

Recent Amendments to  
Michigan's Planning & Zoning Laws  
Michigan State University Extension  
February 2002

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**Land Use Area of Expertise Team**  
"Thirty seven million acres  
is all the Michigan  
we will ever have"

-Former Governor  
William G. Milliken

1. Michigan State University Extension  
Bringing Knowledge to Life
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2. This program will cover:
  - A. Brief history of Extension and Michigan Society of Planning
  - B. Overview of 2001 Legislation
  - C. Voter Referendum Petitions
  - D. Coordinated Planning amendments to Planning Enabling Acts
  - E. Open Space/Cluster amendments to Zoning Enabling Acts
3. A. Michigan State University Extension  
Bringing Knowledge to Life
  - A. MSU Extension:
    1. 1912-1914: Extension started nation-wide and in Michigan
    2. Extension is part of the Land Grant University in each state. In Michigan: MSU.
    3. Funding is from three main sources:
      - a. Federal Government (U.S. Department of Agriculture)
      - b. State of Michigan (Michigan State University)
      - c. Local County Board of Commissioners.
    4. In Michigan there is an Extension office in each of 82 counties.
    5. Campus faculty are resource people to do research, translate research results into education programs for county Extension offices.
    6. Extension focuses on three main areas of emphasis with 32 Area of Expertise Teams:

- a. Agriculture and Natural Resources
  - b. Children, Youth and Family
  - c. Community and Economic Development
- 7. This program is a result of Land Use Area of Expertise Team as part of Community and Economic Development focus.
- B. Michigan Society of Planning
  - 1. A state-wide non-profit devoted to furthering planning and planning education in Michigan.
  - 2. Membership over 4,000
  - 3. Your voice in Lansing
  - 4. Offers many educational programs on planning and zoning.
  - 5. If your community is not a member, it should be.

4. **B. Legislative Overview for 2001.**

A. In a nutshell...

1. Increase notice and opportunity to comment on planning efforts
2. Change procedures for adopting plan
3. Changes number of signatures required for referenda on township zoning ordinance
4. Mandate cluster development provisions in local ordinances (open space zoning)

B. Planning Process Amendments

1. Three amendments:

- a. PA 263 of 2001 amends the Township Planning Act<sup>1</sup> [handout A]
- b. PA 264 of 2001 amends the Municipal Planning Act<sup>2</sup> [handout B]
- c. PA 265 of 2001 amends the County Planning Act<sup>3</sup> [handout C]
- d. Effective Date: January 9, 2002

2. A Plan is...

- a. A plan shall address land use issues and may project 20 or more years into the future.
- b. It can be the plan that zoning is based upon.

3. Notice of Plan Preparation (Brief run-through now, review step-by-step in detail later)

- a. Planning commission mails notice of intent to plan, and requesting cooperation, to:
  1. All contiguous governments,
  2. All governments within (for a county),
  3. All public utilities, rail roads that operate within, and any government entity that registers for this purpose.
  4. Townships, cities, villages: To the county planning commission (or county board and regional planning, if there is not any county planning commission).

4. Legislative Body Review

- a. Proposed plan is submitted to legislative body<sup>4</sup> review and comment.
- b. If legislative body approves distribution of proposed plan:

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<sup>1</sup>HB 5038, being P.A. 263 of 2001 which amends PA 168 of 1959, as amended, (the Township Planning Act, M.C.L. 125.321 *et. seq.*).

<sup>2</sup>HB 5267, being P.A. 264 of 2001 which amends PA 285 of 1931, as amended, (the Municipal (city, village, and some pre-1959 township planning) Planning Act, M.C.L. 125.31 *et. seq.*).

<sup>3</sup>HB 5252, being P.A. 265 of 2001 which amends PA 282 of 1945, as amended, (the County Planning Act, M.C.L. 125.101 *et. seq.*).

<sup>4</sup>Township board of trustees, village council, city council, or county board of commissioners.

1. Proceed with the process.
  2. In City, Village and Counties: Planning “shall not proceed further unless [legislative body] approves distribution.” (Language in the Township Planning Act is different, but may have the same effect.)
  3. (A county board may delegate its plan review responsibilities to the regional planning agency.)
5. Request for Comments
    - a. Distribute plan to those entities to whom notice was originally sent.
    - b. City, village, township planning commissions: Must also send signed statement to county planning commission (or county board of commissioners and regional planning) that notice & mailing requirements to local governments have been met.
  6. Submission of Comments
    - a. Cities, villages, townships, utilities, rail roads, others requesting mailing have 65 days from receipt to submit comments. For review of city, village, and township plans copies of comments must also be sent to county planning commission (or County Board of Commissioners).
    - b. For township, village and city plans: Between 75 –95 days from receipt, county planning commission (or county board of commissioners) shall submit comments, including statement as to whether it considers plan inconsistent with county and other plans.
    - c. County’s comments are advisory only.
  7. Public Hearing
    - a. Shall hold public hearing on the proposed plan after expiration of county comment period. (Same public hearing that has always been required, but notice requirements have changed slightly.)
  8. Submission to Legislative Body
    - a. Planning commission may approve plan at or after hearing.
    - b. Approval by planning commission is final step unless legislative body has adopted resolution asserting right to give final approval.
      1. Approved plan shall be submitted to legislative body.
      2. If rejected, legislative body must submit statement listing objections to plan.
      3. Planning commission revises, and repeats hearing process until legislative body finally approves.
  9. Approved Plans
    - a. Approved plans must be mailed to all those to whom notice and requests for comments sent previously.
  10. Application
    - a. May operate under old statutory process until January 9, 2003.
      1. (If operating under the Municipal Planning Act: May use the old

description of what a plan is (§6(3) up to January 9, 2003.)

- b. Plan *amendment* timelines differ:
  - 1. Villages, cities, townships have 40 days to comment
  - 2. County has 55-75 days to comment
  - 3. Plans shall be reviewed every 5 years to determine need for revision.

11. Miscellaneous

- a. Description of plan contents in Municipal Planning Act is made more consistent with Township and County Planning Acts.
- b. A plan may be directly tied to the “plan” referred to in the respective Zoning Enabling Acts.<sup>5</sup> Zoning may be based on a plan adopted under the planning enabling acts.
- c. Specifically allows townships to adopt Capital Improvement Plans.
- d. Does not alter relationship between planning department & planning commission in charter communities.
- e. Specific authority for planning commissions from multiple jurisdictions to meet to deliberate.

C. Open Space Zoning

- 1. Open Space Zoning Amendments
  - a. PA 177 of 2001 amends the Township Zoning Act<sup>6</sup> [handout D]
  - b. PA 178 of 2001 amends the County Zoning Act<sup>7</sup> [handout E]
  - c. PA 179 of 2001 amends the City/Village Zoning Act<sup>8</sup> [handout F]
  - d. Effective Date: December 15, 2001
- 2. Groups dwellings on smaller lots on a smaller portion of an undeveloped tract of land in order to preserve the remainder of the tract as “open space.”
  - a. Conventional zoning: 10 acres @ 2 dwellings per acre = 20 units on ½ acre lots

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<sup>5</sup> The connection between a plan adopted under a planning enabling act and the plan zoning is based on is new for counties (§4(2)(a) of PA 282 of 1945, as amended, (the County Planning Act, M.C.L. 125.101 *et. seq.*). It has been a part of the township system (but here zoning is based on a “zoning plan”) for some time now (§1(a) of PA 168 of 1959, as amended, (the Township Planning Act, M.C.L. 125.321 *et. seq.*)). There has been no change for the relationship for cities and villages (§6(3)(g) of PA 285 of 1931, as amended, (the Municipal (city, village, and some pre-1959 township planning) Planning Act, M.C.L. 125.31 *et. seq.*).

<sup>6</sup>HB 4995, being P.A. 177 of 2001 which amends PA 184 of 1943, as amended, (the Township Zoning Act, M.C.L. 125.271 *et. seq.*).

<sup>7</sup>HB 5028, being P.A. 178 of 2001 which amends PA 183 of 1943, as amended, (the County Zoning Act, M.C.L. 125.201 *et. seq.*).

<sup>8</sup>HB 5029, being P.A. 179 of 2001 which amends PA 207 of 1921, as amended, (the City and Village Zoning Act, M.C.L. 125.581 *et. seq.*).

- b. Open space zoning: 20 units on ¼ acre lots, leaving 5 acres (50%) undeveloped
- 3. “Qualified” communities:
  - a. cities, townships, villages, counties with a population of 1,800 or more...
    - 1. that have an adopted zoning ordinance, and...
    - 2. have undeveloped land that is zoned for residential development at 2 dwellings per acre or less OR, if served by public sewer, 3 dwellings per acre or less.
- 4. By December 16, 2002 qualified communities must amend zoning ordinances to provide landowners the option of utilizing cluster development in some residentially zoned areas.<sup>9</sup>
  - a. Ordinance must allow same number of dwellings as allowable under conventional zoning to be built on no more than 50% (townships and counties) or 80% (cities and villages) of the land “that could otherwise be developed... under existing ordinances...”
- 5. The open space part of the zoning ordinance is still subject to “other applicable laws,” including suitability for on-site water and septic.
- 6. Landowner can invoke ordinance if...
  - a. Land is zoned for residential development at 2 dwellings per acre or less OR, if served by public sewer, 3 dwellings per acres or less;
  - b. Development does not depend on the extension of sewer or water unless sewer or water would be necessary to serve the development under conventional zoning
  - c. Percentage of land specified in the zoning ordinance will permanently remain in “undeveloped state” via conservation easement, restrictive covenant, etc.
  - d. Option has not previously been exercised with respect to that land
- 7. Exception:
  - a. If qualified community has had open space zoning provisions in ordinance since on or before October 1, 2001
    - 1. Permitted clustered development and
    - 2. Permanently preserves land in “undeveloped state” via conservation easement, restrictive covenant
  - b. And a landowner had, in fact, utilized the open space zoning provision prior to December 15, 2001.

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<sup>9</sup>A checklist of steps to amend a zoning ordinance is available from MSU Extension, Wexford County. (*Check List #C2; For Adoption of a County Zoning Ordinance* October 21, 1999 (7p. \$1.40), *Check List #M2; For Adoption of a City & Village Zoning Ordinance* October 21, 1999 (6p. \$1.20), and *Check List #T2; For Adoption of a Township Zoning Ordinance* October 21, 1999 (6p. \$1.20)). Orders can be sent to 401 N. Lake Street, Cadillac, Michigan 49601; fax (231)779-9105; or on the web at [www.msu.edu/~schindl9/khsLUpamphlets.htm](http://www.msu.edu/~schindl9/khsLUpamphlets.htm)

1. Preserved 50% (20%) of land area
8. Ordinance may permit greater percentage of protected land, but still cannot require decrease in density
9. Unbuildable land, as defined by ordinance, not included in calculations
10. “After a landowner exercises the option provided..., the land may be rezoned accordingly.”
11. “Undeveloped state” – “natural state preserving natural resources, natural features or scenic or wooded conditions; agricultural use; open space; or a similar use or condition
  - a. Does not include golf course
  - b. May be trails, play areas, linear parks
  - c. May be dedicated to public use

5. **C. Voter Referendum Petitions**

- A. Township and County zoning, and zoning amendments can be brought to a vote. (This might also be the case in a City and village if voter referendum is included in the city or village charter).
- B. Amendment to the Township Zoning Act changed the number of signatures required on a petition to bring a township zoning issue to a vote.
- C. Now need 15% of the votes cast in the township for governor in the last gubernatorial election.
  - 1. This was 10%.
  - 2. No change for county zoning (it was already 15%).

6. **D. Coordinated Planning**

A. What was: [handout G]

1. Was some debate if a township needed a favorable review of a township plan by a county planning commission before the township planning commission could adopt it.
2. Was no formal mechanism for county review of village or city plans.
3. The 2001 coordinated planning amendments to Michigan's planning enabling statutes put an end to that debate and added county review of village and city plans.

B. And did a lot more.

1. The amendments to the planning acts did seven things to move the state closer to coordinated planning:
  - a. A county planning commission plays an important in fostering coordination and cooperation in planning.
  - b. County review of city, village, and township proposed plans is now built into the planning process.
  - c. Clarifies the county planning commission review is advisory only.
  - d. Strengthened the connection between plans adopted here and what zoning should be based on.
  - e. Initial review, and possibly final adoption, can now take place by the legislative body which can bring the coordination process to more departments and the "budget people" within the same government.
  - f. It is all planning commissions' duty to be pro-active to foster coordination and cooperation in planning.
  - g. Neighboring jurisdictions given a mechanism for providing input on plans
  - h. Requires a plan be reviewed at least every five years to decide to amend, rewrite, or do nothing.

C. Coordination is an attitude thing.

1. If people want to make it happen it will work.
2. The issue now is for this to become the new practice in Michigan.

D. The *Relative Risk Analysis Project* (1992) concluded "lack of integrated and coordinated land use planning" was one of the top environmental problems in Michigan.<sup>10</sup>

1. There are many issues and topics which can not be dealt with in a small area, (village, city or township).
2. To be effective, it must be done at a larger geographic scale.
3. Economic development example.

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<sup>10</sup>Michigan Department of Natural Resources (Public Sector Consultants, Inc.); *Relative Risk Analysis Project*; July 30, 1992.

- a. Economic development involves a larger areas than a municipality<sup>11</sup> (village, township and most cities).
  - b. Jobs, and location of people employed is a labor market area; often an entire county or multiple counties.
  - c. Coordinated planning is needed to be as effective as possible for economic development: worker training, housing, new industrial sites
4. Ground/Surface water example.
- a. One community can have a very good system in place to protect a river, lake or groundwater.
  - b. But water does not stop at the political boundary.
  - c. Coordinated planning at a watershed (or ground-watershed) level is critical for long term success.
5. Other topics that demand a multi-government cooperative planning approach include:
- a. Natural features (lakes, rivers): Often touch more than one municipality.
  - b. Technology for farming, mining, pipelines, radio transmissions: Cross municipal boundaries.
  - c. Transportation (roads, trails, billboards, parking, scenic vistas): Include multiple municipalities.
  - d. Major developments: Have impacts on more than just one municipality (traffic, lights, etc.) reference, relevant portions of other plans adopted by other agencies and governments.
  - e. Can you think of others:
    - 1. \_\_\_\_\_
    - 2. \_\_\_\_\_
    - 3. \_\_\_\_\_
6. Every local government in Michigan should identify those “bigger than just local concern” issues.
- a. Put that list on the table for coordinated planning discussion.
  - b. The county planning commission has an opportunity to be the leader in this effort.
  - c. Those issues can be identified for the entire county and:
    - 1. Made a part of the discussion and policies of a county plan,
    - 2. Prioritized for pro-active effort to foster coordination between governments. (For example the county planning commission initiating meetings and discussions between groups.)
    - 3. Facilitate cooperation between local governments.
    - 4. Use the new planning act process of coordination to the entire area’s benefit.

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<sup>11</sup>Townships, charter townships, villages, and cities (not counties).

- E. The process of planning coordination is now a part of the township, village and city, and county planning enabling acts.
1. So the process is in place. In brief, the steps to adopt a plan – coordinated style – are (new steps are in bold face):
    - a. **“I’m starting to plan” notice to all governments within/contiguous to the planning area.**
    - b. Conduct background studies, research.
    - c. Prepare draft plan
    - d. Approve draft plan (Planning Commission **& Legislative Body**)
    - e. **Draft plan sent to all governments within/contiguous to the planning area.**
    - f. **Draft plan and region/municipality’s comments on draft plan sent to county planning.**
    - g. Planning Commission holds public hearing on revised plan.
    - h. Adopt final plan (Planning Commission **& maybe Legislative Body**).
    - i. **Copies of the adopted plan sent to all governments within/contiguous to the planning area.**
  2. Handouts:
    - a. Checklist #T1: For township plans. [handout H]
    - b. Checklist #M1: For city and village plans. [handout I]
    - c. Checklist #C1: For county plans. [handout J]
- F. Step-by-Step Plan Adoption Process.
1. At the start of the planning process the municipal or county planning commission must first send out an “I am starting to plan” notice. This notice is sent to a large list of within and adjacent to the area the plan is for, and other government agencies.
    - a. This is the “coordinated planning notification list:”
      1. For municipalities: The planning commission, or if there is no planning commission, the legislative body of each city, village, or township located contiguous to the municipal government.
      2. For counties: The planning commission, or if there is no planning commission, the legislative body of each city, village, or township located within and contiguous to the municipal or county government.
      3. For municipalities and counties: The regional planning commission for the region in which the municipal government is located, if there is not a county planning commission. (If there is a county planning commission, submission by a municipality to the regional planning agency is optional.)
      4. For municipalities and counties: The county planning commission, or if there is no county planning commission, the county board of

commissioners, for the county in which municipal government is located.

5. For municipalities and counties: Each public utility company and railroad company owning or operating a public utility or railroad within the county or municipal government and any government entity, that registers its name and mailing address for this purpose with the county or municipal planning commission.
  6. For counties: The regional planning commission, if any, for the region in which the county government is located.
  7. For counties: The county planning commission, or if there is no county planning commission, the county board of commissioners, for each county located contiguous to the county.
- b. The legislature's list might not include everyone. Coordination maybe should include more organizations, such as:
1. For municipalities: The planning commission, or if there is no planning commission, the county board of commissioners of each county contiguous to the municipality.
  2. For municipalities and counties:
    1. State agencies
    2. Federal agencies
    3. Native American tribe governments,
    4. government agencies which own more than 10 acres of land within the municipality or county (Airport Authority).
    5. School district.
    6. Downtown Development Authorities.
    7. Tax Increment Finance Authorities.
    8. Historic District Commission.
    9. Park Commission.
  3. For municipalities and counties: Other special interest groups (chamber, farm bureau, property owners association, lake association, youth group, conservation district, environmental organization, etc.)
  4. Can you think of others:
    1. \_\_\_\_\_
    2. \_\_\_\_\_
    3. \_\_\_\_\_
- c. The planning acts require sending out the notice. However you can use this to establish a system of communication that leads to coordination with other governments. The notice can include events such as
1. joint meetings,
  2. study committees on "issues of greater than local concern," or

3. particularly for a county formation of a committee to prepare the plan who's membership includes representatives of all those receiving the notice
4. Can you think of others:
  1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_
- d. Have the option to use electronic form of communication – email, if approved by the receiving entities. This can be for notices, copies of a draft plan, and to submit comments. (A two-way street.)
2. The municipality or county commission studies and assembles background material to prepare a draft plan. Here is where the planning commission and the county planning commission can be pro-active in identifying topics for coordination. The county planning commission will have gotten the notice in step number 1, above, so the county will know work on a plan is stating in a local government.
3. The planning commission prepares a draft plan.
4. The planning commission approves the draft plan and the legislative body receives the plan to approve it before the process goes any further in a county, city, or village. (Language in the Township Planning Act is different, but has the same effect.)
5. A copy of the draft plan is sent to the “coordinated planning notification list” (same list as in number 1, above).
  - a. Everyone on the list should review the draft plan. The review should be based on their own plans, if any. If they do not have their own plan, then any comments should be brief, or not made at all.
  - b. Each comment made should include a list of facts and reasons behind the comment. It is not enough to say one does not like, or agree with some aspect of the plan. What carries the weight are the facts and reasons behind the statements.
  - c. (1) For municipality plans: Each comment is duplicated and send to **both** the municipality submitting the plan **and** the county planning commission. Comments need to be made within 65 days from the draft plan being sent in number 5, above (40 days if a draft of a plan amendment).
  - d. (2) For county plans: Each comment is sent to the county planning commission. Comments need to be made within 65 days from the draft plan being sent in number 5, above (40 days if a draft of a plan amendment).
6. At the same time a draft municipal plan is sent to “the coordinated planning notification list,” a copy of the draft plan is sent to the county planning

commission<sup>12</sup> along with a list of who received a copy of the draft plan (in number 5, above).

- a. The county planning commission receives township, village, city, and region's comments, also. It receives those comments within 65 days (40 days for a draft of a plan amendment).
  - b. The county planning commission reviews **both** the draft plan **and** all the comments from townships, villages, cities, and region.
  - c. The county planning commission's comments are based on:
    1. Its own review for inconsistency with adopted county plans, and
    2. Its review of the received comments and its own review for consistency with adopted municipality and regional plans.
  - d. Each comment made should include a list of facts and reasons behind the comment. It is not enough to say one does not like, or agree with some aspect of the plan. What carries the weight are the facts and reasons behind the statements.
  - e. The county planning commission's comments must be submitted to the municipal planning commission between 75 and 95 days after the draft municipal plan was sent in number 5, above (between 55 and 75 days for a draft of a plan amendment).
7. The municipal planning commission receives the county's comments and everyone else's comments. The county planning commission receives everyone else's comments. These comments should be reviewed with great care. For each comment made, one of two things should be done:
- a. Respond by changing the draft plan to address the concern in the comment.
  - b. Respond by listing your planning commissions facts and reasons why the concern raised is not valid. You will want your facts and reasons to present a preponderance of information to support your position. If that is not the case reconsider changing the draft plan.
  - c. Remember the comments received are advisory only – but do not dismiss them lightly. Coordination and cooperation is still the goal.
8. The municipal or county planning commission holds at least one public hearing on the revised draft plan.

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<sup>12</sup>If there is not a county planning commission, the central coordination role is not lost. First with no county planing commission materials are sent to the county board of commissioners. Also, if there is not a county planning commission, materials must be sent to the regional planning commission (instead of being optional). It is possible for the regional planning commission to perform the county planning role in an advisory capacity to the county board. As used here, "county board of commissioners" means (1) the county executive in a county organized under P.A. 293 of 1966, as amended (M.C.L. 45.501 *et. seq.*) or (2) the elected county board of commissioners or a subcommittee of the county board which has been assigned the review responsibility.

- a. Township planning commission must publish two notices of hearing
    - 1. 20-30 days prior
    - 2. No more than 8 days prior
  - b. Village and City planning commission must publish one notice of hearing no less than 15 days prior (and in an official gazette, if any)
    - 1. Must also mail notice to those entities originally notified
  - c. County planning commission does not have notice requirements in the County Planning Act.
9. After the hearing and any further modifications to the revised draft plan, the municipal or county planning commission adopts the plan. (The municipal or county legislative body also adopts the plan if they assert the right to do so.)
10. A copy of the adopted plan is sent to the “the coordinated planning notification list” (same as listed in number 5, above).
- G. The intent to have a system for coordination is clear.
- 1. Every government has the responsibility to be coordinating planning in their community and to cooperate to implement the plan.
  - 2. The county planning commission has a new and big role to make coordinated planning happen.
    - a. The county is positioned to see the big picture.
    - b. County planning is at the center, receiving township, village, city, region’s comments and able to make plans for a relatively large geographic area.
    - c. The county planning commission’s coordination role includes responsibility to initiate coordination opportunities,<sup>13</sup> be pro-active, and provide detailed substantiated comments with facts and reasons.

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<sup>13</sup>Sections 4(4), 4(5), 4a(1)(c), and 4a(1)(d) of PA 183 of 1943, as amended, (the County Zoning Act, M.C.L. 125.201 *et. seq.*).

7. **E. Open Space/Cluster Zoning**
  - A. Key phrase in the new legislation:
    1. “Same number of dwelling units . . . that . . . **could otherwise be developed under existing ordinances, laws and rules on the entire land area . . .**”
  - B. Key considerations for an open space provision of zoning.
    1. Fifty percent of what?
      - a. What is “buildable?”
      - b. What is “unbuildable?”
      - c. What is the “entire land area?”
  - C. Open Space Zoning
    1. If traditional type of residential development is allowed by right
    2. Then the Open Space Preservation zoning enabling act amendments make a cluster type of residential development allowed by right (unless language allowing for this is overturned by referendum).
  - D. Consideration When Adopting Open Space Provisions [handout K]
    1. Determining Allowable Density
    2. Maximum Developed Land Area
    3. Quantity and Quality of Open Space
    4. Strategies To Encourage Use of Open Space Provisions
    5. Siting New Development
  - E. Determining Allowable Density
    1. Will Density Be Based on a Parcels Gross Acreage;
    2. Or Are Common Sense Adjustments Made In Density to Allow for Land Constraints.
    3. Density Based on Parcels Gross Acreage
      1.  $(\text{Gross Acreage} / \text{Minimum Size Requirement} = \text{Density})$
      - a. Easy to Calculate
      - b. Tends to Increases Density Compared to “Conventional” Layouts (*From 10 to 40%> depending on land constraints and minimum lot size*)
      - c. Determining Allowable Density ( $\text{Gross Acreage}/\text{Minimum Size Requirement} = \text{Density}$ )
      - d. 50 acre parcel
        1. 50 Acre Parcel/2Acre Minimum Lot Size = 25 Splits
      - e. 18 splits realized
    4. Density Based on Yield Plan
      - a. Yield Plan Approach
      - b. Density equivalent to that which could be realized with a “conventional” layout taking into account natural constraints (wetlands, steep slopes, floodplains)
      - c. More Difficult to Calculate (requires submission of “Yield Plan”)
  - F. Maximum Developed Land Area

1. Shall the Amount of Developed Land Area Be Based on a Parcels Gross Acreage.
    - a. *“developed lands shall occupy not more than 50% of the parent parcels acreage”*
  2. Or Shall it be Based a Parcels “Buildable Acreage”
    - a. *“developed lands shall occupy an area no greater than 50% of the parent parcels buildable acreage” (areas of wetlands, floodplains and steep slopes located on the parent parcel shall not be included in the buildable acreage calculation.)*
- G. Quantity & Quality of Open Space
1. Will The Open Space Requirement Be Met With a Simple Percentage of the Parent Parcels Gross Area;
    - a. *“a minimum of 50% of the parent parcels acreage shall be set aside as permanently protected open space”*
    - b. This approach usually results in a majority (*and in some cases all*) of the open space requirement being be made up of the most unusable and undesirable lands
  2. Or Shall the Required Open Space Include a Significant Portion of the More Desirable (*Useable* ) Lands.
    - a. *“a minimum of \_\_\_% of the parent parcels gross acreage shall be set aside as permanently protected open space. This area shall include at least half of the parcels buildable acre”.*
- H. Strategies To Encourage Use of Open Space Provisions
1. When the Ordinance Language allows the traditional residential zoning type of development
  2. On equal footing with the cluster, or open space type of development –the cluster approach will be chosen by the developer 10% to 15% of the time. The traditional approach will be used 85% to 90% of the time.
  3. Multiple Option Approach is to allow for a Series of Development Options
    - a. Rewrite ordinance language [handout L]
    - b. Allow Developer To Chose the Option Which Best Serves His/Her Purposes
    - c. Developer Gets Full Density (*as allowed for under previous ordinance language*) Only With Open Space Options
    - d. All Development Options Result In Significant Land Conservation Development Options (Low Density)
  4. Low Density, Country Estate Option
    - a. The existing Parent Parcel may be divided into a series of parcels a minimum of 40 acres in area. (*25 acres if the depth to width ratio of the parcels created is 2.5:1 or less.*)

5. Low Density, Sliding Scale Option
    - a. A small number of lots a maximum of 3 acres in area each may be split from the Parent Parcel. One lot would be allowed on Parent Parcel 10 to 20 acres in area. Two lots on Parcels 20 to 40 acres in area, three lots on Parcels 40 to 80 acres in area and four lots on Parent Parcel greater than 80 acres in area.
  6. Neutral Density Open Space Option
    - a. The Parent Parcel can be developed up to the maximum density allowed under previous zoning. The Minimum Open Space requirement is 50% of the Parent Parcels gross are. A minimum of half of the parcels buildable lands are located in the Open Space area. The parcel is developed according to the Four Step process described in the next section.
  7. Enhanced Density, High Density Open Space
    - a. The Parent Parcel may be developed at densities up to 100% greater than that allowed under previous zoning. As a tradeoff for this level of density, a minimum of 70% of the Parent Parcels gross area including at least half buildable lands must be set aside as Open Space. The development is laid out in a hamlet or village configuration. This option may be limited to certain areas.
- I. Siting New Development
1. A Four Step Process
    - a. Step one; Identify areas for development and conservation
      1. Wetlands
      2. Floodplains
      3. Steep Slopes
      4. Prime and Unique Farmlands
      5. Prime Timberland Areas
      6. Groundwater Recharge Areas
      7. River and Stream Corridors
      8. Wildlife Habitat
      9. Historic Sites
      10. Greenways
      11. Trails
      12. Scenic Viewsheds
    - b. Step two; Locate potential building sites
    - c. Step three; Align streets and trails
    - d. Step four; Draw in parcel lines.

8. **List of Handouts**

- A. A. PA 168 of 1959, as amended, (the Township Planning Act, M.C.L. 125.321 *et. seq.*).
- B. B. PA 285 of 1931, as amended, (the Municipal (city, village, and some pre-1959 township planning) Planning Act, M.C.L. 125.31 *et. seq.*)
- C. C. PA 282 of 1945, as amended, (the County Planning Act, M.C.L. 125.101 *et. seq.*).
- D. D. PA 184 of 1943, as amended, (the Township Zoning Act, M.C.L. 125.271 *et. seq.*)
- E. E. PA 183 of 1943, as amended, (the County Zoning Act, M.C.L. 125.201 *et. seq.*).
- F. F. PA 207 of 1921, as amended, (the City and Village Zoning Act, M.C.L. 125.581 *et. seq.*).
- G. G. *Check List #T1; For Adoption of a Township Plan.*
- H. H. *Check List #M1; For Adoption of a City & Village Plan.*
- I. I. *Check List #C1; For Adoption of a County Plan.*
- J. J. *County Planning; Its Legal Authority, and Coordinated Planning.*
- K. K. *Better Designs for Development in Michigan; Putting Conservation into Local Land Use Regulations* by Rod Cortright
- L. L. *Sample Open Space Zoning.*

9. **Thank You**

MSU Extension Bringing Knowledge to Life

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