What Can be done to support smart growth

1. Support and fund Smart Growth planning to reduce costs on new development
2. Require new development to pay its fair share for schools and all costs.
3. Protect parkland, critical habitat, and farmland to cut development costs
4. Make the state provide a generic town plan to help local units of government complete their plans.

For more information see

"Sprawl Costs Us All," [www.sierraclub.org/sprawl/articles/hulacy.asp](http://www.sierraclub.org/sprawl/articles/hulacy.asp)

# Some Key Points About Wisconsin's New "Smart Growth" Legislation

Requires that all local governments must have a comprehensive plan by January 1, 2010, if they engage in programs or actions that affect land use.

**Prepared by Brian W. Ohm**  
**Assistant Professor**  
**Department of Urban & Regional Planning**  
**University of Wisconsin-Madison**

## **I. Where did this Legislation originate from?**

It is the work of a unique coalition of groups including the Wisconsin Realtors Association, 1000 Friends of Wisconsin, the Wisconsin Builders Association, the Wisconsin Chapter of the American Planning Association, the Wisconsin Council of Regional Planning Organizations, the local government associations and the State. Facilitated by faculty from the University of Wisconsin-Madison, the groups developed the definition of the comprehensive plan that Governor Tommy Thompson included in the state budget bill along with money for planning grants. Sen. Brian Burke, D-Milwaukee added local comprehensive planning goals, a "smart growth dividend," and requirements for traditional neighborhood development ordinances.

## **II. How does the legislation impact local planning in Wisconsin?**

### **A. Provides a definition of a "comprehensive plan."**

1. Prior to this legislation, Wisconsin only had the 1920s limited definition of a "master plan" (for cities, villages, and towns with village powers) and a limited definition of a "county development plan" added in 1967.
2. This definition applies to all cities, villages, towns, counties and regional planning commissions in Wisconsin. It begins to provide the framework for a unified land use planning and regulation enabling law for Wisconsin.

### **B. Requires that all local governments must have a comprehensive plan by January 1, 2010, if they engage in programs or actions that affect land use.**

1. Changes existing language that counties "shall" prepare a development plan to "may" to clarify that counties are not required to have a comprehensive plan until January 1, 2010, if they engage in programs or actions that impact land use. (Very few counties followed the "shall" language since only a handful of counties have a county development plan.)

### **C. Provides state funding to support local planning efforts [see below].**

### **D. After January 1, 2010, local programs and actions impacting land use must be consistent**

with that local government's comprehensive plan.

E. Requires that the local governing body adopt written procedures designed to foster public participation and other significant new plan adoption requirements.

F. Requires that a comprehensive plan must be adopted in its entirety.

1. Currently master plans and county development plans can be adopted in parts and the plans are often never "complete."

G. Requires that the governing body adopt the comprehensive plan.

1. Current law only requires that the plan commission adopt master plans.

H. Changes the composition of city, village, and town plan commissions to allow greater local discretion.

1. The plan commission shall consist of 7 members, appointed by the mayor. The mayor also appoints the presiding officer. Members may consist of the mayor and other elected or appointed city officials, except the commission must have at least 3 citizen members who are not city officials.
2. Eliminates the current statutory language that the plan commission must consist of the mayor, who shall be the presiding officer, the city engineer, the president of the park board and an alderperson.
3. For towns with a population of less than 2,500, the plan commission may consist of 5 members appointed by the town chairperson, who selects the presiding officer. Requires at least one citizen member who is not a town official.

I. Requires that cities and villages, and towns with a population of at least 12,500, adopt traditional neighborhood development and conservation subdivision ordinances that are similar to ordinances developed by the University of Wisconsin Extension. The ordinances are not required to be mapped.

J. Establishes a "smart growth dividend aid program." Specifics to be developed by the Departments of Administration and Revenue. The first grants are to be distributed in fiscal year 2005-06.

### **III. How does a community apply for a grant?**

The legislation provides 2 sources of grants to assist with local planning efforts:

A. As of July 1, 1999, \$1 million is available from the Department of Administration to help finance the costs of planning activities related to the transportation element. An additional \$1 million is available on July 1, 2000.

1. These are matching grants. Local governments may pay up to 25% of the cost.
2. Grants must be approved by the Department of Transportation (the original source of the funds).

B. As of July 1, 2000, \$1.5 million will be available for the fiscal year from the Department of Administration to help finance the cost of local planning activities.

1. Grants are only available to finance a comprehensive plan [as defined in the legislation].
2. These are matching grants. The amount of the match will be based on the number of applications and the availability of funding.
3. Grants must be approved by the Wisconsin Land Council. The Land Council may promulgate rules specifying methodology to prioritize grants.
4. The legislation gives priority to grants for planning efforts that:
  - address intergovernmental issues;
  - meet the local 14 local comprehensive planning goals identified in the legislation;
  - identify smart growth areas;
  - include development of implementing ordinances;
  - will be completed within 30 months; and f. provide opportunities for public participation.

#### **IV. How does the legislation affect state agencies?**

State agencies are encouraged to design their programs, policies, infrastructure and investments to reflect a balance between the mission of the agency and 14 local comprehensive planning goals.

#### **V. How does the legislation impact existing plans or current planning processes?**

Existing plans and current planning processes are not directly affected. HOWEVER, before January 1, 2010, local governments undertaking programs and actions that impact land use will need to have a comprehensive plan. Planning takes time. The earlier a community begins to prepare a comprehensive plan the better. The grant program and the "smart growth dividend aid program" also provide incentives for early completion of comprehensive plans.



Explore, enjoy and protect the planet

# Smart Growth Makes \$ense

And Saves Tax Dollars, Parks and Farmland

With Wisconsin facing a \$1.6 billion budget crisis and community after community facing referenda for new schools, Smart Growth and comprehensive planning can save taxpayers millions of dollars with lower school, road, and other development costs. Legislators should fund Comprehensive Planning Smart Growth measures, not nix it.

## *Smart Growth Cuts Tax Costs*

According to the UW Planning Professor Jack Huddleston, Smart Growth and efficient development can reduce the cost of new housing development by up to 10 percent, saving taxpayers \$400 million over poorly planned sprawl development.<sup>1</sup> Why? Smart Growth and good land use planning means we need to build fewer roads, schools and sewers to service new development.

The City of Franklin south of Milwaukee ran the numbers and found that new development costs them all. Each new home costs at least \$10,000 per year. Builders paid only \$813 in impact fees while local property taxpayers paid the rest.<sup>2</sup>

## *Smart Growth Saves Taxpayers and Local Governments Money*

One Michigan study found that good land use planning and Smart Growth cuts money spent on roads, utilities, and housing significantly. A study of 18 Michigan communities by the Southeast Michigan Council of Governments proves that those with smarter growth cut their cost of housing, roads, and utilities by up to 18 percent.<sup>3</sup> See chart below for specifics.

Area of Impact	Savings from Smart Growth
Roads	11.9%
Water and sewer	18.1%
Housing Costs	6.4% or \$10,000/home
Annual Revenue Impacts	3.2%

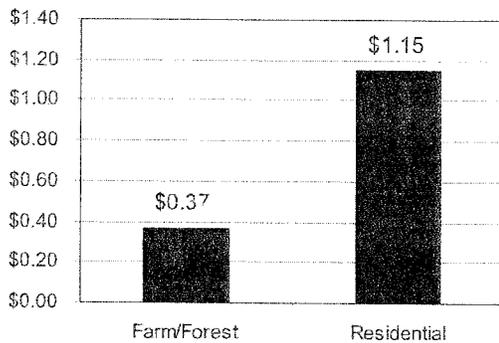
<sup>1</sup> Professor Jack Huddleston, "Comparative Costs of Development, Supporting Analysis," January 1996.

<sup>2</sup> Franklin Impact Fee Task Force, Impact Fee Needs Assessment, 1995, page 1.

<sup>3</sup> Robert Burchell, et al. "Fiscal Impacts of Alternative Land Development Patterns in Michigan: The Costs of Current Development versus Compact Growth." South East Michigan Council of Governments. June 1997.

### Cost of Community Service Studies

### *Residential Development Costs 3 Times More than Open Space*



Cost per dollar of revenue raised to provide public services to different land uses.

while public services for residential land uses cost \$1.15. Why? Open spaces do not require new schools, sewers, or police protection like new development.

For more information see "Sprawl Costs Us All," [www.sierraclub.org/sprawl/articles/hulsey.asp](http://www.sierraclub.org/sprawl/articles/hulsey.asp)

More than 80 studies from American Farmland Trust and others show that residential land use is a net drain on municipal tax reserves. Houses don't cover the cost of schools, roads and other public costs.<sup>4</sup>

For every dollar of taxes paid, public services for farmland, forest and open spaces cost 37 cents to deliver

### *What You Can Do...*

Support and fund Smart Growth planning to reduce costs on new development

Require new development to pay its fair share for schools and all costs.

Protect parkland, critical habitat, and farmland to cut development costs

Make the state provide a generic town plan to help local units of government easily complete their plans.

For more information contact: [www.sierraclub.org/sprawl](http://www.sierraclub.org/sprawl) or call 608-256-0565.

<sup>4</sup> American Farmland Trust – Farmland information Center, Cost of Community Services Studies Fact Sheet, 2001, [www.farmlandinfo.org/fic/ras/tafs-cocs.html](http://www.farmlandinfo.org/fic/ras/tafs-cocs.html)