WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
TEXT AMENDMENTS TO THE
WAUKESHA COUNTY ZONING CODE

FILE NO.: CZ-1459O

DATE: August 18, 2016

PETITIONER: Waukesha County Park and Planning Commission

REQUEST:
Text amendments are proposed to the Waukesha County Zoning Code to modernize various zoning provisions and provide consistency with the concurrently pending proposed amendments to the County Shoreland and Floodland Protection Ordinance (SFPO).

PUBLIC HEARING DATE:
August 18, 2016.

PUBLIC COMMENT:
Any comments offered at the August 18, 2016 public hearing will be summarized in this section prior to the ordinance being advanced to the County Board.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY:
The proposal to modernize and update various sections of the Zoning Code to achieve consistency with new proposed shoreland zoning provisions of the SFPO furthers the objectives of the County Development Plan by making reasonable use of property more attainable for all properties, including the smallest, most non-conforming properties.

STAFF ANALYSIS:
Recent shoreland zoning law changes prompted the need to significantly update the SFPO which applies within unincorporated shorelands and floodlands within the County. The Zoning Code applies to the areas outside of shorelands and floodlands within the Towns of Oconomowoc, Ottawa and Vernon. The SFPO and Zoning Code have generally mirrored one another over time. Most of the fundamental zoning provisions (setbacks, offsets, building area limits, building height, etc.) of the SFPO and Zoning Code have been, and are proposed to be, consistent to ensure a seamless zoning scheme, regardless of whether a property is subject to shoreland jurisdiction or the Zoning Code. The proposed amendments bring forward many of the same modernized zoning provisions that are concurrently being incorporated into the SFPO as part of the shoreland zoning update. Because the Zoning Code contains no shoreland or floodplain provisions, there is no need for sections regarding impervious surface, mitigation, shore setback, boathouses, etc.

The proposed text amendments are available for viewing on the Planning and Zoning Division webpage at www.waukeshacounty.gov/planningandzoning - click "2016 Zoning Code Amendments". The amendments are available in both "track changes" format (deletions in strike-through and text additions in colored font) and in a final format with all changes accepted. An explanation of each change with substance can be found in the right margin of the "track changes" version.

The following is a brief summary of proposed changes of significance, with most changes being identical to those proposed for the SFPO. A more detailed summary of changes is attached as Exhibit "A". References to page numbers refer to the "track changes" version.

- Replace floor area ratio and open space standards with building footprint standards, which will allow significantly more living and building space on most lots and provide reasonable use for properties of all sizes.
- Amend accessory building area provisions to significantly increase the amount of accessory building square footage available to smaller lots. Propose accessory building footprint limits on larger lots that are in line with Town ordinances.
- Introduce tiered relief scheme for improvement of structures legal non-conforming to various zoning requirements (i.e. road setback, offset, wetland setback), whereas variances would currently be required for most such improvements.
- Revise required side/rear offsets to simplify available offsets via specified lot width ranges.
- Allow for road setback to be reduced from 50' to 35' for new subdivisions abutting local roads to reduce driveway expense for property owners and building while reducing overall impervious surface.
- Revise maximum building height provisions to 44' or 35' on lots less than 65'.
- Standardize minimum building area requirements across all zoning districts to match the R-3 District (1,100 s.f. minimum).
- Reduce minimum dwelling unit sizes for multi-family units to match market trends and further the recommendations of the Regional Housing Plan.
- Modify AD-10 and RRD-5 rural density districts to remove prime agricultural soils provisions while preserving districts as flexible large lot and/or residential cluster districts.
- Replace existing substandard lot language that prohibits the sale of adjacent substandard lots of record with language that is consistent with the shoreland ordinance based on new State rules. The State rules only allow the development of lots that are substandard to NR 115 lot size limits if the adjacent substandard lots have never been formally combined or if a building has never been built across a lot line.
- Clarify that a lot located on the opposite side of the road from another parcel may be allowed an accessory building without a principal building being present so long as a principal building exists on the opposite lot and a Certified Survey Map (CSM) ties the lots together. In such cases, building footprint standards will be applied to each individual lot, not the combined acreage.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved.** The proposed amendments will ensure consistency with the proposed amendments to the SFPO. The amendments simplify a number of provisions of the ordinance and will make more improvements to non-conforming structures permitted by right which will alleviate the need for variances for many improvement projects while still upholding the purpose and intent of the code.

Similar to the amendments proposed to the SFPO, the proposed amendments are also intended to simplify various zoning provisions resulting in time and cost savings for property owners, the development community and Staff.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Attachment: Exhibit "A"

EXHIBIT "A"

Accessory Building Without a Principal Structure (Section 3.04, pg. 25)

Allow an accessory building to remain or be constructed without a principal structure being present for a maximum of 2 years, provided that a deed restriction and financial guarantee is submitted for the cost of accessory building removal to ensure compliance.

AD-10 & RRD-5 District Revisions (Section 6.5, pgs. 110-118, and Section 8b, pgs. 135-143, respectively)

Remove prime agricultural soils preservation requirements from the AD-10 and RRD-5 zoning districts but continue to allow for either rural development patterns or clustered developments at 10-acre and 5-acre densities, respectively.

AO- Existing Agricultural Overlay District

Delete district and all references to the district throughout the ordinance as it is not mapped in any of the three subject towns.

Applicant (Section 2.02(17), pgs. 5 and 6)

Expand definition to allow utility companies to apply for permits when they demonstrate that they hold valid easements or have established prescriptive rights.

B-3 District Revision (Section 15.01(B), pg. 158)

Add the lease of buildings designed for self-contained storage units as a permitted use. The use is currently not identified as permitted in any district.

Breezeway (Section 3.04(1), pg. 25)

In order for a breezeway to be considered an attachment between structures, which allows for the ability to average with similar type structures, the following criteria must be met:

- Enclosed on all sides.
- Minimum 8 ft. in width.
- Maximum 20 ft. in length.

Conditional Use Modifications (Section 3.08(7)(N) and (P), pgs. 41-44)

- Simplify regulations in the multi-family and Planned Unit Development (PUD) CU sections, including the consolidation of multiple tiers of density relief for ease of regulation.
- Add wetland setback and minimum floor area as lists of regulations that can be flexed via a PUD. Wetland setback can only be flexed if mitigation is provided to offset the impacts of the reduced setback.

Definitions (Section 2.02, starting on pg. 3)

Add or modify the following definitions for consistency with the SFPO or to define new terms: building footprint; breezeway; dwelling, single-family; floor area; impervious surface; lot; lot area; lot width; maintenance; navigable waters/waterway; patio; road, local; setback, wetland; story; structure; sustained yield forestry or silviculture and wetlands.

Drainage Provisions (Section 3.05(2) and (4), pgs. 29-31)

- Add site protection standards for land altering activities and require compliance with the Waukesha County Stormwater Management Ordinance and Uniform Dwelling Code, if applicable.
- Require a 35 ft. setback from a non-navigable drainage channel or water course, rather than a 75 ft. setback.

General Application Provisions (Section 3.03, pgs. 22 and 23)

- Add standards that allow two or more kitchens in a single-family dwelling, provided a deed restriction is recorded stating that a multi-family use is not permitted.
- Provide accommodations for persons with disabilities in accordance with federal and state law.

Groundwater Separation (Section 3.05(1), pgs. 28 and 29)

Clarify and cross-reference groundwater separation requirements of the Waukesha County Stormwater Ordinance (requires 1 ft. separation between the seasonal high groundwater elevation and basement floor).

Lot Area Regulations (Section 3.11(2)(F), pgs. 73 and 74)

- If a single legal lot of record exists and is split by a road, allow the acreage from both sides of the road to be used for calculating compliance with area regulations.
- If a property owner owns multiple lots of record that are located on opposite sides of the same road, the lots shall be considered separate lots and area regulations shall be administered based upon each individual lot- not the combined acreage of the lots.
- If a property owner owns multiple lots of record that are located on opposite sides of the same road, with the lots being directly opposite one another for at least one-half of road frontage of one of the lots, an accessory structure can be constructed without benefit of a principal residence being present on the same parcel subject to the following requirements:
    - A principal residence must be present on the opposite-side parcel.
    - A CSM that encompasses both parcels shall be recorded. The CSM shall state that the lots may not be sold separately unless the accessory building is removed in the future.
    - Maximum accessory building footprint calculations shall be solely based upon the acreage of the parcel upon which it will be built.

Maximum Accessory Building Footprint and # of Buildings (Section 3.11(4), pgs. 75 and 76)

- Replace 3% accessory building footprint with the maximum footprint provided in the following table (exceptions apply for farm consolidation parcels in farmland preservation areas) to provide for reasonably sized accessory structures on small lots and limit the size of accessory structures on large lots similar to town provisions:

Lot Area	Maximum Footprint
<14,000 sq. ft.	600 sq. ft.
14,000 sq. ft. or greater	750 sq. ft. or 2% of lot area, whichever is greater

- Clarify language regarding # of accessory structures and when Plan Commission approval is required.

Maximum Building Footprint (Section 3.11(5)(B), pg. 77)

Replace the existing floor area ratio and open space provisions with maximum building footprint, which will allow significantly more living and building space on most lots and provide reasonable use for properties of all sizes.

- Provide a maximum building footprint of 17.5% or 1,100 sq. ft., whichever is greater, for all residential districts.
- Convert existing FAR % limits to footprint % for all other zoning districts (i.e. A-2 District 10% FAR becomes 10% footprint).

Maximum Height-Principal Structures (Section 3.10(1), pgs. 70 and 71)

Modify height for consistency with the proposed shoreland ordinance.

- 35' measured from the lowest exposure to highest peak on lots less than 65 ft. in width or if no roof pitch is proposed.
- 44' measured from the lowest exposure to highest peak / 32' measured from the lowest exposure to eave on lots at least 65 ft. in width.

Maximum Height-Accessory Structures (Section 3.10(2), pg. 71)

Replace 15' max. with 18' max. in applicable districts, measured from the lowest exposure to highest peak, in order to provide consistency across all districts.

Height Increase Option: (Section 3.10(3), pg. 71)

Limit the height increase option to rural residential/agricultural districts in order to prevent overly tall structures in residential neighborhoods.

Minimum Building Footprint (Section 3.11(5)(A), pg. 77)

Provide provisions that allow Zoning Administrator to administratively approve a building footprint not to exceed 1,100 square feet when application of required offsets and setbacks does not provide an 1,100 s.f. footprint. The Zoning Administrator shall only administratively reduce road setback, floodplain setback and wetland setback in providing such an envelope.

Minimum Floor Area (Section 3.11(1), pgs. 71 and 72)

- *Standardize minimum floor area requirements across all zoning districts to match the existing R-3 District requirements*:
  - Minimum 1st floor area= 850 square feet
  - Total floor area= 1,100 square feet
- *Reduce minimum multi-family dwelling unit size requirements to match market trends and further the recommendations of the Regional Housing Plan:*
  - 1 BR unit = 600 square feet
  - 2BR unit = 700 square feet
  - 3BR unit = 800 square feet
  - Additional 100 square feet for each additional bedroom
  - 2-family dwellings, 850 square feet per unit (1,700 square feet total)

Nonconforming Structures (Section 3.17, pgs. 80-85)

Provide additional flexibility with a tiered relief scheme for nonconforming structures depending on the severity of nonconformity. The scheme applies to structures nonconforming to wetland, road setback, offset, building footprint and height. Currently, variances are required for most improvements to nonconforming structures.

Offset (Section 3.09(3), pgs. 68 and 69)

- Include all structures, not just buildings, as being subject to the offset provisions.
- Reduce deck/patio side offset requirements to 50% of distance of specified offset, but no closer than 5 ft. Stairs and walkways may be permitted 5 ft. from a lot line.

Offset Reduction Section 3.09(3), pg. 68)

Provide the following offset reductions for substandard lots (lots less than 120' wide (unsewered), or 84' (sewered) based on specific lot width ranges as a simplification of the existing calculation formula:

Lot Width (ft.)	**Required Offset (ft.)**
35 ft. or less	5'
> 35 ft. – 50 ft.	7'
>50 ft. to < 84 ft.	10'
84 ft. to < 120 ft.	14'

*Within agricultural, commercial, or industrial districts, if lot does not comply with the district lot width standards, the offset requirements specified in the above table apply, unless the district offset is less restrictive.

Road Setback (Section 3.09(1), pgs. 61-64)

- Amend the setback requirement of 50 ft. (unsewered)/35 ft. (sewered) to 50 ft. or 35 ft. if the setback is measured from a local road and served by sewer or platted as part of a subdivision after Oct. 1, 2016 in order to reduce the required length of driveways and impervious surfaces.

- Amend the averaging provisions so that the existing structures used in the calculation must be on adjacent lots within 250 ft. instead of 200 ft. (same as shore) and are located on the same side of the road as the proposed structure.

Substandard Lots (Section 3.11(3), pgs. 74 and 75)

- Remove existing code provision that prohibits sale of adjacent substandard parcels of record that are owned in common.

- Insert requirements that prohibit adjacent lots substandard to NR 115 lot size rules from being used as separate building sites if one or more buildings has ever extended across parcel lines. In addition, such a substandard lot cannot be built upon if the lot was ever formally combined by deed with a single legal description, subdivision plat, certified survey map or plat of survey (with preparation of new deed).

  NR115 required minimum lot size and width:

  - *20,000 sq. ft. lot size and 100 ft. width, unsewered.*
  - *10,000 sq. ft. lot size and 65 ft. width, sewered.*

Wetland and Floodplain Setback (Section 3.09(2), pgs. 64-68)

- Per State law, all floodplain setback provisions have been removed from the code.

- Remove the existing setback relief from wetlands when a 3 ft. vertical separation exists and instead allow relief via amended nonconforming structure provisions because wetland boundaries are not determined based on elevations.

- Provide for maximum 200 sq. ft. sheds to be located a minimum of 35' from wetlands provided no other conforming location exists and there are no other accessory structures present.

- Existing setback averaging remains in place.

All references to "shore setback" and "boathouses" have been removed since the terms and related provisions do not apply within the jurisdictional limits of the Zoning Code.

References to sewer reductions were also removed from the general provisions and instead sewer reductions are specifically identified in each applicable district in order to be more user friendly.