

# Planning and Zoning Department

## 2010 Annual Report

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## Introduction

Planning and Zoning Department activities for 2010 focused on land use and development codes—particularly the rewrite of the current standard zoning code, creation of the SmartCode zoning district and a rewrite of the land division code. With the adoption of the SmartCode District, Fitchburg became the first community in the State of Wisconsin to adopt a form based zoning code. The first amendment to the Comprehensive Plan was also tied with the zoning code rewrite project. The effects of the national recession affected permit activity, but the slowdown allowed staff to focus on ordinance revisions. For more information on planning in the community, and to follow specific planning projects, please refer to the Planning Department web site at: [http://www.city.fitchburg.wi.us/planning\\_zoning/index.php](http://www.city.fitchburg.wi.us/planning_zoning/index.php).

## Land Use Planning

### *Smart Growth*

The City's first true Comprehensive Plan was adopted in March, 2009. This Comprehensive Plan was accomplished to meet the requirements of the Comprehensive Planning Statute, also referred to as the Smart Growth law, which was adopted in October 1999. The plan acts as a land use constitution for the city and sets forth the goals, objectives and policies to guide city actions in land use matters. Under state law, it takes about three to four months to process an amendment to the Comprehensive Plan, and therefore the Comprehensive Plan limits amendments (other than for certain aspects, such as neighborhood plans) to one time per year.

The Comprehensive Plan amendment, which was adopted on October 12, 2010 related to minor map corrections, clarifications to the Rural Residential Development Criteria, and the addition of a Sector Plan which will control locations and the Community Unit type that may be built under the SmartCode District.

### *McGaw Neighborhood—Urban Service Adjustment*

Upon adoption of the McGaw Neighborhood Plan in June 2009, staff began working on an Urban Service Amendment request which was submitted to the Capital Area Regional Planning Commission in October 2009. A hearing on the amendment request was originally scheduled for December 10, 2009, but was rescheduled to January 2010 when a quorum of the Commission for its December meeting was not going to occur. After the January 2010 hearing, the CARPC deferred the request to allow time for CARPC staff to respond to Commission questions on the request. Both CARPC and City Planning staff prepared responses to the questions. The questions were related to loss of farmland, the actual need for the amendment, impact on the Town of Dunn, water quality issues—particularly impacts to Swan Creek and Lake Waubesa, and water quantity issues mainly dealing with groundwater withdrawals and impact on springs. There was also concern about a lack of a county-wide Future Urban Development Area analysis of overall growth. City responses detailed the work of the planning process, the innovative storm water and infiltration methods, and how the City completed its own Future Urban Development Area process with the Comprehensive Plan, which set forth a long term growth boundary for the Community. The City also addressed need, city efforts to promote farmland

preservation, and the work effort accomplished during the planning stage to limit impacts to downstream water bodies, and the adjoining municipality. In March 2010 CARPC approved the Urban Service Amendment Request with some stringent storm water performance standards, to which the City agreed.

The next challenge is to meet the storm water performance standards while at the same time accomplishing the types and levels of development in the neighborhood. The City has joined with CARPC in receiving a federal grant which will allow this issue to be further studied.

### ***Southdale Neighborhood Plan***

The Southdale Neighborhood Plan was adopted by the Common Council on September 22, 2009. Covering the area of the Town of Madison along USH 14 and Rimrock Rd to come to the City of Fitchburg by 2022, along with the portion of Fitchburg along Rimrock Rd, this plan sets forth a long-term vision for this neighborhood. Controversy exists as to the determination of the Drumlin Garden area, in the City of Fitchburg along Oregon Rd. The Plan side-stepped the controversy by designating the area as the Drumlin Garden Study Area, in which a final land use decision could be made through a separate study process before the September 22, 2010 deadline. The September 22, 2010 deadline was altered as part of the 2010 Comprehensive Plan amendment to December 31, 2011.

In November 2009 staff began work on an ETJ zoning ordinance for part of the Southdale area. The ordinance will use aspects of form based zoning, and create a zoning district for each land use district in the plan. Work on the ETJ zoning was delayed due to the need to have the Southdale Plan approved, since any zoning action is required to be consistent with a comprehensive plan. The ETJ Committee prepared a draft ordinance that went to public hearing in May 2010. To answer concerns of the Committee, staff created an overlay ordinance that will allow the existing Dane County zoning to remain in place until the occurrence of any one of a number of trigger points. A few land owners raised some issues about the draft ordinance, and additional work on this ordinance was delayed until after completion of the City's zoning code rewrite. Issues were the trigger points of when the overlay zoning takes effect, and the prohibition on some billboards. Billboard locations are limited by the Southdale Plan and by statute. Zoning and land division actions must be consistent with the Comprehensive Plan.

### ***Landmarks Preservation***

The annual report on city designated sites was filed with the US Department of the Interior. No new designations have occurred. The Landmarks Commission approved a Certificate of Appropriateness for a replacement chimney on the Mann House (Quivey's Grove), a building on the National Historic Register, located on Nesbitt Road. The Plan Commission granted architectural and design approval to allow the chimney replacement.

### ***Agricultural and Rural Affairs***

A great deal of activity has occurred relating to agriculture. The main activity has been work to update the Farmland Preservation Plan, which will have to be adopted by the County. This update is being undertaken to mainly address issues related to the State of Wisconsin Working Lands Initiative that was signed into law as part of the biennial budget in 2009. In order for the

City of Fitchburg landowners to participate in the farmland tax credits or the state agricultural conservation easements (PACE), the City is required to update their farmland preservation plan, have that amended into the Dane County Farmland Preservation Plan to be certified by the Department of Agriculture, Trade and Consumer Protection (DATCP).

Over the course of the past year, the Agriculture & Rural Affairs Committee, along with Planning Staff, began preparing the background information and statistics for the plan. Based on the Comprehensive Plan, Committee's vision and the public comments, goals, objectives and policies were developed to assist in the implementation of the preservation of farmland and open space within rural Fitchburg.

In addition, the committee created the new Farmland Preservation Plan Map, identifying areas to be preserved for agriculture and open space for the next 15+ years. The area to be preserved is all of the land outside of the 2010 urban service area boundary, except the Northeast Neighborhood, the western half of the North Stoner Prairie Neighborhood and the rural subdivisions. This preservation area in the City encompasses approximately 10,000 crop and pasture acres, four dairy farms, two beef farms and six equestrian farms.

Adoption of the Farmland Preservation Plan is slated to occur in early 2011. After the approval of the Farmland Preservation Plan by the City, Planning Staff will work with Dane County in incorporating the City's plan into the Dane County Farmland Preservation Plan, which is projected to be adopted in late 2011.

The Working Lands Initiative, beginning January 1, 2010, is also requiring the City to collect a rezoning conversion fee from the landowner for each rezoning of land from a certified agricultural district to a non-certified agricultural district. A report is to be completed by City Staff each March of the following year to the Department of Agriculture, Trade and Consumer Protection, outlining the rezonings and accompanied by the conversion fees. This past year, the City did not have any rezonings out of certified agricultural districts; however in 2011 with the anticipated expansion of Fitchburg Tech Campus to the east and the development of Green Tech Village, existing certified agricultural land rezoned prior to the City's Comprehensive agriculture rezone will be subjected to the fee.

Another project the committee worked on throughout the year was the research into rural cluster housing. The committee created a policy for landowners to be able to transfer their claims for a potential rural cluster site however they are still debating the guidelines as to where the clusters will be located, along with the development parameters. This work will continue into next year.

The committee also reviewed and recommended approval of one rezone application from Rural Development to Residential Low Density for the Barry/Vogel property, a conditional use permit to allow an additional residential unit on the Jones farm zoned Exclusive Agriculture and a conditional use permit for the Holland property to allow a landscaping and snow removal business on property zoned Rural Development (this application was withdrawn by the applicant prior to Plan Commission review).

In 2011 the Ag and Rural Affairs Committee is planning to continue work on a Rural Cluster Ordinance that would use the potential splits, begin working on amendments to the Exclusive

Agriculture (A-X) and Transitional Agriculture (A-T) zoning districts, the comprehensive rezoning of the agricultural lands to be consistent with the 2010 approved Farmland Preservation Plan, and begin outreach on community service agriculture.

## **Code Development**

The major activity for 2010 was the Zoning Code Re-write. This involved modifications to both the current Euclidean code, and the creation of a SmartCode District. The SmartCode district was calibrated for use in the City from the open source SmartCode by City Staff and PlaceMakers, LLC, the City's consultant. The work also involved significant modifications to the City's land division ordinance.

### ***SmartCode***

The SmartCode is an integrated land development ordinance that sets forth a variety of development types to form neighborhoods offering a diversity of land use opportunities within a pedestrian scale. As an integrated development code it combines aspects of public works construction, such as street types, with zoning and land use. Land use is important, but it is to work with the development form, or the look and feel of a place. It attempts to replicate conditions and situations that exist in older small towns or city neighborhoods, usually pre World War II—hence it is a neo-traditional neighborhood development ordinance. This ordinance meets the State of Wisconsin requirement for a Traditional Neighborhood Design Ordinance. After World War II development took on a sprawl oriented pattern based on the automobile, and provided single use areas with little or no integration of land use types. Sprawl development patterns receive part of the blame for the Nation's obesity epidemic as less pedestrian and bicycle activity is able to occur due to the separation distance of various uses. The SmartCode uses a transect based pattern with each transect zone representing certain development patterns. T3, for example, is representative of a typical single family subdivision, while T5 is a multi-family and commercial district that provides for a mix of office, business, and residential uses. T4 falls between T3 and T5, and allows some corner commercial property, although limited in size. T4 allows for narrow single family lots usually served by an alley, and attached row houses or other medium density multi-unit options.

Work on the SmartCode started in 2009 with the selection of PlaceMakers, LLC, followed by their review of the Comprehensive Plan, current codes, and other related materials. Project orientation, public participation and issue identification were addressed in a variety of meetings held in December 2009. In January 2010, a video conference was held among CEDA members and Susan Henderson of PlaceMakers so Susan could answer questions posed by developers, the Economic Development Dept. and CEDA members. The most intense activity was the week long charrette held in mid-February 2010. Monday through Wednesday were days of intense activity involving the education of the consultant's, which used a variety of methods--a team tour of Fitchburg and the surrounding area, a variety of sessions with the public, and focus groups to listen to citizens' talk about their hopes and concerns in topic-focused meetings. More information on how the topics were organized may be found at [www.fitchburgzoning.com](http://www.fitchburgzoning.com). At this link one can follow the progress of the week in the front-page posts arranged

chronologically. Unfortunately, some meetings became more a discussion on items not related to the topic at hand, but devolved into other unrelated items. Misinformation cast on the project exacerbated the devolution. For example, a number of business owners were told the City would be rezoning their property to SmartCode, when there was never the idea of rezoning property at all. The SmartCode was being created to provide an additional option to landowners and developers. It was unfortunate that so much effort had to be used to counter the misinformation campaign, rather than being put to fruitful discussion of the variety of issues.

On Wednesday night, the design team posted ideas in a “pin-up” and invited citizens to critique the work in progress. On Thursday, designers and planners began refining the work that was shown in the Friday presentation. After a week of sorting through ideas and testing them in collaboration with Fitchburg citizens, the PlaceMakers project team presented key components of a zoning approach that will add alternative options to future development and redevelopment.

The principal approach missing from the current choices of car-centric suburban, rural, and industrial/office park development is one that enables mixed-use, pedestrian-friendly neighborhoods like those found in the most popular sections of Madison and other historic cities. Much of the Friday night presentation showed ways in which property owners and developers can use the tools of a SmartCode to achieve those kinds of neighborhoods.

Upon completion of the Charrette, City Staff worked to understand the code, and provide input in a variety of ways to address situations posed for a Wisconsin community. One of the main components of the SmartCode is administrative review—in an effort to move projects along, rather than subjecting them to a variety of public meetings. To accomplish this, the model code set up a Consolidated Review Committee (CRC) typically composed of zoning, parks, fire, building inspection and public works lead staff. However, Wisconsin law requires committee meetings to be noticed, and it was too risky to have small staffs be near each other and not be able to discuss the issues without posing quorum and notice problems. This was resolved by granting authority to the zoning administrator, but only to approve items. If the zoning administrator chose not to approve something or feels that the action is beyond what he or she wishes to do the items will go to the Plan Commission for action. This authority only applies to specific areas identified in the code—Administrative Approvals, and Administrative Waivers.

City Staff and the Zoning Re-Write Committee went through a series of public comment sessions, and redrafts of the draft SmartCode. The SmartCode has some items that are crucial to the success of a walkable mixed use community. The critical elements to the SmartCode are: T-Zone percentages within a development, frontage build-out, block structure, garage and parking placement, lot width, and form of development respective to each T-Zone. Developers and the public had varying concerns on a variety of issues which city staff worked through and created methods to deal with the concerns. This allowed the ordinance to receive unanimous adoption by the Common Council. This is a new type of code, and the City of Fitchburg is the first community in the State of Wisconsin to calibrate and adopt the SmartCode. Therefore, a great deal of staff work between Planning and the City Attorney occurred in the creation of a code that could meet the varied aspects of Wisconsin law, but yet retain the unique flexibility and time to market aspects of the SmartCode. It was fortunate that the City Attorney became an 80% employee of the City in October 2009, as that provided for a higher level of interaction, particularly face-to-face, and discussions to occur regarding the draft code.

### ***Euclidean Zoning Code***

Adjustments were also made to the standard zoning code. The standard zoning code was originally adopted in 1986 when the City transitioned from the County code to its own code. The 1986 adoption also included a comprehensive zoning map, which rezoned property from the county zoning classifications to those in the new City code. The City code has been amended many times since its adoption to adjust to changing circumstances, with an amendment occurring during the zoning re-write process itself. The standard zoning code was modified in several areas. The R-H district now allows more than eight dwelling units per building as a conditional use, but limits the permitted number of buildings on any lot. Urban agriculture has been addressed and allowed in most every district. The B-G district can see accessory industrial type uses of almost 50% of the floor space. This amendment was put in place to accommodate a business use raised by a commercial property owner, but the use has never materialized. Industrial districts can see more retail or service activities—as requested to accommodate a business owner who desired a day care facility open to more than the individual business, but this use also has yet to materialize. The largest area of alteration was in the Planned Development District. PDD zoning has become difficult to administer due to long time frames between the GIP and SIP, many alterations being made to the GIP, and the fact that every PDD is a new zoning district with its own set of standards. Developers have often complained about the PDD process, but because a new zoning district is being created Plan Commission and Council review of alterations not in accord with the district is necessary. Even though developers complained about the PDD process, they wanted PDD retained, and much discussion was had over various elements proposed to try and limit PDD zoning to those situations which cannot be handled under standard zoning. In the end, time frames for an SIP submittal are now tighter, and they have to show how a development could not be accomplished under standard zoning.

### ***Land Division Code***

The City also updated its land division code with its update to the zoning code. Updates to this code were necessitated by use of the SmartCode, and to address issues of the Comprehensive Plan. Work efforts in this code included a revision to the Comprehensive Development Plan (CDP) process to have it be more a planning tool to precede land division, rather than as a land division tool. This was essential as any land division, by WI Statute, is required to be consistent with the Comprehensive Plan. The code also requires staging plans for large developments, and the creation of outlots for staging and later redivision. The largest alterations to the land division code were to address issues raised by the SmartCode. Since the SmartCode is an integrated code, for example it contains its own street types for use in each specific T Zone, it was necessary to exempt the SmartCode from certain aspects of the land division code so as to avoid a conflict. In addition, because of the expected level of new urbanism under the SmartCode the land division code sets forth a different level of parkland requirement than what exists for standard zoning. Also, under the SmartCode, implementing a request of the Parks Director, the developer is required to install the determined park improvements instead of paying a park improvement fee. Planned Development District zoning will now need to meet standards of the land division code unless a variance is obtained. Unlike the prior land division code, the revised code contains a variance provision, and the standards to be met for a variance.

## Application Activity

### General Application Information

	Submitted Requests		Plan Commission Meeting Agenda Activity**	
	2009	2010	2009	2010
Architectural & Design Review Requests	31	15	35	14
Rezoning and Conditional Use Permits	33	22	33	20
Certified Survey Map Requests	5	6	5	4
CDP's &/or Preliminary Plats	1	1	2	0
Final Plats	0	0	1	0
Variances/ Administrative Appeals	2	1	n/a	n/a
Other Requests to Plan Commission *	46	34	55	47
Telecommunication Permits	4	2	7	2
Demolition Permits	n/a	8	n/a	8

<u>Administrative Permits</u>	<u>2009</u>	<u>2010</u>
Sign Permits	70	62
Zoning Permits	94	101

\*These issues include, but are not limited to, resolutions, ordinance amendments and other matters referred to the Plan Commission for action or reports such as easements, pre-submission conferences, ordinance amendments, TID consideration, land use planning activities, review of standards or policies and other activities that do not fall under a specifically identified category noted under Commission and Board activity.

\*\*Includes applications submitted in 2008 but on 2009 agendas.

Due to budget constraints, Plan Commission meetings in 2011 will be held one time per month, rather than the previous two times per month. Also, the Agriculture and Rural Affairs Committee is set for eight, rather than twelve meetings per year. Significant budget reductions were seen in a number of other accounts. The Planning Intern position saw a reduction in hours of more than 40%, therefore, the availability of an intern to assist in accomplishing planning and zoning work will be very limited. The major difference between number of other requests and the number of times an item was on the agenda was mainly due to the zoning code re-write project and the large number of Plan Commission meetings held for that project.

### **Sign Code**

Even with the lack of zoning permit activity, sign permit activity was about the same as the prior year. Businesses continue to seek loop holes in the sign ordinance and many have resorted to over use of temporary signs, "shaker boards" (persons walking with a sign hanging off their person), banners and the like without obtaining the necessary permits, or simply ignoring sign regulations. A complaint on one business often leads to that business then complaining about others, leading to a never ending domino effect and significant time spent in enforcement of the sign code. In 2011, the Planning Department will embark on modifications to the Sign code.

### ***Rezoning and Conditional Uses***

One rezone application was withdrawn by the applicant just prior to a public hearing scheduled for December 21, 2010. Some rezoning applications were to amend existing Planned Development District zoning, and there were a few applications for rural house sites. The vast majority of requests under the rezone and conditional use category in the above application table were for conditional use permits. Conditional use permit activity was particularly heavy for recreational and fitness facility locations.

### **Tax Incremental Districts**

Even though it was approved in 2009, no activity has been seen in TID 8. Stewart Brown, the land owner, has so far been unable to obtain financing for the project.

TID 4 saw a decrease in property value, in large part due to vacant lots in the Fitchburg Technology Campus being used for agriculture, which then makes them subject to the agricultural use value assessment. General value decreases in property value assessment occurred which had a negative affect on cash flow in other districts particularly TID 7.

In regard to TID 7, City Planning staff led an effort, which was completed in early 2010, for general design work for public bus shelters, signage and landscaping along the northern portion of Fish Hatchery Road. A staff committee met twice with the consultant to formulate and then provide reaction to design concepts. The concept designs will be used by the Public Works Department in the development of plans and specifications for landscape improvements along the upper part of Fish Hatchery Road.

Beginning in September 2010, planning staff began, at the direction of the administration, to work on efforts for an expansion of TID 4 to cover the Green Tech Village area, as well as a possibility for an additional TID for the remainder of the GTV, and a possible TID for the Fairway's and Pines redevelopment.

### **Special Projects**

#### ***Public Facilities***

Planning staff serves on the Library and Community Center addition oversight committees.

#### ***Moraine Edge Park/Parks and Open Space Proposal***

This is a joint effort between the Parks Department and the City Planning Department. Originally conceived by City Planner Tom Hovel in 2003, as a proposal for open space stretching from Stoner Prairie east to USH 14 south of the urban edge, this proposal was called Moraine Edge Park. As the Moraine Edge Park idea went under further examination and review, the Parks Department and Parks Commission called for a broader effort to examine areas worthy

of preservation in the City, thus advancing this proposal to a broad Parks and Open Space proposal identifying land that should be considered for preservation. Some land in this larger effort may be acquired by the City for parks and open space use, and other land may be preserved through other efforts such as conservation easements. Of course, some land may not be preserved at all. Work on this proposal culminated in its being part of the Comprehensive Park, Open Space, and Recreation Plan, which was approved by the Common Council in early 2010.

The Dane County Parks and Open Space plan will be updated in 2011. Planning will work with the Parks Department to determine if Dane County has any interest in recognizing or supporting all or parts of the Moraine Edge Park and the larger Open Space Proposal. A few years ago the County expressed interest in the location of a new park in the southern portion of Fitchburg. A county park in Fitchburg would best be consistent with the Open Space Proposal, and the City's Comprehensive Plan.

### ***Comprehensive Plan for Parks, Open Spaces and Recreation***

Planning Department staff assisted the Parks Department in the development of the Comprehensive Park, Open Space and Recreation Plan. The plan follows the layout of the Comprehensive Plan. Planning staff was involved by providing layout advice, mapping and comments on the plan document. This plan was adopted in early 2010.

### ***Grant Applications***

The Planning Department applied for the 2010 Smart Growth Implementation Assistance grant from the EPA's Smart Growth Program. The City was seeking EPA team assistance in regard to two areas of concern for implementing the McGaw Neighborhood goals. First is meeting control of storm water runoff volume and second is meeting a 50% floor area ratio as defined by LEED-ND for business projects. The City's grant application made it into the second round in the competition; however we were not selected as one of the recipients. A month after we were informed on the grant recipients, the EPA contacted the City, seeking to know if we would be interested in participating in a water quality score card program. They were interested based on the high score we received on the initial grant and the City's policies regarding water and storm water quality. Fitchburg is one of four communities throughout the United States that will be part of the testing.

In July and August, the City of Fitchburg worked with the Capital Area Regional Plan Commission and a consortium of 24 other members to apply for a Sustainable Communities Regional Planning Grant Program. The part of the grant worked on by the City of Fitchburg was background data and information for a Catalytic Project to advance an approved detailed sustainable development plan (McGaw Park Neighborhood) by creating and implementing stormwater guidelines and templates for cities and developers to meet CARPC requirements. CARPC requires new developments to control post development runoff volumes to be equal to or less than pre-development runoff volumes for the one-year average annual rainfall period. The McGaw Neighborhood would be used as a pilot program to test the established guidelines. Given that other communities have had a similar requirements imposed, planning staff believes the work will be transferrable to other communities in the County.

In October, CARPC was notified that they were a recipient of the grant and received the full grant amount of \$1,997,500. Over the next 18 to 36 months, the City of Fitchburg will be working with CARPC on the implementation of the grant project. The Catalytic Project for the McGaw Plan will entail hiring a consultant with a goal to develop cost-effective strategies to address stormwater regulations. Consultants will: review the McGaw Plan and local regulations; review literature on volume control BMP performance, cost and analysis methods; conduct modeling analysis of a hypothetical block (or blocks) of the McGaw Neighborhood with a range of development types to assess volume control performance, options and costs; and run a half-day "charrette" with a few local developers for input on how volume control Best Management Practices could fit into site development plans, and implications for costs. Consultants are expected to complete their work in 12 months. Fitchburg is not unique in its need to address these concerns; work completed here will be of use to other communities facing similar stormwater requirements.

Planning staff also provided assistance to other City departments on grant applications, including the TIGER grant application in early 2010 that was part of the American Recovery and Reinvestment Act.

## **Conclusion**

The continued pursuit of responsible planning is vital to a strong and well functioning community. The Planning and Zoning Department continues to analyze and engage in activity that will benefit the entire Fitchburg community, including promoting and maintaining healthy neighborhoods. A well-planned city can provide efficient and cost-effective services. The Planning Department is committed to continuing its provision of strong, sound, and smart planning, as historically demanded by Fitchburg citizens.

Work effort for 2011 will involve sign code modifications, farmland preservation plan updates, work on a rural residential cluster program, and continued work on other long range planning activities. In 2011, the Planning Department looks forward to further advancing the vision of the Comprehensive Plan.