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CHAPTER

# 3

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# ZONING

WILLIAM TONER

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*Zoning is like the game of poker.  
It's boring until the money is in the pot.*

—BILL WHITED

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## INTRODUCTION

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Welcome to zoning, a simple device used to protect people and their property. While zoning is plain in concept and easy to understand, it is often complex and difficult in application. Of the decisions that planners make, there are few that will equal zoning in terms of the day-to-day impact on the health, safety, and welfare of ordinary people.

Consider the folks who live in a two-story, 2,000 sq. ft. home, on a 10,000 sq. ft. lot in a suburb of Baltimore, Maryland. The town has zoning, and here are some of the particular features of zoning that protect the people of that house.

The house may be no higher than 32 feet. That's because the ladders on the fire truck can extend only that far. The front and back of the house are 40 feet from the front and back property line. That's to guarantee open space and prevent overcrowding. The sides of the house are 15 feet from the side property lines. That's to maintain sunlight between buildings, prevent overcrowding, and provide maintenance space. A garage is required to keep cars off the street so drivers have a clear view of pedestrians, including many children who play on the sidewalk or on the street. While these are simple, straightforward explanations of why zoning is helpful to ordinary people, in practice zoning can become far more complex, sometimes troublesome, sometimes beneficial.

Two examples might help to show how this most common tool of land-use control affects people of cities, counties, townships, and villages in complex ways large and small.

There is a two-story house in Flossmoor, Illinois, that is nicely painted and well maintained on all sides but one. On this one side, the paint blisters and peels, shutters and screens are in disrepair, gutters sag, and the brick needs tuckpointing. It is a curious sight, for the homeowners clearly care for their house. So why is that one side so badly in need of repair? Because some 30 years ago, local officials adopted a zoning ordinance that allowed the former owner to put an addition on the house, moving a two-story wall to within five feet of the neighboring property line. As a result, for the past 30 years, the incensed owner of the adjoining property has refused to let any workers use his property to erect any scaffold or place any ladder or other equipment necessary to repair that one wall of the house.

As one might imagine, the conflict between the neighbors (the house has changed ownership several times) has been continuous on personal and legal fronts. This long and personal fight, which has often spilled over to the rest of the neighborhood, could easily have been avoided had local officials kept a reasonable distance between adjoining homes.

Neighborhood fights like this one are a common result of poor zoning decisions. The results were considerably more complex and more troublesome than officials envisioned. Thus zoning is at once simple and complex, with the potential for long-lasting good or for long-lasting harm.

It wouldn't be fair to Flossmoor officials to isolate a single case of poor choice without also pointing out that they have made hundreds of good decisions. If there are two neighbors fighting because of a poor zoning decision, there are 2,000 others living in relative peace and civility, provided in part by good zoning decisions.

In the late 1960s and early 1970s, Walworth County, Wisconsin, officials took note of a troublesome pattern arising in the countryside. Specifically, their zoning ordinance allowed several subdivisions to be built within their agricultural area. As a result, farmers were reporting a series of problems—subdivision dogs chasing purebred cattle, kids biking through crops, trash and litter deposited on farm fields and the like. Similarly, people in the subdivisions began complaining that the noise of farm operation disturbed them, that slow-moving farm vehicles made for rural traffic hazards, and that pesticides and insecticides applied by farmers endangered their health.

Walworth County officials changed the zoning, recognizing that agriculture was a heavy industry that needed to be kept separate from indiscriminate subdivision, reaffirming the long-held zoning notion that homes and heavy industry do not mix. By this and subsequent action, county officials used zoning to prevent such problems from emerging in the future and thereby increased the health, safety, and welfare of farmers and subdivision dwellers alike. Officials provided vast expanses of land for agricultural production and preserved the same area in open space while at the same time protecting homeowners from the noise, traffic, and health hazards associated with the industry of agriculture.

In making zoning decisions, the first thing for members of planning commissions and zoning boards of appeal to recognize is that a good zoning decision is full of the possibility of long-lasting, great achievement. Poor zoning decisions, on the other hand, often establish protracted conflict and result in a diminished quality of health, safety, and welfare. To gain the former and to evade the latter, it is essential to understand the basic products and processes of zoning.

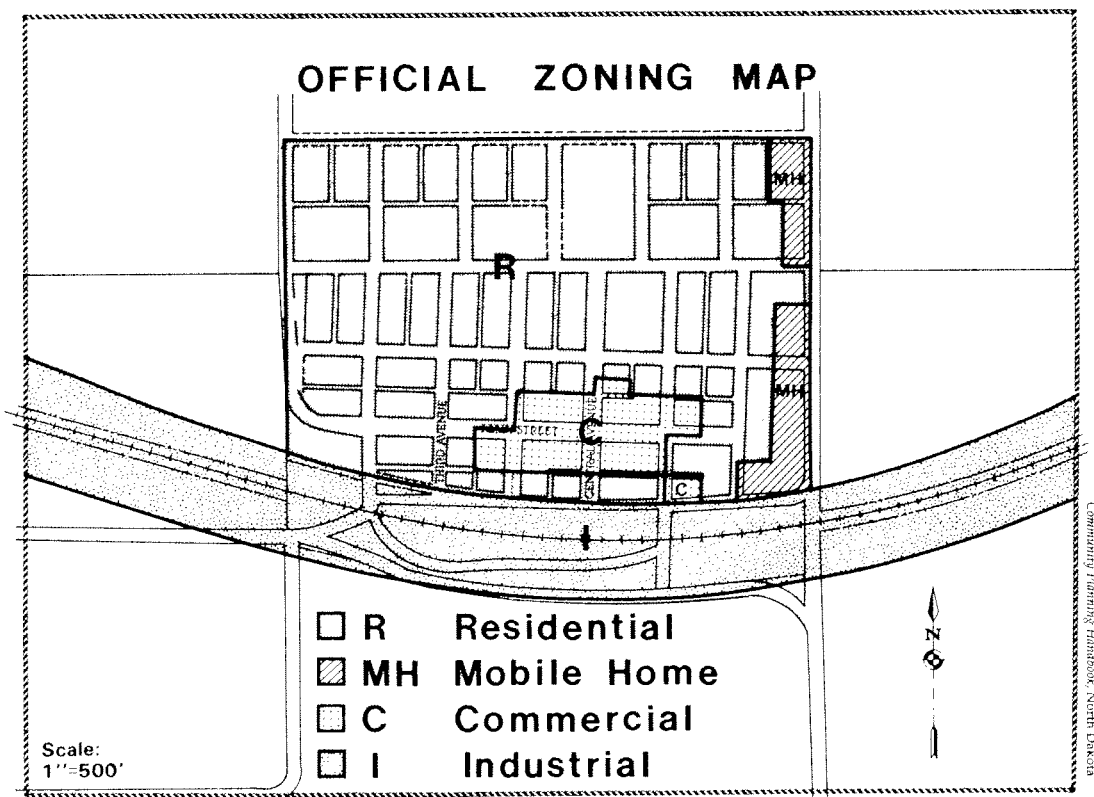
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**MODULE 9: ZONING PRODUCTS AND ZONING PROCESSES**


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**Zoning Map**

There are two pieces in the zoning puzzle—a zoning map and a zoning text. The zoning map simply illustrates how the entire area of a community is classified and divided up into distinct zoning districts, such that, in general, every parcel of land in the community may be identified as being at least in one zoning district. The common zoning districts are residential, commercial, industrial, and agricultural.



For example, the preceding zoning map illustrates the concept. Note that the map shows four separate districts. Each parcel of land has one zoning district. Maps of larger, more complex areas might show several different residential districts and a few different commercial districts, with one dominant type of housing in each residential district and one dominant type of commercial use in each of the commercial districts. Thus each district tends to group similar types of land uses together, while, at the same time, keeping them separate from other, incompatible landuses.

*Examine your zoning map. Write down the number of districts that you see. Now see if you can spot a zoning district that appears to be out of place—one that may put conflicting land uses side by side. This may be a source of trouble. (Exercise 9-1)*

### **Zoning Text**

The zoning text serves two purposes. First, it explains the zoning rules that apply to each of the districts. These rules, which will be detailed in a moment, typically establish a list of land uses that are permitted in each of the districts plus a series of specific standards for the permitted land uses that govern lot size, height of building, required yards and setbacks from front property lines, and so forth. (If a use is not permitted in a district, it is generally prohibited unless allowed under special circumstances—but more on this later.) Second, the text sets forth the procedures for administering the zoning ordinance and establishes the roles and responsibilities of the principal actors—zoning applicants, zoning administrators, planning commissions, zoning boards, and elected officials. The zoning text specifies the basic steps to be followed.

The zoning ordinance for the Village of Oswego, Illinois, contains the typical features. While Oswego has 14 sections to its zoning ordinance, there are eight sections that are particularly important to our discussion.

Section 1: A Statement of Purpose and Intent sets forth the public interest in zoning and establishes, for example, that zoning is adopted “To promote the public health, safety, morals, comfort, and general welfare of the citizens of the village.” There are an additional 16 specific statements that define the public interest more clearly such as, “To protect the character and the stability of the residential, business, and manufacturing areas within the Village of Oswego and to promote the orderly and beneficial development of such areas.”

This section, common to most zoning ordinances, explains what it is that the village is trying to accomplish with zoning rules. A good zoning text will define a statement of purpose in clear and simple terms such that the public interest is apparent to planners, elected officials, applicants, citizens, and judges.

*Stop for a minute. Look at your zoning text. Find the statement of public purpose or public intent. Is it clear and specific? Easily understood? (Exercise 9-2)*

Section 2: Definitions. Good definitions solve a multitude of zoning problems. Since zoning is a regulatory device, the exact meaning of terms becomes particularly important. A good zoning ordinance is anchored in good definitions.

*Now turn to definitions. Find the word “lot.” Note the many variations. The word “lot” is obviously an important one and needs precise definition. Any idea why? (Exercise 9-3)*

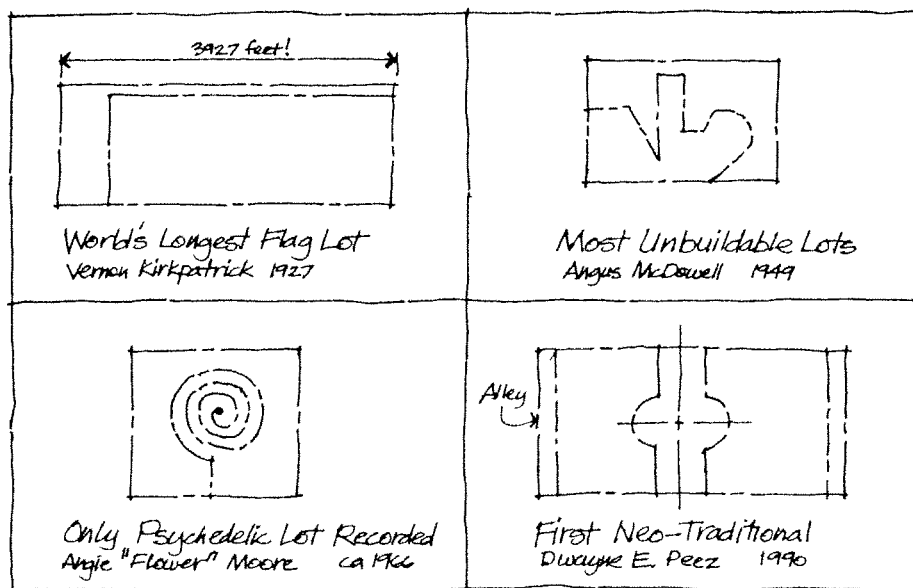
If your evaluation of the word “lot” doesn’t suggest the importance of clear meaning of words, consider two cases. The first is the term “day care, in home.” Exactly what is suggested here? What is a home? What is day care? Does it include children? Adults? How many? Are disabilities important? Does it matter how many day care operations are in a neighborhood? Obviously, a good definition will answer many of these questions so that, when applied, the answer would be a clear yes or no.

But even the best zoning definitions often leave words poorly defined. And that's where planning commissioners, zoning board of appeals members, planners, local elected officials, and ultimately judges exercise some judgement. The Allentown (Pennsylvania) *Morning Call* reports on a case in Upper Saucon Township, Lehigh County, Pennsylvania, where a judge is dealing with a definition of animal husbandry. The question is whether William and Cheryl Stoneback, in raising one wolf and five wolf-hybrids, are engaged in animal husbandry or merely operating a kennel. If the answer is animal husbandry, the wolf-hybrids are a permitted use and, provided their activities meet normal zoning requirements, a zoning certificate would be issued. If not, the Stonebacks must apply for a special exception permit (also called a conditional use or a conditionally permitted use) that may or may not be granted. So, is it animal husbandry or a kennel? Should the Stonebacks be allowed to raise wolf-hybrids in an agricultural zoning district as an agricultural use?

Section 3: General Provisions. General provisions include the overriding rules that apply to all land uses and all parcels throughout the community (rather than a single district) and would answer such questions as, "What if a conflict existed between the zoning ordinance and other regulations adopted by the village?" (The usual answer is that the more restrictive ordinance or regulation would apply.)

Section 4: Nonconforming Structures and Uses. Whenever a zoning ordinance is first adopted, there is the problem about what to do with existing buildings that don't meet the new zoning rules and, similarly, the problem of what to do about uses of buildings or land that don't meet the new rules. These are termed nonconforming structures and nonconforming uses. For example, if a zoning ordinance required that residences be located at least 15 feet from the side yard property line and an existing home were located 10 feet from that line, this home would be a nonconforming structure. If, on the other hand, this same structure was, say, 15 feet from the side yard property line, but the structure was used for a business not permitted in a residential district, the use of the structure for the business would make it a nonconforming use. Over the long term, the zoning ordinance attempts to eliminate all nonconforming structures and nonconforming uses.

*From the Museum of Historic Short Plats*



M. Hinshaw '92

Mark Hinshaw

Section 5: Zoning Districts. The Oswego ordinance includes three broad classes of land-use districts: residential, business, and manufacturing. Each of these broad classes are further subdivided so that there are four residential districts, four business districts, and two manufacturing districts. The exact number of zoning districts is generally tied to the size and complexity of the community. The larger, more complex communities have many more and many different types of land uses and thus require very specialized zoning districts. In smaller towns and rural areas, there are typically fewer land uses and thus little need for highly specialized zoning districts. In Oswego, the four residential districts include a district for single-family homes on large lots, a district for single-family homes on smaller lots, a district for duplexes, and a district for town homes and apartments.

In the zoning text, each zoning district is organized around the following scheme. First, there is a statement of public purpose or intent that relates specifically to the district at hand as opposed to the communitywide goals identified in Section 1 above. The second segment includes a list of land uses that are permitted in the district and a list of land uses that may be permitted under special conditions. A land use that may be permitted under special circumstances is referred to as a "special use" or "conditional use." The third and last segment sets forth the rules that apply to each of the permitted uses or conditional uses that are provided for in that district.

These rules, discussed in greater detail in separate modules, require a minimum lot size, minimum yard sizes and minimum setbacks, maximum building heights, and minimum open space requirements. These rules also govern the minor land uses, called "accessory uses" that accompany the principal land use. A garden shed, for example, is an accessory use to a home in a residential district.

*In your zoning ordinance, find the section on a residential district. Is there a statement of public purpose? What is it? Identify the permitted and special uses. What uses are prohibited? Describe, in general, the rules that apply to permitted uses. See if any additional rules apply to special uses in the district. (Exercise 9-4)*

Section 6: Off-Street Parking: Land uses vary considerably in terms of parking space requirements. The zoning ordinance establishes the minimum number of parking spaces, location, size, and layout for each of the permitted uses or special uses in the zoning ordinance. Typically, parking standards vary by the land use, so that when a use is permitted in more than one zoning district, the parking requirements remain the same.

Section 7: Signs: As with off-street parking, signs are also highly varied by type and size of land use. In this section of the ordinance, sign regulations are established for each of the land-use districts and often include restrictions on size, location, height, projection, lighting, and so forth.

*Want to know why signs are difficult to regulate? Take just one land use, say an auto dealership, and write down all the various signs that are commonly found. Did you include the huge inflatable characters? Yes, those are signs, too. Now think about all the types of businesses there are. Think about multiplying all the types of business by the types of signs. (Exercise 9-5)*

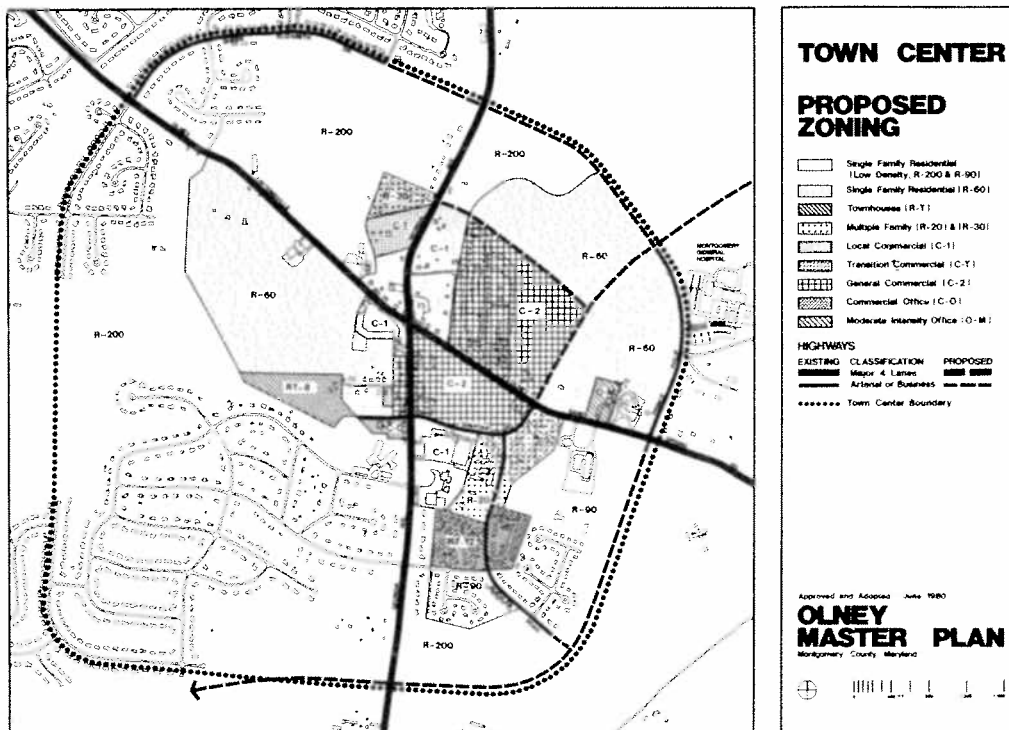
Section 8: Administration: This describes the zoning administration procedures, establishing the roles and responsibilities of planning commissioners, zoning board members, the zoning administrator, and elected officials. This is perhaps the single most important section of the zoning ordinance since it: (1) details the work or job of the key actors in the zoning process, (2) outlines the exact steps that must be taken in carrying out the work, and (3) clarifies the criteria that planning commissioners, zoning board members, zoning administrators, and elected officials must use in making zoning decisions.

We want to note that communities may have additional sections in the ordinance dealing with such subjects as landscaping, historic preservation, flood control, wetlands, view protection, overlay zones, and so on. Here, we deal with the basics.

*Read the administrative section of your ordinance. Answer the following questions. How may one file for a zoning change? How much time does the planning commission have to review a zoning change? When is it appropriate for the applicant to file with the zoning board of appeal? (Exercise 9-6)*

So much for the basic outline of products and processes of zoning. The thing to remember is that the zoning ordinance and the zoning map are your working tools—so use them. Read, question, and write it down. Make notes in the text or on the map. Put a tab on the table of contents and on the index (if you have one and you should have one). Get to know the zoning text and the zoning map, and you are well on your way to making good, fair decisions. Isn't that what it's all about?

*Maps depicting proposed zones help citizens and officials make informed decisions about the community's future.*



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**MODULE 10: HOW TO MAKE ZONING WORK**

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While the mechanics of zoning are straightforward, it is no simple matter to get zoning right. Yet there are three key documents that, if consistently followed, will help local officials to make good, fair decisions. These three documents establish the public purpose that officials must follow in making any zoning decision.

For local officials, the heart and soul of zoning decisions rests upon this elegant idea of the public purpose. So what is the public purpose? The public purpose includes those things that serve the public generally, increasing the quality of public health, protecting property rights, minimizing threats to public safety, and increasing the overall quality of community life. The public purpose does not include those things that increase the health, safety, or welfare interest of a few persons at the expense of the public at large. It is the larger, communitywide public that counts.

The public purpose (or public interest) is commonly established in three documents that you need to know (in detail) and need to have available at all times. The three documents are: (1) the *state enabling legislation* that sets forth the zoning powers of each community and also establishes the particular public purpose in doing so; (2) the *community plan*, reflecting the state enabling legislation and highlighting what the community is attempting to accomplish through its land-use plan and other plans; and (3) the *zoning text*, which should be anchored in both the state enabling legislation and the public purpose outlined in the community plan.

It is helpful to take an example from each of the three documents to show how each of them is centered in the basic idea of the public interest.

In Illinois, for example, the enabling legislation for county zoning defines the public interest as the promotion of “public health, safety, morals, comfort and general welfare, conserving the values of property throughout the county, lessening or avoiding congestion in the public streets and highways, and lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters . . .” This statement sets the broad framework for the public interest in adopting and using zoning as a regulatory device. Thus, local officials must ensure that their zoning decisions conform to the state enabling legislation.

*Turn to your state enabling legislation. Find the statement of public purpose for zoning. Outline the key ideas in it, and make a list. Set it aside.  
(Exercise 10-1)*

With the state enabling legislation in hand (and in particular the public purpose from that legislation), now examine the particular zoning instructions that are given to you from the state. This may include exemptions from zoning, public notice requirements and schedules, and details on the composition and particular duties of the planning commission, zoning board, or zoning administrator.

The next document is the community plan. The community plan may go under a series of different titles—general plan, comprehensive plan, policy plan, or just plain old plan. Within the community plan there will be an extended statement on community goals,



objectives, or policies. These goals, objectives, or policies are statements of the public interest. Many of them will have direct relevance to zoning decisions.

*Read the goals, objectives, and policies that are outlined in your comprehensive plan. As you read through them, place a check mark next to those that relate to zoning. Make a list and set it aside. (Exercise 10-2)*

The final definition of the public purpose or public interest is contained in the zoning text. Most commonly, the statements of public purpose or public interest are found in two locations in the zoning text. The first, a general statement of public interest, is located near the beginning of the ordinance. The second, a much more particular statement, is usually found as an introduction to each major section of the zoning ordinance. Of special importance is the statement of public interest that introduces each of the principal zoning districts.

*Take your checklist from the state enabling legislation and take your checklist from the comprehensive plan. Attach them to some convenient place in the zoning ordinance. (Exercise 10-3)*

What you now have is an excellent set of guidelines to use in making zoning decisions. If, in the main, the proposal at hand meets the checklist of public purpose, should you go ahead and vote yes? Not quite yet, for there is still the practical matter of whether or not you are following your own rules.

### **Procedural Rules for Guiding Zoning Decisions**

There are two main sets of rules that must be followed before reaching your decision. The first has to do with the process of zoning—was the application filed in time, was public notice (where required) given in time, was the public hearing (if necessary) held, were the proper steps followed? If the zoning process was correctly followed, there remains the other set of rules.

The other rules deal with the particular zoning question and typically involve one or more of four issues: (1) a change in the zoning map; (2) a change in the zoning text; (3) a variance to the zoning text; or, most commonly, (4) whether the proposed structure or land use meets the minimum standards of the zoning ordinance.

Changes in the zoning map or the zoning text (these are called amendments) are best considered by using your checklist of the public interest. Variances often call for a special set of rules detailed below. To judge whether or not the proposed structure or land use meets the minimum standards of the zoning ordinance, it is necessary to evaluate the proposed structure or land use against the detailed standards of the zoning district into which it falls.

If the proposal meets the public interest, or, if applicable, complies with the rules for variance, and meets the required minimum standards of the zoning district, vote yes. If not, vote no.

### **Keeping Current**

Doing a great job with zoning, or planning for that matter, requires that you, in your role as a planning commissioner or zoning board member, keep up to date. Zoning should change with the time, and changes need to be made. So how do you keep up? Join the American Planning Association and read the magazine *Planning*. Attend planning conferences. Join your state planning association and go to their conferences. Call your colleagues and ask them about particular questions or specific issues.

Best of all, read and note. Read newspapers, magazines, journals, look at television news, check with friends and neighbors. Ask questions. Clip articles and pass them around.

*Name three new land uses that should be covered in the zoning ordinance. Are they? How are they covered? What is your method for making the changes? Is a "gentlemen's club" opening near you? So what is a "gentlemen's club"? Some sort of stick? (Exercise 10-4)*

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## MODULE 11: SPECIAL OR CONDITIONAL USES

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Zoning districts are defined within the zoning text. In each of these districts, two broad classes of land uses are explicitly identified. One additional class is identified by omission. The two explicit land uses are: (1) those permitted by right in the district (no problem here provided the other zoning rules are met); and (2) those that may or may not be permitted depending upon the fit between the proposed land use and the place for which it is proposed. These second category land uses are called special or conditional uses, sometimes they are termed special exception uses. But it is all the same. For convenience, we shall use the term “special uses.”

*Special Uses: Check the zoning for, say, a commercial special use. Find it. Then think about the special use in a particular place. Write your questions. Imagine your answers. Let’s see how you stack up. Look at the questions and see what you may have forgotten. (Exercise 11-1)*

### Special Uses

So what’s an example of a special use? The City of San Bernardino, California, has a zoning district that is called “residential suburban.” It is designed for single-family detached homes on lots with a minimum size of 7,200 sq. ft. Single-family homes are, of course, a permitted use in this district. But there are special uses such as convalescent homes, day care facilities for seven or more children, commercial stables, and agricultural uses.

In San Bernardino, these are special uses because they may or may not belong in a specific neighborhood. Consider, for example, the special use “convalescent home.” In the average subdivision, a large convalescent home on a small lot would likely lead to land-use conflicts due to increased traffic around the clock, late night/early morning emergency vehicle operation, and outdoor lighting. Such a use would not be appropriate. However, if the proposed convalescent home were located on a large estate carefully screened from its neighbors and with good access drives, the special use permit may be appropriate.

Most zoning districts have a list of special uses. Each of these special uses must be treated as a unique case. To do so requires the careful evaluation of the proposed use itself as well as the particular site under consideration. A special use that fits nicely into one neighborhood may be a disaster in the next. It all depends on the special use itself and the neighborhood.

### Reviewing Special Uses

Here’s a rule of thumb. If it looks like a frog, hops like a frog, and croaks like a frog, chances are you’re looking at a frog. The same holds for special uses. If our convalescent home described above looks like a residential use and if it behaves as residential use does, then grant the special use. If not, don’t. This holds true for all special uses. Consider what they are and where they will be. If they are close in appearance and activity to surrounding uses, treat them as you would a normal permitted use. If the appearance and activity are sufficiently different, either modify the proposal or reject the proposal.

While appearance is fairly easy to determine, the type and level of activity is more difficult. First, the special use must meet all of the zoning standards of the relevant district. If not, the applicant may choose to apply for a variance. Failing that, you need go no further—vote no.

Presuming the zoning standards have been met, the next stage is to use your checklist of public purpose. You will recall that your checklist is simply a list of statements taken from your state enabling legislation, comprehensive plan, and the public purpose of your zoning ordinance, especially the public purpose for the zoning district under consideration. Take the checklist and go down point by point, noting questions and comments. When applied, this list will give you a good look at the proposed special use. But recall, you must consider the special use in terms of its exact location and its relationship to surrounding land uses. Remember the frog rule!

The final stage includes two basic ideas: (1) Construct a mental profile of the zoning district and the specific location of the proposed special use; and (2) Develop specific knowledge of the proposed special use and determine exactly how it will perform. To construct a mental profile of the zoning district, consider such items in a special use checklist:

### A CHECKLIST FOR SPECIAL USES

#### Looking for Unintended Consequences

**Traffic:** Consider type of traffic (auto, bus, truck, tractor, motorbike) plus an estimate of the average daily traffic for similar use. (Ask your planner for data from the Institute of Traffic Engineers).

**Streets:** Identify principal adjacent streets and ensure adequate access to and from the site.

**Lighting:** Type, intensity, direction, timing.

**Noise:** Levels by day and night.

**Signs:** Types and size and location.

**Maintenance:** Time of day or night as well as vehicles involved and worker activity. (Try living behind any popular fast food emporium and listen at 2:00 a.m. to maintenance workers' boom boxes. Then, as the radio sounds fade, listen to the garbage trucks empty the dumpsters.)

**Reinforcement:** Land uses attract related land uses—gas stations attract car washes, which, in turn, attract auto supply, which, in turn, attract . . . Is this a pattern that you want to introduce?

**Vibration:** Big machines or controlled explosions shake things—a quarry may be 2,000 feet from a home, but the home may rock with the explosions.

**Parking:** While the zoning ordinance generally has a special section dealing with parking, look for the typical characteristic of the neighborhood. At night, for example, cars may shine lights through front rooms of homes—no problem, unless, of course, there are dozens of them. Not typical for a subdivision.

**Safety:** Ask the police. What about kids, seniors, and the disabled? Does the special use invite public safety problems?

**Appearance:** Does the special use fit the neighborhood? Look to the building, grounds, parking, lighting, and so on.

**Volume:** Check out solid waste, number of customers/visitors, autos/trucks.

**Pollution:** All sorts, air, land, or water, surface water, or subsurface water.

*Let's see how you did. Go through the checklist and compare your earlier work with it. Did you consider all the factors? Which ones? List them. Then draw up a list of things that you did not consider. Do you see the importance of checklists? Very few people can keep all of these things in mind, so use the checklist. (Exercise 11-2)*

To develop specific knowledge of the proposed special use and to understand exactly how it will perform, there are four main sources of information.

First, ask the planner. Based on both experience and research, the planner will help develop the profile of the special use. Second, the American Planning Association offers a subscription Planning Advisory Service. Have your agency join and ask for a written report on the subject. Third, and most important, specific knowledge comes from those who know it best—the applicants. Ask them to address the questions posed in the checklist above. Finally, listen carefully to questions asked at the hearing. Residents will surprise you. They will think of things that you'll find amazing, questions that often will go to the heart of the issue.

So now you have been through the entire process. To evaluate special uses, do the following: (1) apply the frog rule, (2) do your checklist, (3) construct a mental profile of the neighborhood, (4) ask the applicant, and (5) listen to the neighbors. Then compare all these factors. At that point, you'll have the idea and a good decision to boot.

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## MODULE 12: REZONING

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When a zoning map is **changed**, we call it a rezoning or a map amendment. But changing a zoning map is loaded with consequence. Let's take a common case of changing an agricultural district area into a residential district. What are the consequences?

First, let's return to issues related to agricultural districts and their uses. Modern agriculture is basically a heavy industrial use. In contrast, the residents of a suburban residential district expect peace and quiet and the amenities of a residential environment. Clearly, the stage is set for a major conflict. The basic conflict is this: agricultural and suburban land uses don't mix.

In Richland County, South Carolina, some residents in a district zoned for agricultural and other rural uses are trying to exclude poultry farms. The Columbia *State-Record* reports that a poultry farm proposal to raise 28,000 chickens on 15 acres has generated opposition to prevent "rural communities (from being) dumped on by commercial animal and poultry producers." One resident even claimed, "The agricultural use is killing people." Now recall that this is a district in which agricultural uses are permitted. Imagine if this agricultural use abutted a residential district. Thus, changes to the zoning map are not easy, and careful consideration must be given before reaching a decision. As with most zoning decisions, key information is discovered only when one knows how to ask the right questions. So what are the right questions to ask? Here are some suggestions.

1. Is the proposed rezoning consistent with the comprehensive plan and its land-use plan map? If not, consider amending the comprehensive plan and land-use map before making any change in the zoning map. If the rezoning is consistent, proceed.
2. Any rezoning will involve other zoning districts. Identify all abutting zoning districts and ask yourself if the proposed rezoned area is generally compatible with surrounding districts. A useful technique here is to compare lists of the permitted and special uses in each district.
3. Often an applicant will seek a specific map amendment for the purpose of operating one specific type of business. Be careful. When you approve a rezoning you are approving *any* of the permitted uses for that district, and you are opening the door for any of the special uses for that district. It is poor practice to approve a rezoning for the purpose of allowing a particular permitted use unless one is fully prepared to accept any of the permitted or special uses for that newly rezoned area.
4. While land use generally changes slowly over time, land uses do change, and rezoning is a fact of planning life. There are new technologies, shifting lifestyles, and long-term economic forces that lead to changes of the zoning map. Old central city industrial areas, long abandoned, are converted into lofts for residences. Gasoline stations are half gas-half supermarket. The density of residential neighborhoods increases, and some homes fronting major thoroughfares convert to business uses. These changes are planning matters first, zoning second. In considering a rezoning, ask yourself whether this application represents a substantive shift in land-use planning. If there have been several such applications, it is likely that the matter needs to be considered first in the context of the comprehensive plan.

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## MODULE 13: VARIANCES

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A variance (in some states called a “variation”) is a minor exception to the zoning rules that, if granted by proper authority, allows an applicant to do what could not otherwise be legally done. The key phrase is *minor exception*.

Typical zoning rules are spelled out so that an applicant either meets the zoning rules or does not. A lot either meets the minimum lot size specified in the zoning ordinance or it does not. A building height is either at or below the maximum zoning height or it is not.

Variations, or minor exceptions to the zoning rules, are designed to deal with the myriad cases in which some proposal nearly or just about meets the zoning rules, but not quite. Obviously, it would be unreasonable, in most cases, to reject a zoning application featuring, say, a lot size of 8,499 sq. ft. in a zone requiring a minimum lot size of 8,500 sq. ft. The variance process allows you to grant minor relief from strict zoning standards under specific conditions.

### Evaluating Variations

There are two principal sources of information in evaluating variations—state enabling legislation and the zoning ordinance. These documents will typically spell out both the process that must be used in treating variations and the standards that must be used in evaluating variations. The process used in treating variations is usually spelled out in great detail and must be followed to the letter.

The standards for evaluating variations are also spelled out, but they often leave considerable room for interpretation. Various court cases within a state may clarify some of the unsettled territory, but you and the zoning staff are left with a fair amount of discretion. Since the substance of the normal variance application is usually close to meeting zoning standards, the question becomes, how close is it to meeting those standards?

*Prepare a variance checklist. Make a list of the standards used in evaluating variations in your state enabling legislation. To that list, add the variance standards contained in your zoning ordinance. Last, ask your planner or attorney to provide additional standards from court cases in your state.*  
(Exercise 13-1)

What are some typical standards and things to consider? While there are differences between states, the overriding theme is this: variations may be granted only for minor changes to zoning standards. The word “minor” means small, almost trivial, changes to the zoning standards. Thus, variations should not be given to “uses” within districts—that is, if some use is not a permitted or special use in a zoning district, then the variance procedure should not be used to allow a use that would otherwise be prohibited. Such variations are not minor, they are major. In addition to this theme of minor changes, there are other common considerations.

- Unique: The hardship caused by zoning standards is unique to the property and is not shared by neighbors and other similar properties.
- Effect: The effect of the zoning standards is to deny a property owner reasonable use of the property.

- Self-imposed: The applicant did not bring the burden upon himself or herself through some action, but instead had the burden imposed upon them.
- Consequence: The variance should not cause any land use or parcel of land to become nonconforming, nor should it be used to allow a nonconforming land use or parcel to continue.

In addition to these common considerations, local officials should also consider whether the applicant has shown that:

1. The variance would comply with the statement of public purpose or intent for the zoning ordinance generally and the zoning district under consideration specifically.
2. The variance will not harm nearby properties.
3. The variance will not harm people associated with nearby properties.
4. The variance will not change the character of the nearby area.
5. The variance is the minimum necessary to permit reasonable use of the property.

*Consider the variance request of a famous New York Yankee, Don Mattingly. Mattingly asked for a variance to build a fence around his property in order to protect the privacy of his family and to increase their safety. From your variance checklist or the item identified above, try and identify important factors and reach a judgment. (Answer is provided at the end of this module.) (Exercise 13-2)*

### **Notes on Procedure**

You may hear the term *quasi-judicial* to describe the procedure taken in dealing with variances. This term merely means that the variance process is treated somewhat like a regular trial in court. There are, of course, precise rules on how such trials are to be conducted. So, too, there are rules on how a variance procedure is to be conducted.

These rules will vary from place to place according to state enabling legislation and court rulings. The city attorney of Tempe, Arizona, recently advised city council members and members of the board of adjustment that they may no longer hear or read any comments on any proposed variance except in public hearing. Think of the practical implications: no conversation between planners and officials, no reading of reports or letters, no talking to citizens except in public hearing.

The *Arizona Republic/Phoenix Gazette* further reports that the city attorney also concluded (from two Arizona appellate court decisions) that the city council may not hear new arguments when considering a decision by the board of adjustment, but must limit themselves to a review of the hearing record of the board of adjustment or, perhaps, summaries of that record. Further, the attorney concludes that the city council may reverse the board of adjustment only if the council concludes that the board of adjustment erred in reaching its decision. Obviously, this will make it increasingly difficult for the city council to overturn the board of adjustment's decision. This provides some insight into the notion of quasi-judicial and how important process is.



Because the variance process involves a quasi-judicial setting, there are general procedural rules that must be considered. The first of these is to follow the variance procedures outlined in the zoning ordinance precisely. If, for example, your variance procedures require at least 15 days notice of a public hearing, it means at least 15 days, not 14, 10, or 12 days. Similarly, if the procedure requires such public notice to be published in a general circulation newspaper for the area involved, that's what it means, and neighborhood fliers just won't do. The quickest way for a judge to reverse a variance decision or to cause the process to be repeated is a finding that you have violated your own rules of procedure.

During the hearing process a second consideration is that the burden is on the applicant to show why the application meets the standards for variances. The burden is not on the local government, and if the applicant cannot demonstrate that the standards are met, the variance should be denied.

Third, regardless of the opinions of people present at the variance public hearing, the attention of decision makers must remain focused on the standards governing variances and upon the testimony as it relates to those standards. Note that the standards say nothing about the attitudes or feelings of concerned citizens. Thus, petitions for or against some application are merely expressions of opinion and should be considered as such.

Fourth, separating fact from opinion is sometimes a real challenge, and so is separating opinion from expert opinion. Expert opinion is grounded in education and experience and in the application of that education and experience to the case at hand. Without study of the problem, expert opinion is of little value. Further, expert opinion should be limited to those few topics that a person is expert in.

Finally, prepare a detailed report on both the testimony and your conclusions. This report is often termed "findings of fact." The findings represent the case history of the hearing and the work of local officials. Such a finding should explicitly identify:

1. All documents and exhibits.
2. List of all standards in the zoning ordinance plus the facts and relevant testimony related to each of the standards.
3. The evidence for each of the standards and a conclusion by virtue of the weight of the evidence for each standard.
4. Findings of fact, beginning with the application and the identification of the various parties of interest, a list of all documents/exhibits, and descriptions of the property and surrounding land uses plus zoning. Read through the document standard by standard and identify relevant facts for each and then for the conclusion. Write out your principal conclusion plus any conditions (if applicable). Then prepare findings in final form for approval and distribution.

No doubt about it. Variances are rarely an easy matter. The quasi-judicial setting makes it even more difficult. You must stick by the rules and standards. Every effort should be made to avoid contact with interested parties outside of the hearing itself. The standards call for judgement and discretion, a weighing of evidence, as well as an evaluation of the quality of the evidence. Then it's a matter of writing it all up so that the judgment makes sense. Thus all it takes is the wisdom of Solomon coupled with the simple and clear, yet elegant, writing of E.B. White. Who said zoning was easy?

And on the Mattingly case . . . the fence was approved.

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**MODULE 14: NONCONFORMING USES AND LOTS**

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Zoning ordinances are adopted to bring order, stability, and predictability to land uses within a community. This doesn't happen overnight because new zoning rarely, if ever, starts with a clean slate—some development preceded it. This means that as soon as the ordinance is adopted, the problem of nonconformance—legal nonconformance—exists.

Nonconformance may even be created when a community rezones from one district to another. In either case, the new zoning creates nonconformances because something preexisting does not comply with new limitations on use (e.g. residential only) or dimensions (e.g. minimum lot size or width).

This nonconformity occurs in two major ways—first, a “use” nonconformity occurs when someone is using the land for a purpose that is not permitted in the relevant zoning district. For example, in a newly zoned residential area, there may be a barber shop or diner, neither of which is permitted in a residential district. Thus the barber shop or diner would be a nonconforming use. Indeed, any use that is not permitted in the district by right or a special/conditional use is a nonconforming use. If the use is otherwise legal (i.e. not violating some other law), it is a legal nonconforming use.

In the same residential district, there are two homes on lots that have 30-foot front yards instead of the 40 feet required for the zoning district. These two lots are nonconforming. Each parcel in our community must meet all of the zoning standards governing such things as lot size, lot width, lot depth, and setbacks, or the lot becomes legally nonconforming. So we have two basic types of nonconformance: nonconforming uses and nonconforming lots.

Since the whole idea of zoning is to ensure compatibility between uses grouped by zoning district and to provide minimum standards for every lot within a district, every zoning ordinance contains provisions to decrease nonconforming land uses and lots. But they remain a knotty problem.

Here's why. At the instant a zoning ordinance is first adopted, some land uses and some lots are bound to be legally nonconforming. As amendments to the zoning text and map are made, other land uses and lots also become legally nonconforming. Because land uses, structures, and the lots occupied change slowly over time, legal nonconformance is an ongoing trouble spot.

*The Akron Beacon Journal reported that a new immigrant, who was unfamiliar with the zoning ordinance, was charged with zoning violations for operating a slaughterhouse in downtown Canton, Ohio. Is this a nonconforming use? Would it be treated in the ordinance as any other nonconforming use? (Answer comes later.) (Exercise 14-1)*

What's to be done about these legally nonconforming uses and lots? Here are the basic principles underlying their treatment.

Rule 1: Don't let them expand.

Rule 2: Help them contract.

Rule 3: Avoid deterioration by encouraging maintenance and repair.

Rule 4: No stops and starts.

We'll treat three of these rules in additional detail.

### No Expansion

A nonconforming use may be expanded in terms of the intensity of the use and/or in terms of extending the structure for the nonconforming use. Consider the case of a legal nonconforming physician's office in a residential area. An expansion could occur either by hiring additional employees, increasing patient traffic, or other means that would increase the intensity of the nonconforming use. An expansion could also occur if the building itself were expanded for medical purposes. Zoning ordinances commonly prohibit any expansion of the use itself or that part of the structure that is devoted to the legal nonconforming use. (Some communities may permit a very limited expansion through a variance process.)

### Help Them Contract

There are several conditions to consider here. The contraction of a nonconforming use or lot can occur in a series of ways. First, the intensity of the nonconforming use or the extent of lot violation of the zoning rules may be diminished. Such events are to be encouraged. Second, one must consider a continuum of nonconformance:



Let's say that we have a nonconforming use that is wildly out of place given the zoning district and the zoning rules. How about a legally nonconforming auto repair shop in a quiet residential district? Such a use would occupy point A on our continuum. Over time, the auto repair shop changes to, say, a video store, which, while nonconforming, is less of a neighborhood problem than the auto shop (Point B). Finally, the video store is replaced by an insurance agent's office (still nonconforming), which is far more compatible with the neighborhood than either the auto repair shop or the video store and thus occupies point C. Clearly, in moving from A to B to C we have lessened the extent of nonconformance and achieved greater compatibility with existing residential uses. Zoning ordinances commonly provide for such a transfer to occur in spite of the fact the use or lot remains nonconforming.

### No Stops and Starts

Sometimes, for whatever reason, legal nonconforming uses cease to exist. When such uses are discontinued for any extensive period, most zoning ordinances require conforming uses thereafter. The typical time covered ranges from six to 12 months—that is, if a nonconforming use is discontinued for six months, only conforming uses will be allowed in the future.

A related situation occurs when the structure is damaged or partially destroyed. If the damage involves 50 percent or more of its market value at the time of the partial destruction, the nonconforming use may not be replaced. Any new use or building must conform to the rules of the relevant zoning district.

*The operator of a small, legally nonconforming saw mill operator proposes to diminish noise by enclosing his operation and building higher noise barriers—increasing nonconformity but decreasing neighborhood pollution. Check the nonconformance section of your zoning ordinance and come to a conclusion. (Exercise 14-2)*

While this module features legal nonconforming uses and lots, there are other types of nonconformance—signs and accessory uses are common ones. Because these are typically inexpensive to correct, most zoning ordinances require that they be eliminated or phased out over some brief period of time.

Although zoning rules on nonconformance are fairly clear, the application is more complex. Determining when a nonconforming use is diminished, as you did in the exercise above, is no easy matter. Neither is the common trade-off between stopping a nonconforming use and thereby causing the buildings and grounds to deteriorate. Nonconforming uses and lots are difficult regulatory territory.

Now, back to our immigrant slaughterhouse. It's a nonconforming use all right, but it's not a *legal* nonconforming use. It's a simple zoning violation. Remember, for a legal nonconforming situation to occur, the use or lot must be nonconforming and legal at the time the zoning ordinance was first adopted or later amended. Anything else is a zoning violation.

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## MODULE 15: HEIGHT AND BULK REGULATION

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While the nature of zoning has evolved over time, one prominent fixture of zoning that has undergone little change is the regulation of height and bulk. Height simply deals with the heights of structures that are permitted on a parcel. Bulk is a clumsy term that deals with the relationship between buildings on a parcel and the size of the parcel itself.

### Height

Why regulate the heights of buildings? What difference does it make if an apartment house is 32, 36, or 54 feet from top to bottom? Well, it's fairly simple. First, any building casts a shadow. And the shadow it casts determines whether or not adjoining or nearby buildings get sunlight. The idea that all buildings should have access to sunlight (or moonlight) rests in the notion that people should have solar access in and around their buildings.

A more practical reason, however, is immediately clear. There are height limits on buildings because fire ladders go only so far. If the building is 39 feet and the fire ladder stretches to 32 feet, the difference between living and dying is 7 feet.

More recently, building heights have been examined in the context of solar power. Height is limited to preserve solar access and to capture solar radiation for heating, cooling, and lighting buildings. This, of course, involves not simply the height of buildings, but also their orientation and latitude.

Finally, the height of buildings is related to wind tunnel effects. Tall buildings, coupled with prevailing winds and adjoining structures, produce some strange wind currents. Just try walking on a windy day from an open area into any large structure (regardless of height) and you will note the effect. Wind patterns change dramatically as one approaches the building, from areas of calm to a real vortex. The taller the building, the greater the effect.

*Do you know your height limitations? For each zoning district? Write them out by zoning district. Then, ask the planner why the height limits are what they are. Also, review the definition—what is included in the term “height”? Living space? TV antenna? (Exercise 15-1)*

But it isn't just the height of buildings. Zoning ordinances commonly deal with other questions of height—fences, accessory use buildings, and signs. These are typically outlined in separate sections of the ordinance and are not detailed here.

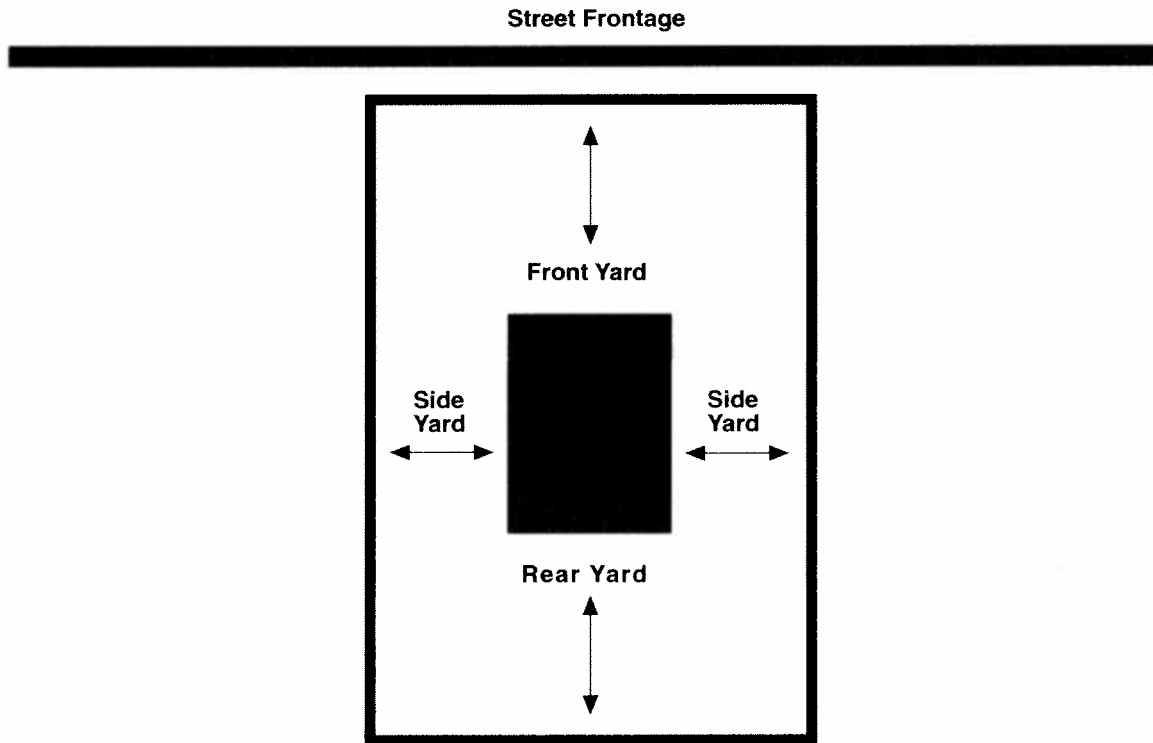
### Bulk

There are common zoning standards that define bulk regulation. These standards have everything to do with the size of the main structure compared to the lot on which it rests. The oldest regulations deal with the question of setbacks and yards.

### Setbacks and Yards

What's a setback? That's the distance, practically speaking, between the wall of your house and your property line. This may be the front wall, side wall, or rear wall of your house and

so there are setbacks for the front, rear, and side yards. Similarly, setbacks are also established for commercial, industrial, or agricultural uses, but the principle is the same—the distance between your wall and the property line (See Figure 1).



**FIGURE 1. SETBACKS ARE YARDS**

Now let’s add one more detail. If the space between a wall of the main structure and the property line is open, free, and clear, we have a yard—front yard, side yard, and rear yard. (Sometimes the word yard is used instead of setback, but they typically mean the same thing.)

**TABLE 1: POTTAWATTAMIE COUNTY, IOWA, SETBACK REQUIREMENTS (BY FEET) IN THREE ZONING DISTRICTS**

Zoning District	Front	Rear	Side	Abutment* Highway
Suburban Residential	50	50	25	75
Urban Residential	25	10	25	50
Highway Commercial	25	25-50**	25-50**	25

\*If a side of a lot abuts a highway, the setback is increased.

\*\*If a commercial district abuts a residential district, the setback is also increased to 50 feet. Otherwise the setback is 25 feet in rear and side for lots in the highway commercial district.

Here’s an example from Pottawattamie County, Iowa. A setback is defined as “The required minimum horizontal distance between the front, rear, or side lines of the lot, and the front, rear, or side lines of the building. . . . Setbacks may also be referred to as required yard.” The exact length of the setback varies by zoning district.

As should be evident from Pottawattamie County, setback lengths increase in suburban and rural districts, and

decrease in urban zoning districts. Setbacks are also used here to minimize friction between districts by requiring larger setbacks when a commercial lot abuts a residentially zoned district.

What planners have learned about setbacks and yards is simple: If good fences make good neighbors, good setbacks make even better neighbors. But in addition to this bit of obvious common sense, setbacks also ensure:

1. Sunlight: Houses that are side-by-side with little setback effectively cut off solar radiation, leaving one or more walls in permanent shadow.
2. Access: It helps to be able to walk around a house or business with ease. Setbacks can provide easy and convenient access.
3. Maintenance: If you can't get to it, you can't fix it. Setbacks provide the space.
4. Open Space: Setbacks and the yards they provide generate a sense of open space.
5. Privacy: Setbacks between adjoining buildings provide a sense of privacy. You also avoid the window-to-window effect: looking out your window right into the window of another building.
6. Line of Sight: Setbacks provide a clear line of sight not only to streets but to back yards.
7. Buffers: Setbacks are used to minimize land-use conflicts in at least four areas: When commercial or industrial uses abut a residential district, setbacks are increased to separate the uses. When residential districts abut agricultural districts, setbacks are increased. When any lot abuts a street that is planned for enlargement, the setback is increased. When any lot abuts another that is scheduled for public use, the setback is increased.

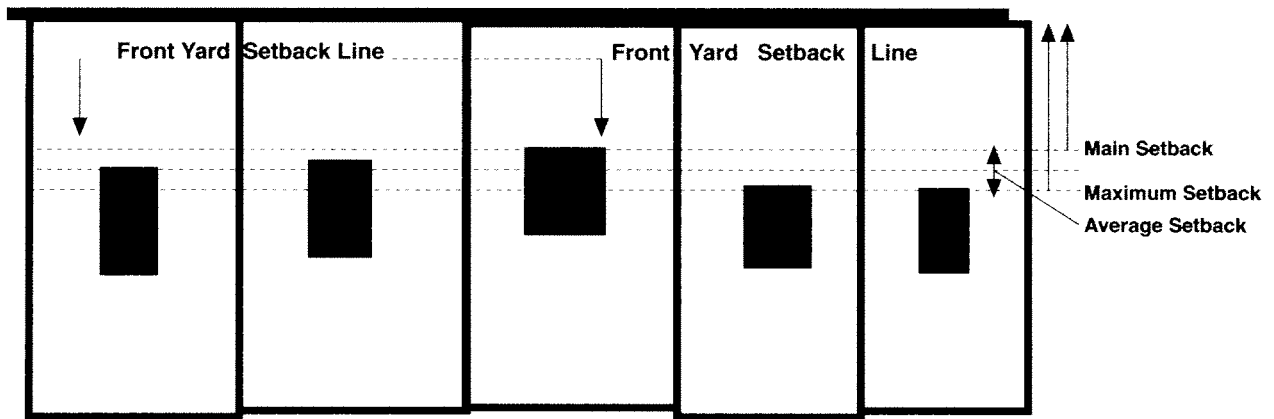
*Review your setback/yard requirements for your zoning districts.  
Given items 1 through 7 above, do you see any problems with them?  
(Exercise 15-2)*

Setbacks are established for good cause. Yet if every single land use conforms exactly to the minimum setback requirement, things get boring very quickly. As an example, if every house in a large subdivision is exactly 25 feet from the street, the subdivision takes on the regular pattern of a checkerboard. Many communities are varying setback requirements such that the *average* setback remains as established, say, for the block, but that individual buildings along the street may vary by five or so feet. (See Figure 2, next page.) Such variation creates a more interesting landscape and establishes unique neighborhood features.

Finally, go back to the basic principle. Good setbacks make good neighbors, and as the potential for land-use conflict increases, so too should setbacks. Check your ordinance again. Does it follow this principle?

### **Lot Coverage**

Lot coverage standards are a relatively common feature in many zoning ordinances, but the idea called Floor Area Ratio (FAR) is in newer ordinances. It is total floor area of a building divided by the total area of the lot. Both floor area and total area of the lot are expressed in square feet.



**FIGURE 2: VARYING THE PLACEMENT OF BUILDINGS ON FRONT YARD SETBACK LINES MAKES FOR AN INTERESTING SETTING**

What FAR provides is an index of the intensity of the proposed development. Thus any one FAR may be compared to any other FAR. Further, communities set FAR standards within zoning districts so that land uses within the district must fall below FAR standards and so that development intensity is consistent throughout the district.

Take an example. A 2,500 sq. ft. convenience store is proposed for a 10,000 sq. ft. lot. Divide 2,500 sq. ft. by 10,000 sq. ft. for a Floor Area Ratio of 0.25. A high rise would have an FAR several times greater since it has a much larger floor area divided by a relatively small lot.

*Planner's Trivia: What is the FAR of the Sears Tower? There are 3,943,125 sq. ft. of floor space in the tower. The lot on which the tower is built contains 128,934 sq. ft. So go figure! (Exercise 15-3)*

The Village of Frankfort, Illinois, provides FAR maximums for residential, commercial, and industrial districts.

It's evident that Frankfort allows its highest intensity use in the General Industrial district. A FAR of 1.5 means that for every 1 sq. ft. of lot area, a builder may have 1.5 sq. ft. of floor area. Given additional zoning standards requiring space for parking, access drives, loading, and front, side, and rear yards, it is evident that the building will go up rather than spread out across the lot. In practice, this may work out to be a three-story structure.

Zoning Districts	FAR Maximums
Commercial	1.2
Industrial	
Limited	0.6
General	1.5
Multifamily	0.3

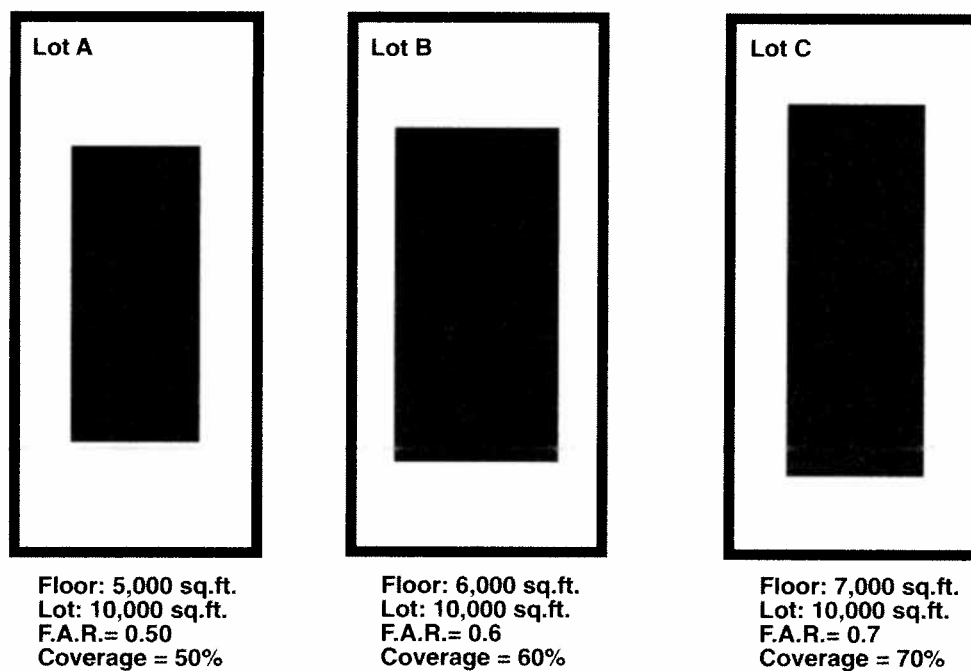
At the other extreme, the FAR maximum for the multifamily district is 0.3. So for every 1 sq. ft. of lot area, there may be 0.3 sq. ft. of floor area. Keep in mind that just as in the general industrial district, there are also yard, parking, and access requirements.



*Check your zoning definition of lot coverage or open space. Describe what is included and what is not included. (Exercise 15-4)*

Figure 3 shows the relationship between lot size and floor area and the resultant FAR. Once the FAR is established, you then compare it to the maximum permissible FAR for the relevant zoning district.

**FIGURE 3. FLOOR AREA RATIOS**



In using FAR, the definition of both floor area and lot size is important. Floor area often includes all living and/or working space plus space devoted to accessory uses, enclosed porches, attics (provided sufficient headroom is available), and floor space used for mechanical or electrical equipment.

While FAR sets the overall level of land-use intensity, the ratio by itself would not guarantee anything except the required FAR maximum.

#### **Maximums in Lot Cover**

Lot coverage maximums, also referred to as the "footprint" of the building, set a maximum percentage of the lot area that may be covered by buildings. For example, a lot coverage maximum at 0.25 for a residential district would mean that the building could cover no more than 25 percent of the lot. As with FAR, lot coverage maximums generally increase as one moves from residential to commercial to industrial districts.

Another way to achieve a similar result is through open space minimums, where some fraction of every lot must remain in open space. Thus the flip side of a lot coverage maximum

of 0.25 or 25 percent is an open space minimum of 0.75 or 75 percent. Both open space minimums and lot coverage maximums are intended to set limits on the space occupied by buildings on any one lot. They also are designed to maintain consistent levels of open space or lot coverage throughout any one zoning district.

Once more definitions are important. Routt County, Wyoming, using open space minimums, defines open space as “Land . . . that is not covered by streets, parking, driveways, or structures.” An alternative definition of lot coverage, taken from Woodstock, Illinois, is the area of the zoning lot occupied by the principal building and accessory structures. These definitions are considerably different and deserve a closer look.

Take this case. A residentially zoned lot has 10,000 sq. ft. The proposed house and garage take up 1,500 sq. ft. Under the Woodstock definition for an R-1 residential district, the house and garage would occupy 15 percent of the lot, well under the 30 percent lot coverage maximum. However, in Routt County, which has the mirror image open space requirement of 70 percent, the definition is more inclusive and the square footage of parking and driveways must be added to the total square footage of house and garage. Because of the difference in definition, the same house could well fail to meet the 70 percent level of minimum open space.

Lot coverage maximums and open space minimums can prove troublesome to enforce over time simply because of Toner’s iron law: All structures will expand to fill the lot provided. Think for a second of your own home and what has happened over time—a patio here, a shed there, a porch, a dormer, a carport, a garage, a pool, an addition, and on and on.

That’s what happened to Donna Winslow in Sun City, Arizona, where, according to the *Arizona Republic/Phoenix Gazette*, she may be forced to remove a patio cover erected nearly 20 years ago. The patio cover plus the other structures on the lot place Ms. Winslow in violation of a lot coverage maximum set at 40 percent. If the board of adjustment doesn’t give her a variance, the patio cover may have to go. Thus, when considering these standards, add a healthy dose of the iron law.

### **A Good Question**

If, like the authors, you have a bit of trouble understanding why one would need both FAR and lot coverage/open space requirements, there is a simple explanation—sort of. All a lot coverage standard does is to tell you what percentage of a lot may be covered by a building. It does not tell you how tall the building might be. FAR, on the contrary, gives you a good indication of the density of the building and thus a decent understanding of its height. So far, so good. Now, that being the case, why would an ordinance contain both height limits and FAR? Or, why height limits, lot coverage, and FAR?

What to make of all this? Zoning ordinances have been around for the better part of 70 years. In that time, the zoning ordinances are copied, amended, and copied anew. They move from community to community. In the process, zoning standards are copied and amended. Over time, the public purpose is muddied and then lost. So here’s the point—Be able to explain the public interest in each of the standards of your zoning ordinance. If you can’t explain it, you might want to ask why it’s needed.