



# TRAINING

## LAND USE & ZONING

Presented by Tara Salmieri and Cliff Shepard

# Resources for Planning in Eatonville



- Comprehensive Plan Data, Inventory, Analysis (DIA) [link](#)
- Comprehensive Plan Goals, Objectives and Policies (GOPs) [link](#) (the GOP's start on page 14)
- Town's Land Development Code can be accessed [link](#).

# Topics for Training



**TOPIC 1 – THE COMPREHENSIVE PLAN** – What is it? How Does it Work? Why is it important?

**TOPIC 2 - ZONING, SPECIAL EXCEPTIONS & VARIANCES** – What are these things? How do they work? What matters, and what doesn't when you are making a decision?

**TOPIC 3 - LEGISLATIVE DECISIONS AND QUASI-JUDICIAL DECISIONS** – How are they different and why does it matter?

**TOPIC 4 – WHO'S ON FIRST? THE PLAYERS AND THEIR ROLES IN THE DEVELOPMENT PROCESS:**

- STAFF (Planning, Public Works, Clerk)
- LEGAL (Town Attorney, Opposing Counsel)
- BOARDS (Historic, Planning Board, BZA)
- TOWN COUNCIL (Decisions and Appeals)
- THE DEVELOPMENT PROCESS (consistency, site plan review, plat, impacts, capacity, etc.)



# TRAINING - TOPIC 1

# THE COMPREHENSIVE PLAN

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# Comprehensive Plan Requirements



- All local governments are required by State law to adopt a comprehensive plan (FS 163.3177 [here](#)).
- The planning process is universal.
- The Comprehensive Plan is the only public document that views the community as a whole. Public participation is vital and legally required.
- The Comprehensive Plan forms a basis for how a community regulates development and how it invests in infrastructure and services.

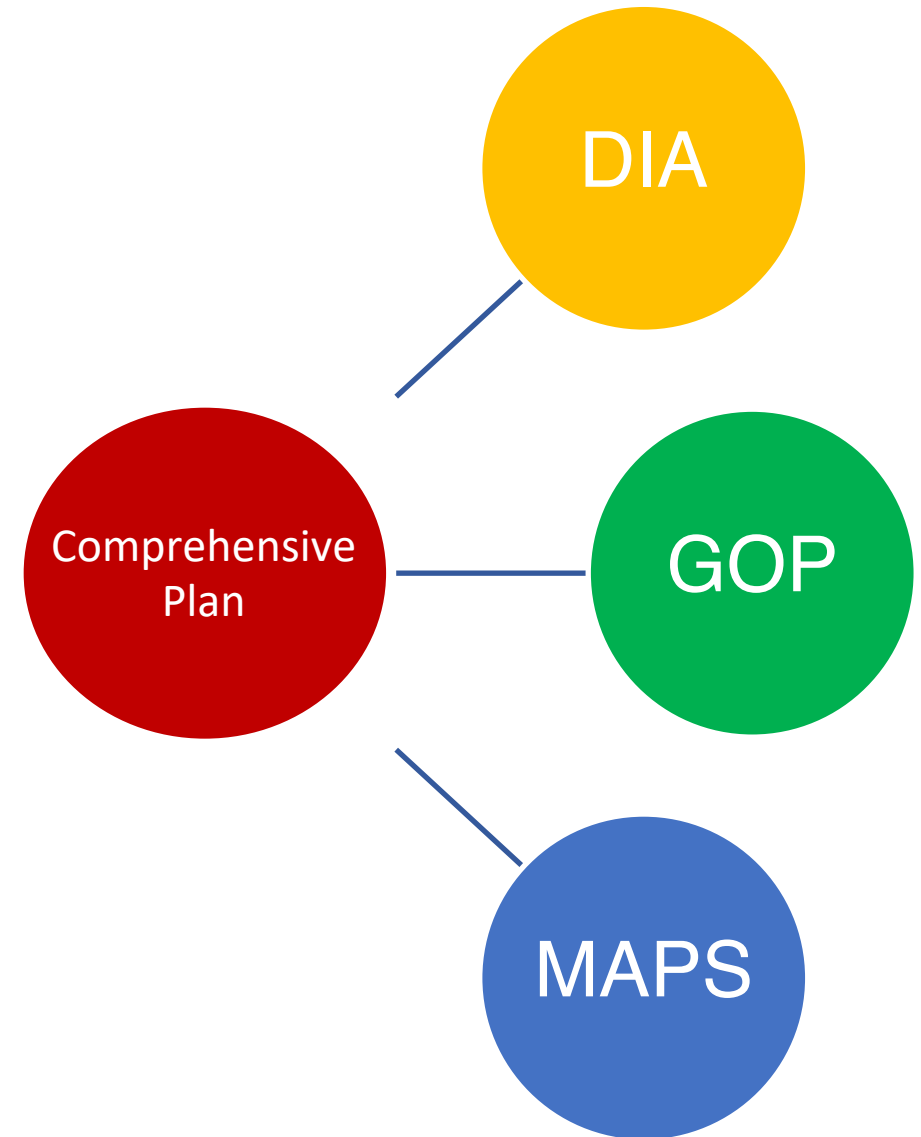


# Comprehensive Plan Role

- “The constitution for all future development . . .” - *Citrus County v. Halls River Development*, 8 So. 3d 413, 420 (Fla. 5th DCA 2009); *Machado v. Musgrove*, 519 So.2d 629, 631-32 (Fla. 3d DCA 1987).
- Importance of Public Participation
  - Required by Statute “to the fullest extent possible.”
  - Adopt procedures to provide effective and meaningful participation.
  - Provide property owners with notice of all official actions that regulate the use of their property.
- Development that is inconsistent with the Comprehensive Plan (consequences) – *Pine Crest v. Shidel* case (bull dozer)
- Vested Rights – What they are? What they aren’t?

# Overall Components of a Comprehensive Plan (FS 163.3177)

- Physical Plan (reflects social and economic values)
- Data, Inventory and Analysis (census, transportation LOS, Water quality, infrastructure assessment)
- Mapping (land use, transportation, environment, historic areas, etc.)
- Goals, Objectives, and Policies Mid and Long Range (5/10/20 years)
- Consistency with the Elements



# Comprehensive Plan [link](#)

Each local government in Florida is required to adopt a comprehensive plan. Once this plan is adopted and found to be “in compliance” by the State planning agency, the Department of Community Affairs, all actions related to planning and growth management, including the regulation of land use and development, must be consistent with the comprehensive plan.

Chapter 1:	Future Land Use
Chapter 2:	Traffic Circulation
Chapter 3:	Housing Element
Chapter 4:	Sanitary Sewer
Chapter 5:	Solid Waste
Chapter 6:	Stormwater
Chapter 7:	Potable Water
Chapter 8:	Groundwater & Aquifer Recharge
Chapter 9:	Conservation Element
Chapter 10:	Recreation and Open Space
Chapter 11:	Intergovernmental Coordination
Chapter 12:	Capital Improvement
Chapter 13:	Property Rights Element

## TOWN OF EATONVILLE 2018-2038 COMPREHENSIVE PLAN AMENDMENT: GOALS, OBJECTIVES AND POLICIES BASED ON THE EVALUATION AND APPRAISAL REPORT



Prepared by  
Solín and Associates, Inc. & Staff

Ordinance #2018-01  
Adopted December 18, 2018



# Data, Inventory & Analysis [link](#)

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## Town of Eatonville Comprehensive Plan

## Data Inventory and Analysis

### CHAPTER 1: FUTURE LAND USE ELEMENT DATA INVENTORY AND ANALYSIS

Table I-16 portrays the planned development and redevelopment of large parcels exceeding 5 acres within the Town of Eatonville, including the projected generation of future potable water demand based on potable water demand coefficients presented in the previous paragraph. The projected land use is consistent with the Comprehensive Plan Future Land Use Map herein. This table includes the longstanding proposed redevelopment of the Hungerford Town Center occasioned by the sale of the Orange County School Board's Hungerford Property to the Town of Eatonville. The Hungerford property is planned to become the southwest anchor of the Town Center. In addition, the table includes Orange County School Board's 10.61-acre site located at 525 West Kennedy which is planned for redevelopment. The site will accommodate a mixed-use development consisting of approximately 8.68 acres of commercial development fronting on W. Kennedy Boulevard with a planned 8.93-acre residential development to the north. The map following Table VII-6 identifies the large undeveloped site.

TABLE I-16: FUTURE PROJECTED POTABLE WATER DEMAND TO BE GENERATED BASED ON FUTURE LAND USE MAP DESIGNATIONS ASSIGNED TO PARCELS EXCEEDING 5 ACRES [Includes Proposed Redevelopment of Orange County School Board Property--see Map I-5]				
Identity of Parcels	Future Land Use Map Designation	Upland Acreage/Units	Formula to Calculate Potable Water Demand	x1500 gpd for non-res'l
				Res'l Unit = x 350 gpd
E of Lake Weston	Industrial on Adopted FLUM	34.17 ac.	34.17 ac. x 1,500 gpd=	51,255
E of Lake Shadow	Commercial on Adopted FLUM	10.85 ac.	10.85 ac. x 1,500 gpd=	16,275
NW of I-4	Commercial on Adopted FLUM	11.59 ac.	11.59 ac. x 1,500 gpd=	17,385
Hungerford Site [OCSB selling site Eatonville for redevelopment]	Res'l: 7ac. X 43,560 ÷ 7,500=	40 units x 83.11%=	33 occupied HH unitsx350 gpd=	11,550
	Commercial	47.65 ac.	47.65 ac. x 1,500=	71,475
	Institutional	18.00 ac.	18.00 ac. x 1,500=	27,000
Hungerford Host-Dime Site	Commercial on Adopted FLUM	5.00 ac.	5.00 ac. x 1,500=	7,500
525 W Kennedy [OCSB selling site to Eatonville for redevelopment]	Commercial on Adopted FLUM	8.68 ac.	8.68 ac. x 1,500=	13,020
	Res'l: 8.93 ac x 43,560/7,500=	51 units x 83.11%=	42 occupied HH Units x 350 gpd =	14,700
Starling Trust Res'l: Not S/D	Res'l: 9.47 ac x 43,560/7,500=	55 units x 83.11%=	45 occupied HH units x 350 gpd=	15,750
Undeveloped Large Parcel Acreage		161.34 ac.	NA	NA
Total Potable Water Demand for Major Undeveloped Properties Over 5 Acres				245,910 gpd

Source: Estimated acreage and projections based on Solin and Associates, Inc. (SAI) analysis of Eatonville land use by parcel and SAI use of the Orange County Property Appraiser Data Base, to calculate acreage by parcel, 2016-17. The potable water coefficient used are standard "rule of thumb" coefficients provided by the Town of Eatonville Public Works Director.

Table I-17 presents the amount of projected development by land use on smaller undeveloped and underdeveloped infill parcels. Table I-17 also reveals the impact of such infill development on future potable water demand. Together Tables I-16 and I-17 demonstrate the future pent-up demand for potable water that will be generated by future development of strategically located large scale undeveloped upland parcels as well as the potable water demand generated by undeveloped and underdeveloped upland infill sites. Pressures for development of these lands is forthcoming by 2019 or 2021 as longstanding needs for roadway improvements are finally realized.

# Goals, Objectives & Policies [link](#)

## TOWN OF EATONVILLE 2018-2038 COMPREHENSIVE PLAN AMENDMENT: GOALS, OBJECTIVES AND POLICIES BASED ON THE EVALUATION AND APPRAISAL REPORT



Prepared by  
Solin and Associates, Inc. & Staff

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### CHAPTER 1: FUTURE LAND USE ELEMENT

**OBJECTIVE 1.4: Land Use Intergovernmental Coordination.** The Town shall coordinate land use policies with those of surrounding jurisdictions, to ensure that proposed uses in Eatonville do not adversely impact and are not adversely impacted by adjacent land uses within other jurisdictions developments.

**Policy 1.4.1: Notifying Adjacent Local Governments of Development with Potential Intergovernmental Impacts.** The Town will include other surrounding jurisdictions in the local development process to ensure that they receive notification of developments which might impact them.

**Policy 1.4.2: Notifying Adjacent Local Governments of Regulatory Revisions.** The Town shall notify surrounding jurisdictions of proposed regulatory changes that might impact them.

**OBJECTIVE 1.5: Require Development to Reflect Town's Historical Quality and Nature.** The Town shall require that all development reflects the historical quality and nature of the Town.

**Policy 1.5.1: Use Historical Survey Map in Evaluating Historic Housing and Sites.** The Town shall use the 1989 Historical Survey Map to identify and evaluate historic housing and sites.

**Policy 1.5.2: Promote Town's Historical and Cultural Identity as Oldest Black Chartered Town in U.S.**

**Policy 1.5.3: Require Development to Be Consistent with Plan Policies and Adopted Regulatory Standards for Open Space and Infrastructure.** All development must include open space, landscaping, and buffers to maintain and protect the natural environment, moderate storm water runoff and efficient drainage, and promote land use compatibility and overall community appearance as provided in the Land Development Code.

**Policy 1.5.4: Use Historical Survey in Developing Policies and Regulations to Minimize Adverse Impacts to Historic and Archaeological Resources.** The Town shall continue to maintain and enforce land development regulations that regulate development to minimize adverse impacts of such development on historic archeological sites and structures. The Eatonville Historic District Design Guidelines, adopted pursuant to Ordinance 2002-4, as may hereinafter be amended, shall be used as a principal source in ongoing land use, design and regulatory reviews and decisions to evaluate the design and impacts of proposed development within the adopted Eatonville Historic District which is listed on the National Register of Historic Places.

**Policy 1.5.5: Use the Eatonville Historic District Guidelines in Updating the Historic Preservation Policies and Implementing Regulations.** The Town of Eatonville Historic Preservation District, adopted by Ordinance #96-04, is hereby adopted into the 2018-2038 Comprehensive Plan Future Land Use Map series as part of the 2018-2038 Comprehensive Plan update and is inserted in the following page of the Future Land Use Element.

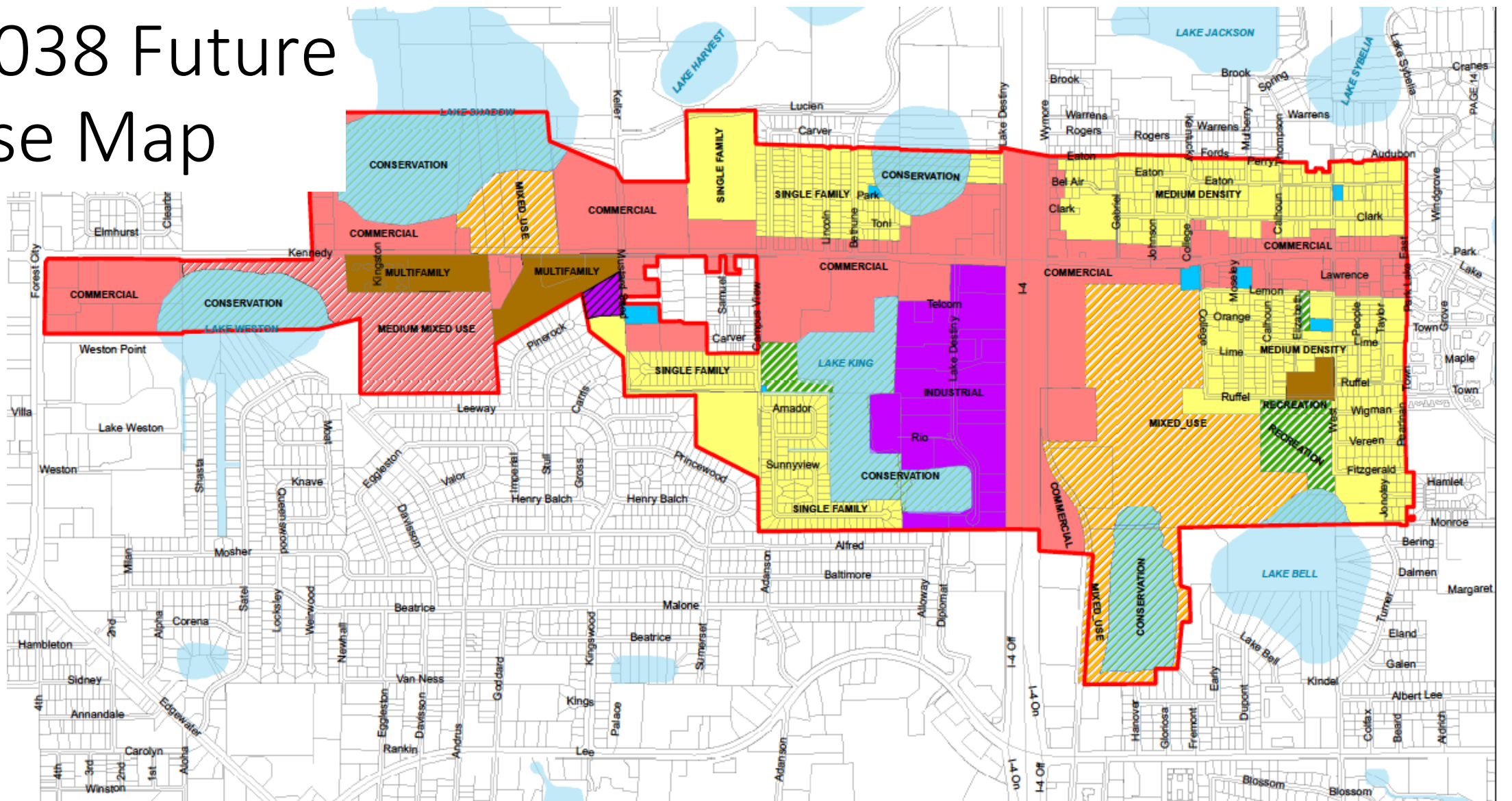
**OBJECTIVE 1.6: Ensuring Land Use Compatibility.** The Town's Future Land Use Map and the implementation of the Land Development Code shall ensure the compatibility of adjacent land uses by implementing the following policies.

**Policy 1.6.1: Maintain, Update, and Enforce Size and Dimension Criteria as well as Parking and Landscaping Criteria.** By December 1, 2018, the Town shall develop and adopt land development regulations that include appropriate design controls for each zoning district such as, but not limited to, building setbacks, minimum lot size, building coverage ratio, off street parking requirements and landscaping.

**Policy 1.6.2: Maintain and Enforce Design and Operation Criteria to Abate Noxious Impacts.** The Town shall continue to maintain and implement best management principles for planning, design, and operation of land uses within the Town and shall prevent or minimize such detriments as: odor, unsightliness, pollution and contamination.



# 2018-2038 Future Land Use Map



TOWN OF EATONVILLE FUTURE LAND USE 2018-2038

FLUM 2018-2038

COMMERCIAL

MEDIUM MIXED USE

CONSERVATION

INDUSTRIAL

MIXED\_USE

PUBLIC

RECREATION

LOW DENSITY

HIGH DENSITY

0

0.175

0.35

0.7 Miles



1 in = 826 feet

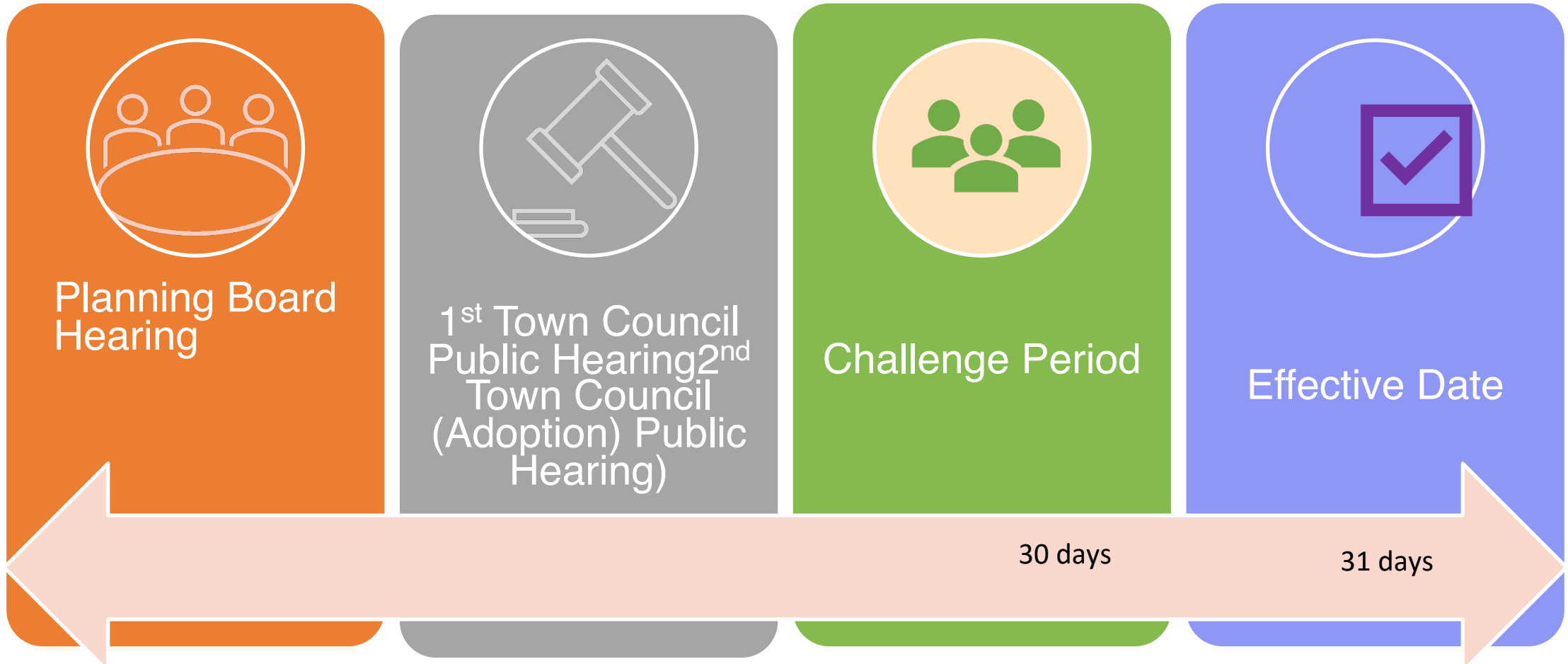
# Evaluation and Appraisal Reports

- Every 7 years (2025).
- Must address changes in state requirement since the last update of the plan and based on changes to local conditions. (Property rights element).
- Local government sends DEO a Notification letter (Chapter 73C-49 FAC).
- Have one year from the notification letter to provide updates, if local government does not comply, no amendments to the comprehensive plan can be done.

# Comprehensive Plan Amendment Process (large scale amendments)



# Comprehensive Plan Amendment Process (small-scale amendments) - less than 50 acres





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# Questions?



# TRAINING- TOPIC 2

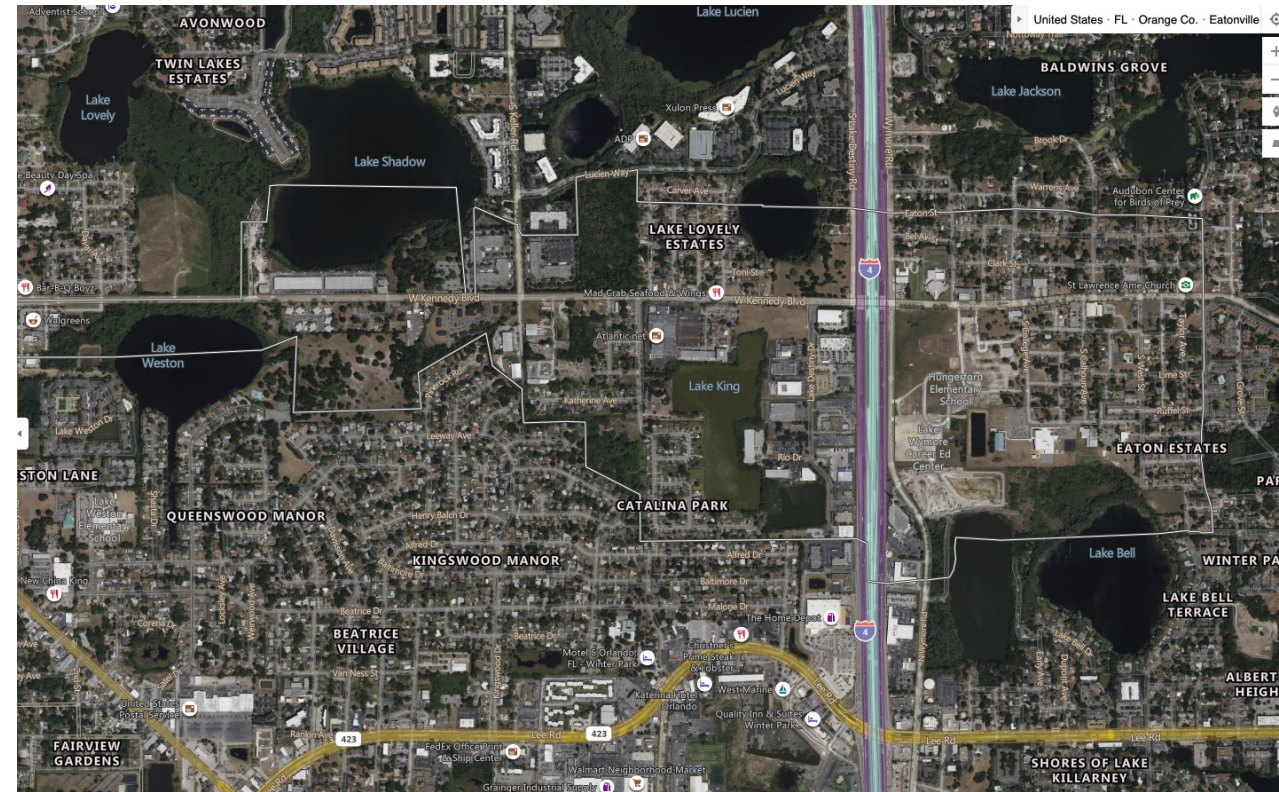
# ZONING, SPECIAL EXCEPTIONS & VARIANCES

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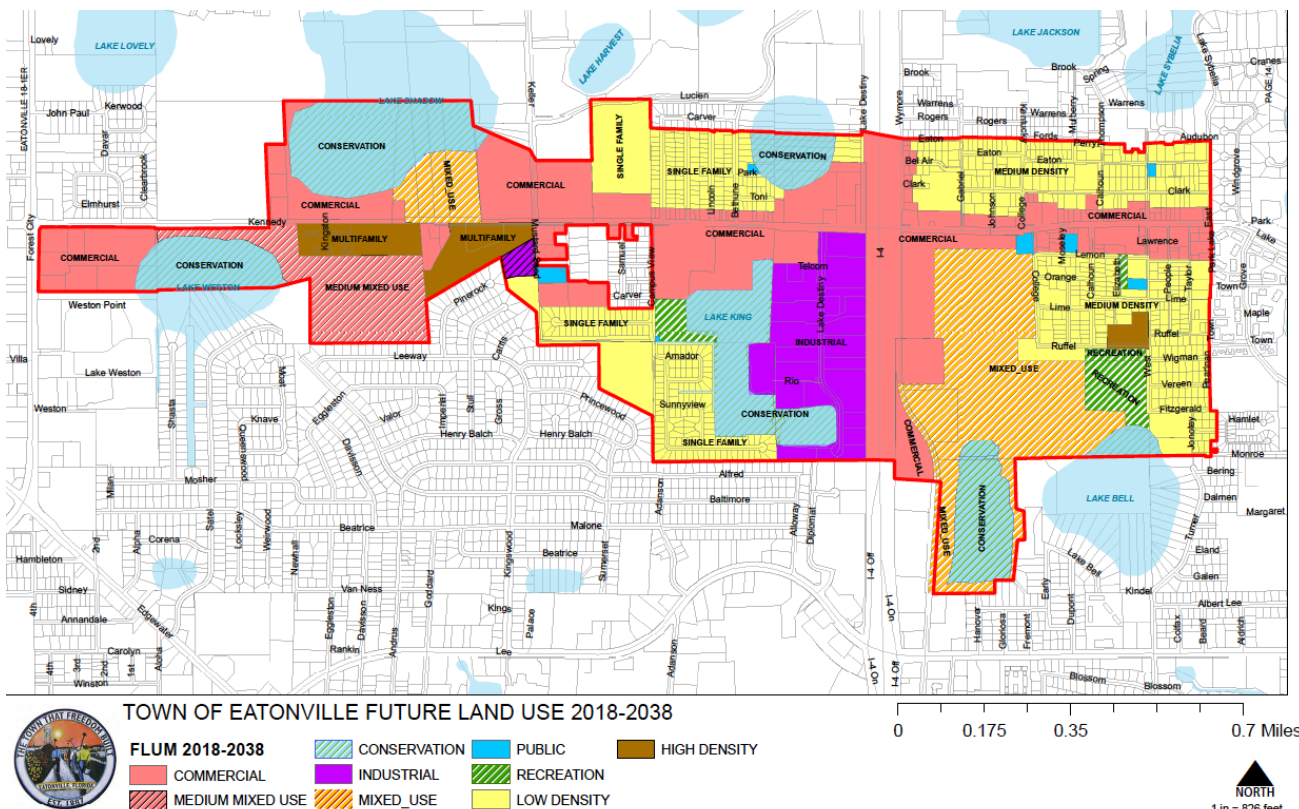


# ZONING STANDARDS

- COMPREHENSIVE PLAN
- LAND DEVELOPMENT CODE
- REZONING
- SPECIAL EXCEPTIONS
- VARIANCES

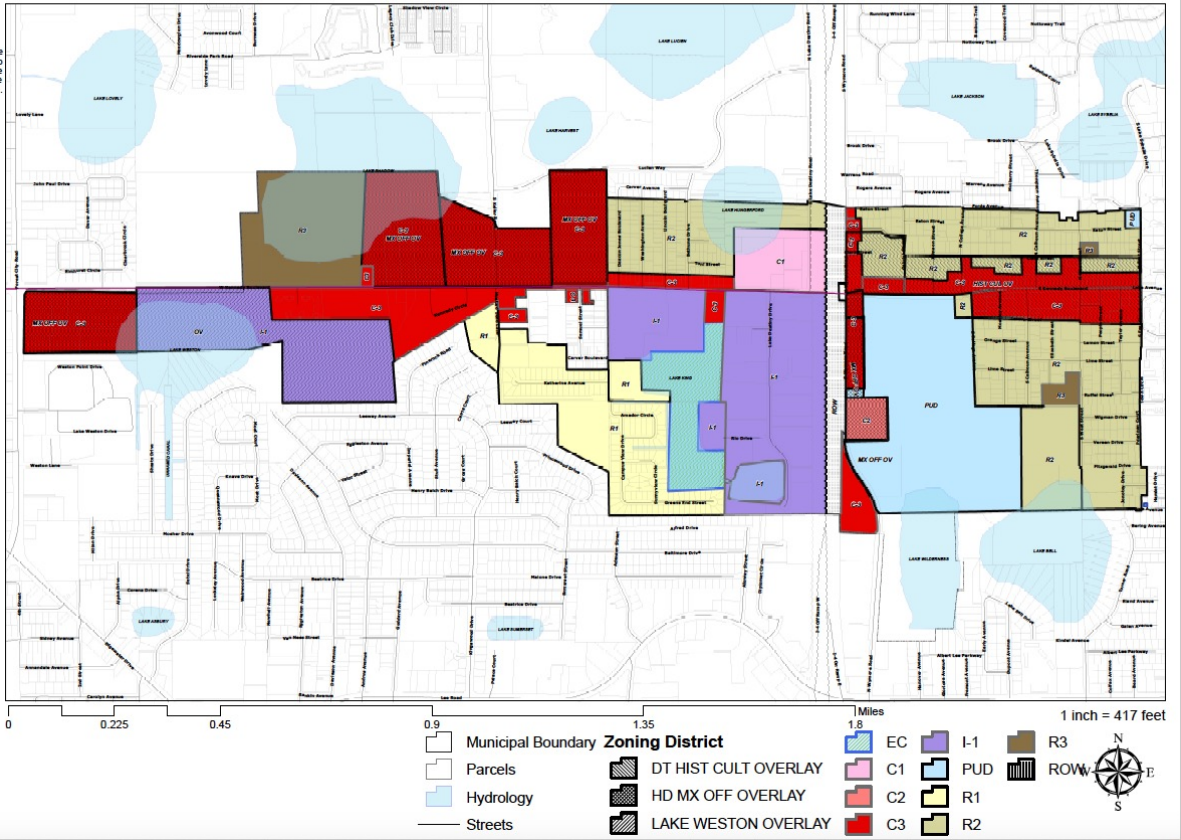


# Land Use Map and the Zoning Map



Land Use Map (Comprehensive Plan)

Town of Eatonville Official Zoning Map



Zoning Map (Land Development Code)

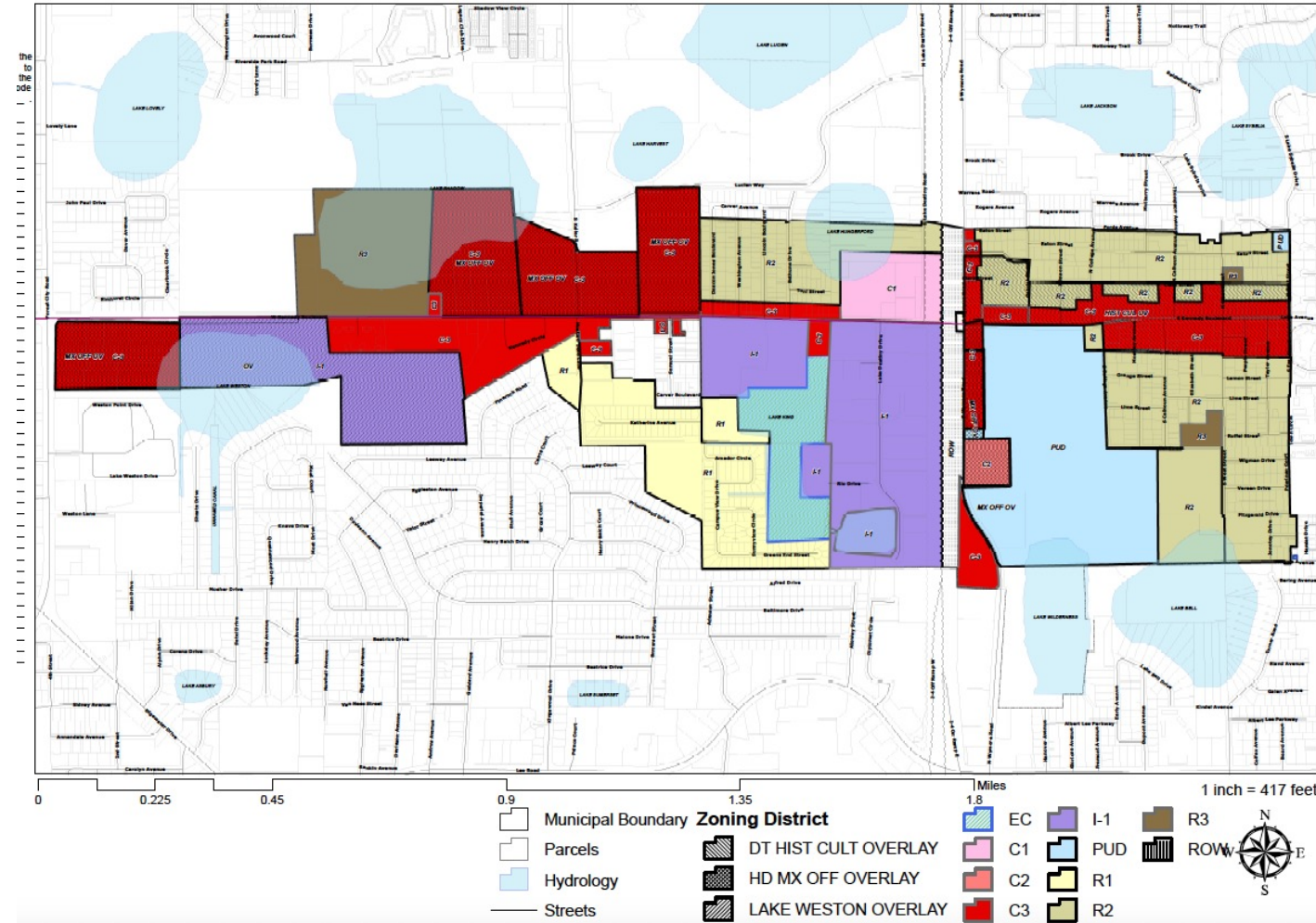


# Zoning Standards

Zoning is the division of the town into districts for the purpose of regulating the use of private land.

- 1- Town has authority
- 2- Required to be consistent with the Comprehensive Plan
- Police Power, based on protection of the public health, safety or welfare.
- Rational Nexus to promote a public purpose (link to the comprehensive plan)

Town of Eatonville Official Zoning Map



# Zoning Code Standards

## Town of Eatonville Municode

Zoning provides requirements (examples):

- Establishes Districts

- Use

- Landscape/Fence

- Signage

- Parking

- Site Plan requirements

- Subdivision/Plat

Eatonville, FL

Search or jump to

Eatonville, Florida - Code of Ordinances / Subpart B - LAND DEVELOPMENT CODE

VERSION: SEP 29, 2022 (CURRENT)

- CODE OF THE TOWN OF EATONVILLE, FLORIDA
  - SUPPLEMENT HISTORY TABLE
- PART I - CHARTER
  - CHARTER COMPARATIVE TABLE - LEGISLATION
- PART II - CODE OF ORDINANCES
  - Subpart B - LAND DEVELOPMENT CODE**
    - Chapter 42 - GENERAL PROVISIONS
    - Chapter 44 - ADMINISTRATION
      - Chapter 46 - FLOOD DAMAGE PREVENTION
      - Chapter 48 - HISTORIC PRESERVATION
      - Chapter 50 - MINIMUM PROPERTY STANDARDS
      - Chapter 52 - SIGN REGULATIONS
      - Chapter 54 - SITE PLAN
      - Chapter 56 - STORMWATER MANAGEMENT
      - Chapter 58 - SUBDIVISION REGULATIONS
      - Chapter 60 - SUPPLEMENTAL ZONING DISTRICT REGULATIONS

< Sec. 41-34. - Board of adjustments and appeals.

Subpart B - LAND DEVELOPMENT CODE

Chapter 42 - GENERAL PROVISIONS

- Sec. 42-1. - Short title.
- Sec. 42-2. - Application.
- Sec. 42-3. - Rules for interpretation of terms.
- Sec. 42-4. - Definitions.
- Sec. 42-5. - Violations and penalties.
- Sec. 42-6. - Severability.
- Sec. 42-7. - Repeal of conflicting regulations.
- Sec. 42-8. - Interpretation.
- Sec. 42-9. - Fees and charges.

Chapter 44 - ADMINISTRATION

ARTICLE I. - IN GENERAL

- Secs. 44-1—44-18. - Reserved.

ARTICLE II. - COMPREHENSIVE PLANNING

- Sec. 44-19. - Relationship to comprehensive plan.
- Sec. 44-20. - Request for determination.
- Sec. 44-21. - Plan amendment procedures.
- Sec. 44-22. - Administrative procedures.
- Sec. 44-23. - Administrative responsibilities.
- Sec. 44-24. - Administrative process.
- Secs. 44-25—44-51. - Reserved.

ARTICLE III. - BOARDS, COMMITTEES, COMMISSIONS

DIVISION 1. - GENERALLY

- Secs. 44-52—44-75. - Reserved.

DIVISION 2. - PLANNING BOARD

# What is a Rezoning?

- Who can apply for rezoning?
  - Property Owner/Representative
  - Local Government
- Burden of Proof:
  - The local government can initiate rezoning of an area, but cannot target the rezoning of an individual property.
  - The property owner must prove with **competent substantial evidence** that the proposed rezoning is consistent with the comp plan and that the application complies with all code requirements.
  - The burden then shifts to the local government (if it disagrees) to demonstrate that maintaining the existing zoning accomplishes a legitimate public purpose and is not arbitrary, discriminatory or unreasonable.

Zoning district	Land Use Category							
	R-1	R-2	R-3	C-1	C-2	C-3	I-1	PUD
Single-family (existing)	X	X						
Low density single-family	X							X
Multifamily			X					X
Planned commercial				X				X
Planned office				X				X
Controlled commercial/office				X	X	X		X
Retail/offices						X		
Planned industrial							X	X
Institutional	X	X	X	X		X		X
Parks/community center	X	X	X					X

LDC, Chapter 44, Article II. Comprehensive Plan

# Special Exceptions

- Specific criteria is outlined, by Zoning District AND Chapter 44 Administration, Article IV Special Exception uses, [link](#) here.
  - **Planning Director** – Reviews the request against the specific criteria as outlined in the LDC for that zoning district.
  - **Town Attorney** - Prior to the planning board considering an application for a special exception, the town attorney shall render an opinion as to whether the special exception application is in fact a special exception, under the provisions of this chapter and is within the province of the planning board. Consideration of an application for a special exception by the planning board after a receipt of an opinion from the town attorney that the application is not within the province of the planning board, as herein defined, shall constitute a grievance as provided for in section 44-116. Repeated considerations of the planning board under these circumstances shall constitute cause for removal as provided for in section 44-110..

# Special Exception Review

- 1. Planning Board  
(Review/Recommendation)
- 2. Town Council (Renders the Decision)

RECOMMENDATION

The \_\_\_\_\_ will provide one of the following for \_\_\_\_\_:

- (a) Recommendation of denial
- (b) Recommendation of approval
- (c) Recommendation of approval with conditions
- (d) Recommendation of approval in part, with or without conditions, and denial in part.

TOPIC 3 & 4, will provide a more detailed assessment of the process from a legal framework and the role (staff, boards, council)

1) AUTOMOBILE REPAIR	CONDITIONS (YES: MEET CONDITIONS, N/A , AND NO DOES NOT MEET)
a. All repair work and permanent storage of materials merchandise and lubrication repair and servicing equipment shall be conducted within the principal building. .	YES
b. No operator shall permit the storage of motor vehicles for a period in excess of 24 hours unless the vehicles are enclosed in the principal building.	
c. Service or customer vehicles shall be parked on the premises in a manner that will not create traffic hazards or interfere with vehicular maneuvering area necessary to enter or exit the site	
d. No outdoor work shall be performed except in areas designated for such activity on an approved site plan. Such areas shall be fenced, walled and screened to minimize on and off-site noise, glare, odor, or other impacts.	
e. Additional buffering and screening may be required where such use is located in close proximity to residential or retail commercial uses.	
f. Additional uses, such as RV/boat storage and vehicle sales, are permitted in conjunction with this use, provided that they are permitted in the zoning district and all conditions are satisfied.	
g. Must have a publicly advertised community meeting prior planning and zoning board.	

EXAMPLE ONLY

# Variance

**A variance is an exemption granted from certain land development regulations where literal enforcement of such regulations would result in an unnecessary hardship. In reviewing a variance decision, a court will review whether there is competent substantial evidence in the record to support whether the ALL variance review criteria in the applicable code have been met. Chapter 44, Article V. Variances [here](#)**

1. Describe the special conditions and circumstances that exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district.
2. Describe how special conditions and circumstances that currently exist are not the result of the actions of the applicant or petitioner.
3. Explain how the granting of the variance request would not confer on the applicant, or petitioner, any special privilege that is denied by this Article of the LDC to other lands, buildings, or structures in the same zoning district.
4. Describe how the literal interpretation of the provisions of the zoning regulations would deprive the applicant, or petitioner, of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant or petitioner.
5. Describe how the requested variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
6. Describe how the granting of the variance will be in harmony with the general intent and purpose of the zoning regulations and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.



## Variances are Supposed to be Hard to Get

- Variances are not about whether your neighbors object.
- “Hardship” cannot be self-created.
- Variance must be in harmony with the general plan of zoning for the area.
- No reasonable legal use of property can be made without the variance.



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# Questions?