

B. Consistency between Zoning Ordinances and Comprehensive Plans

Strategic Action

Require that zoning ordinances be consistent with comprehensive plans.

Rationale

Though most major U.S. Great Lakes cities have a comprehensive plan; they often fail to implement it in a way that can direct new development. Most local jurisdictions use zoning ordinances rather than comprehensive plans to determine what type of development can happen where. In the Great Lakes region, only the states of New York, Minnesota and Pennsylvania (and effective January 2010, Wisconsin) require local zoning to be consistent with a local comprehensive plan. Zoning ordinances describe where and what type of land use can take place, but they do not consider the “how” and “when” issues—issues of how new developments will impact the overall community, design (what they should look like), timing (when they should occur based on the communities’ priorities for growth) or financial viability (the ability to finance necessary public infrastructure and services, particularly over the long term). Often the end result is unplanned, relatively uniform development that conforms to minimum building code requirements, low-density zoning ordinances and segregated land uses, or sprawl.

Moreover, when coupled with strict building codes and extensive permit requirements, zoning ordinances can make redeveloping central urban sites unfeasible or impractical for developers, while rendering greenfields easy targets for development. Zoning ordinances need to be used as a tool for implementing a comprehensive plan, not as development/growth policies themselves.

Progress to Date in Indiana

Indiana law as codified in IC 36-7-4-601 requires the following:

- (a) The legislative body having jurisdiction over the geographic area described in the zoning ordinance has exclusive authority to adopt a zoning ordinance under the 600 series. However, no zoning ordinance may be adopted until a comprehensive plan has been approved for the jurisdiction under the 500 series of this chapter.
- (b) When it adopts a zoning ordinance, the legislative body shall:
 - (1) designate the geographic area over which the plan commission shall exercise jurisdiction; and
 - (2) incorporate by reference into the ordinance zone maps, as prepared by the plan commission under subsection (e).
- (c) When it adopts a zoning ordinance, the legislative body shall act for the purposes of:
 - (1) securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
 - (2) lessening or avoiding congestion in public ways;
 - (3) promoting the public health, safety, comfort, morals, convenience, and general welfare; and
 - (4) otherwise accomplishing the purposes of this chapter.
- (d) For the purposes described in subsection (c), the legislative body may do the following in the zoning ordinance:
 - (1) Establish one (1) or more districts, which may be for agricultural, commercial, industrial, residential, special, or unrestricted uses and any subdivision or combination of

these uses. A district may include geographic areas that are not contiguous. A geographic area may be subject to more than one (1) district.

(2) In each district, regulate how real property is developed, maintained, and used. This regulation may include:

- (A) requirements for the area of front, rear, and side yards, courts, other open spaces, and total lot area;
- (B) requirements for site conditions, signs, and nonstructural improvements, such as parking lots, ponds, fills, landscaping, and utilities;
- (C) provisions for the treatment of uses, structures, or conditions that are in existence when the zoning ordinance takes effect;
- (D) restrictions on development in areas prone to flooding;
- (E) requirements to protect the historic and architectural heritage of the community;
- (F) requirements for structures, such as location, height, area, bulk, and floor space;
- (G) restrictions on the kind and intensity of uses;
- (H) performance standards for the emission of noises, gases, heat, vibration, or particulate matter into the air or ground or across lot lines;
- (I) standards for population density and traffic circulation; and
- (J) any other provisions that are necessary to implement the purposes of the zoning ordinance.

(3) Designate zoning districts in areas having special development problems or needs for compatibility in which a plan commission shall:

(A) approve or disapprove development plans under the 1400 series of this chapter; and

(B) ensure that a development plan approved under this subdivision is consistent with the comprehensive plan and the development requirements specified in the zoning ordinance.

(4) Provide for planned unit development through adoption and amendment of zoning ordinances, including PUD district ordinances (as defined in section 1503 of this chapter).

(5) Establish in which districts the subdivision of land may occur.

(e) When it prepares a proposal to initially adopt a zoning ordinance for a jurisdiction, the plan commission shall also prepare zone maps. The purpose of the zone maps is to indicate the districts into which the incorporated areas and unincorporated areas, if any, are divided.

In sum, local legislative bodies (e.g., city and town councils) may adopt zoning ordinances but only after a comprehensive plan has been developed. As with planning, the state code is very general, with a long list of things that can be zoned for, but little to no guidance on how it can be done in ways that are more sustainable (i.e., accommodate growth while protecting of community character and natural resources, and how to provide public facilities and infrastructure that are financially sustainable in the long-term, etc.). As such, many communities zone in reaction to or against something, rather than using it as a proactive tool to implement a visions or plan. Still, some communities are bucking the trend.

One example is the city of Portage, which updated their comprehensive plan to shift from an outward to an inward focus on sustaining development. To accomplish this, the city updated their zoning and subdivision ordinances to implement mixed uses, design standards, and pedestrian linkages within the community.

Another example is the city of Kokomo/Howard County, which had neighborhoods zoned in industrial sites. To rectify this, Kokomo implemented mass rezoning based on how the land was being currently used rather than future uses. In doing so, the community was able to update both their comprehensive plan and zoning ordinance to establish reasonable standards and procedures for subdivisions and re-subdivisions and protect the character and social and economic stability of all

parts within the community. Kokomo is able to avoid scattered, illogical and uncontrolled subdivisions of land that would result in the imposition of an excessive expenditure of public funds for the distribution or supply of infrastructure and/or services by planning for a balance between land uses, natural resources, open spaces, recreation and public ways that is beneficial to the community for present and future developments.

Best Practices in Other States

Florida established a state law that requires comprehensive plans to be adopted by ordinance and must have measurable goals. New York, Minnesota and Pennsylvania (and effective January 2010, Wisconsin) require local zoning to be consistent with a local comprehensive plan.

The state of Wisconsin has developed model ordinances for adopting comprehensive plans, traditional neighborhood development, and conservation subdivisions.

Implementation Options

Following are possible approaches which could be pursued to promote consistency between zoning ordinances and comprehensive plans. These ideas will be discussed during one of the breakout sessions at the Coastal Connections Land Use Roundtable.

- B1. State incentives for zoning consistency with plans. Create a state dividend to provide funding to those communities who have made their zoning ordinances consistent with their comprehensive plans
- B2. Develop model ordinances. Local government members of NIRPC can request that NIRPC develop model ordinances for local governments to adopt. Other state model ordinances could be used as a starting point, but the model ordinances for Northwest Indiana should reflect the contents of the relevant regional planning documents.
- B3. Enact legislation requiring zoning consistency with plans. Amend state planning and zoning enabling laws to require that zoning ordinances be consistent with comprehensive plans.

Key Web Resources

Planning with Power, Purdue University, <http://www.planningwithpower.org/>

Purdue University Land Use Team, <http://www.ces.purdue.edu/anr/landuse/>

Indiana Planning Association, <http://www.indianapanning.org/citizen.htm>

Planning, Development, and Zoning guides for growing sensibly, <http://www.growingsensibly.org>

Wisconsin model zoning ordinances,
http://www.doa.state.wi.us/pagesubtext_detail.asp?linksubcatid=370&linkcatid=224&linkid=