

MSU is an affirmative-action, equal-opportunity employer. Michigan State University Extension programs and materials are open to all without regard to race, color, national origin, sex, gender, gender identity, religion, age, height, weight, disability, political beliefs, sexual orientation, marital status, family status or veteran status.

“AND JUSTICE FOR ALL”

MICHIGAN STATE UNIVERSITY Extension

MICHIGAN STATE UNIVERSITY Extension

“I know of no safe depository of the ultimate powers of the society but the people themselves, . . . and if we think them not enlightened enough to exercise their control with wholesome discretion, the remedy is not to take it from them, but to inform their discretion.”

March 2008 2

MICHIGAN STATE UNIVERSITY Extension

Planning and Zoning Primer

Part One
(Part two is How To Influence Zoning Decisions)

MICHIGAN STATE UNIVERSITY Extension

March 2008 3

MICHIGAN STATE UNIVERSITY Extension

Author and Assistance

- Kurt H. Schindler, AICP
 - Senior Educator
 - MSU Extension, Greening Michigan Institute
 - Government and Public Policy Team
- schindl9@anr.msu.edu
- www.msue.msu.edu

March 2008 4

MICHIGAN STATE UNIVERSITY Extension

Today's Presenters

- [name]
 - Xxx Educator
 - MSU Extension, Greening Michigan Institute
 - Government and Public Policy Team
 - xxx@anr.msu.edu
 - www.msue.msu.edu

March 2008 5

MICHIGAN STATE UNIVERSITY Extension

March 2008 6

MICHIGAN STATE UNIVERSITY Extension

This program will cover

- A. Why Plan
- B. Planning
- C. Implement the plan
- D. Coordination
- E. Zoning
- F. Training, Keep up-to-date

March 2008 7

MICHIGAN STATE UNIVERSITY Extension

Handouts

- These slides are reproduced on green paper.
- Detailed speaker outline are on yellow paper.
- Evaluation sheet for this training.
- Additional materials on white paper.


March 2008 8

MICHIGAN STATE UNIVERSITY Extension

A. Why Plan?

- ““Would you tell me please which way I ought to walk from here?’ [said Alice]. ‘That depends a good deal on where you want to get to’ said the cat.”

– Alice’s Adventures in Wonderland by Lewis Carroll (Charles Dodgson)



Sir John Tenniel -1865

9

MICHIGAN STATE UNIVERSITY Extension

A. We all Plan

- Often we plan subconsciously.
- We think ahead and prepare accordingly.
 - (We get dressed before going out of the house)
 - (We make a list before going to buy groceries)
 - (We measure before we cut the board)

March 2008 10

MICHIGAN STATE UNIVERSITY Extension

A. We all Plan

- To buy a car:
 - We establish a goal “*To have a new car all the time*”
 - We establish an objective “*To buy a new car every two years*”
 - We establish a policy “*To put \$200 each month in a savings account for the car*” or “*To maintain a good credit rating so I can get a car loan*” or both.
 - We establish a strategy: “*To have monthly income which is more than \$_____.*” (So we can afford the \$200 per month or car payments.)
 - We take action: “*Research, test drive, and select the car we want*” and we buy the car.

March 2008 11

MICHIGAN STATE UNIVERSITY Extension

A. We all Plan

- Planning as a Government; when one plans for a community:
 - Can not do it subconsciously (Open Meeting Act; we are in a democracy).
 - Must be open; include many people.
 - Must have a formal process.
 - Must have formal adoption.
- P.A. 33 of 2008, as amended, Michigan Planning Enabling Act M.C.L. 125.3801 et seq.

March 2008 12

MICHIGAN STATE UNIVERSITY Extension

A. We all Plan

- Does this all seem too complex, difficult?
 - That is a good sign because:

“For every problem, there is one solution which is simple, neat and wrong.”

– H. L. Mencken

March 2008 13

MICHIGAN STATE UNIVERSITY Extension

A. We all Plan

- Planning is not new:
 - New Haven (1682); Philadelphia (1682); Detroit (1700); New Orleans (1718); Savannah (1733); Washington D.C. (1800).
- Our founding fathers did community planning:
 - Thomas Jefferson (Charlottesville and University of Virginia); Washington D.C. (1800).




THOMAS JEFFERSON'S ACADEMICAL VILLAGE
University of Virginia Library Electronic Text Center

March 2008 14

MICHIGAN STATE UNIVERSITY Extension

A. We all Plan

- The Purpose of Planning
 - Why Plan according to Michigan Society of Planning Officials. (Wyckoff, Mark A. and others; *Community Planning Handbook-Tools and Techniques for Guiding Community Change*; Michigan Association of Planning; March 1992; Page 2.)



March 2008 15

MICHIGAN STATE UNIVERSITY Extension

A. We all Plan


- Planning is a process, fundamental to what we do (personal lives, jobs, and in a community).
 - Planning (or failing to plan) is important at the community level as it affects many people.
 - Change occurs with or without planning – planning is a way to guide change
 - to maximize the positive and
 - minimize the negative impacts

March 2008 16

MICHIGAN STATE UNIVERSITY Extension

A. We all Plan

- Zoning is based on a plan; **the plan is when/where decisions are made** about possible development.
 - Then: Often big picture issues are decided in the planning process.
 - By the time it is a zoning permit or amendment proposed, it is too late.
 - So: **Be active in the development of the Plan. Participate.** “The world is run by those who show up.”



WEXFORD COUNTY COMPREHENSIVE PLAN 1972

March 2008 17

MICHIGAN STATE UNIVERSITY Extension

B. Planning

- Planning is a mix of:
 - Research, science (*Fact Book*)
 - Public opinion, politics for the community
- Need to do both.
- Some say the process (that builds consensus, involves many people) is more important than the “published plan”

March 2008 18

MICHIGAN STATE UNIVERSITY Extension

B. Research

- Do not use just any "study."
- There is good and bad research/science.
- Know the signs of good research:
 - Those standards are:
 - Was the data "double blind?"
 - Was the study peer-reviewed?
 - Can the study be repeated and get similar results?
 - The researcher does not have a stake in the outcome.

March 2008 19

MICHIGAN STATE UNIVERSITY Extension

B. Public Policy

- Content of various plans
 - Manistee
 - Grand Traverse
 - Emmet County/Petoskey
 - Leelanau
 - Benzie
 - Canterbury (New Zealand)

March 2008 20

MICHIGAN STATE UNIVERSITY Extension

B. Content of Plans

	Manistee	Grand Traverse	Emmet	Leelanau	Benzie	New Zealand
Introduction	X	X	X	X		X
Summary	X	X	X			X
About the Plan	X	X		X	X	
International/national/state/regions	X			X		X

March 2008 21

MICHIGAN STATE UNIVERSITY Extension

B. Content of Plans

	Manistee	Grand Traverse	Emmet	Leelanau	Benzie	New Zealand
Conclusions /Map	X	X	X	X	X	X
Industrial areas	X					
Commercial areas	X					
Residential areas	X	X				

March 2008 22

MICHIGAN STATE UNIVERSITY Extension

B. Content of Plans

Map, continued	Manistee	Grand Traverse	Emmet	Leelanau	Benzie	New Zealand
Rural residential	X					
Working lands	X	X		X		X
Sensitive, environment	X	X	X	X		X
Special areas	X		X	X		X

March 2008 23

MICHIGAN STATE UNIVERSITY Extension

B. Content of Plans

	Manistee	Grand Traverse	Emmet	Leelanau	Benzie	New Zealand
Housing	Sd	X	X			
Human Services	Sd			X		
Education	Sd		X			
Infrastructure	Sd	X	X	X		X

Sd = Separate document

March 2008 24

MICHIGAN STATE UNIVERSITY Extension

B. Content of Plans

	Manistee	Grand Traverse	Emmet	Leelanau	Benzie	New Zealand
Economic development	sd	X	X	X		
Air, water, waste, etc.	X		X	X		X
River/ lake margins			X	X		X
Indigenous peoples	X					X

Sd = Separate document

March 2008 25

MICHIGAN STATE UNIVERSITY Extension

B. Content of Plans

	Manistee	Grand Traverse	Emmet	Leelanau	Benzie	New Zealand
Other (special)	oil			Penn.	X	Gw
Public participation	X	X			X	
Adoption documents	X		X			
Appendixes	X	X	X	X	X	X

Oil = oil and gas extraction
 Penn = unique issues of being a peninsula
 Gw = groundwater quality and quantity issues

March 2008 26

- MICHIGAN STATE UNIVERSITY Extension
- ### C. Implement the Plan
- Zoning is not all there is
 - Government has other powers that should also be used to use to promote/discourage development in different areas
 - Power of Taxation
 - Power of Spending Money
 - Police Power
 - Coordination
- March 2008 27

MICHIGAN STATE UNIVERSITY Extension

C. Implement the Plan

Taxation	Spend Money
Provide tax breaks (TIFF, etc.) Downtown Development Authority Industrial Facilities Districts. Create Brownfield Redevelopment Authority Public-private bonding pollution abatement.	Build/improve roads, or not To buy or not buy, keep land. To build or not build sewers. To build or not build water mains. To build or not build storm sewers. To provide or not provide parks. To build or not build public buildings
Police Power	Cooperation
Police Power Zoning ordinance. General ordinances (blight, urban renewal, junk, housing, road, land division, subdivision /condominium, etc.). Natural Beauty Roads.	Joint authorities: (Joint fire departments, etc.) Partnerships: (local and state operation of campground, river or watershed protection, wellhead protection, etc.) Urban Cooperation Act agreements. P.A.425 agreements

March 2008 28

- MICHIGAN STATE UNIVERSITY Extension
- ### C. Taxation Example
- City of Traverse City
 - Downtown Development Authority
 - Zoning District/DDA boundaries the same
 - New SEV set aside for downtown improvements:
 - Street scape
 - Parking ramp
 - Zoning design development (neo-traditional community)
- March 2008 29

- MICHIGAN STATE UNIVERSITY Extension
- ### C. Spend Money Example
- Manistee County Road Commission
 - Year-round road construction to Kaleva
 - Goal: New industrial park & development
 - No road construction & closing county roads in certain forest areas: old growth, Big Manistee River
 - Goal: No development in areas important for recreation, trail use, etc. Preserve the outdoor experience, focus snowmobiles away from private lands.
- March 2008 30

MICHIGAN STATE UNIVERSITY Extension

C. Police Power Examples

- **Junk Ordinance.**
- **Sign, Billboards Ordinance.**
- **We will cover zoning (part E of this program)**

March 2008 31

MICHIGAN STATE UNIVERSITY Extension

C & D. Coordination

- The Relative Risk Analysis Project (1992) concluded “lack of integrated and coordinated land use planning” was one of the top environmental problems.
 - There are many issues and topics which can not be dealt with in a small area, such as village, city, or township.
 - To be effective in planning for many issues, it must be done at a larger geographic scale.

March 2008 32

MICHIGAN STATE UNIVERSITY Extension

D. Coordination, 2

- **Economic development** involves larger area than village, township, and most cities.
 - Jobs, and location of employed people is a labor market area; often an entire county or multiple counties.
 - Coordinated planning is needed to be as effective as possible for economic development: worker training, housing, new industrial sites.

March 2008 33

MICHIGAN STATE UNIVERSITY Extension

D. Coordination, 3

- **Ground & Surface water:** One community can have a good system to protect river, lake, or groundwater.
- Water does not stop at a political boundary.
- Coordinated planning at a watershed (or ground-watershed) level is critical for long term success.

March 2008 34

MICHIGAN STATE UNIVERSITY Extension

D. Coordination, 4

- **Other topics** that demand a multi-government cooperative planning approach include:
 - Natural features (lakes, rivers).
 - Technology for farming, mining, pipelines, radio transmissions.
 - Transportation networks (billboards, parking, scenic).
 - 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)
- Can you think of others? _____

March 2008 35

MICHIGAN STATE UNIVERSITY Extension

D. Division of Authority

- Who is pulling all this together?
 - Township: decides local roads
 - Road Comm: decides primary roads
 - Township/village/city: parks
 - Township/village/city: billboards along highways
 - County: Tax reverted lands
 - USFS/DNR: Forest Management, parks, land trading
 - City/DPW/Township: Sewers & Water
 - School Board: parks, new school buildings
 - County, some townships, city village each do zoning

March 2008 36

MICHIGAN STATE UNIVERSITY Extension

D. The Plan

- Who is pulling all this together?
- In Michigan it is supposed to be the Planning Process.
 - Every local government in Michigan should identify those “bigger than just local concern” issues.
 - Put that list on the table for coordinated planning discussion.
 - County planning commission [YOU] has an opportunity to be the leader in this effort.

March 2008 37

MICHIGAN STATE UNIVERSITY Extension

D. Planning Process

- Steps to plan (coordination steps in red):
 - 1. “I’m starting to plan” notice to all governments within/contiguous to the planning area.
 - 2. Conduct background studies, research.
 - 3. Prepare draft plan.
 - 4. Approve draft plan (Planning Commission & Legislative Body).
 - 5. Draft plan sent to all governments within/contiguous to the planning area.
 - 6-7. Draft plan and region/municipality’s comments on draft plan sent to county planning.
 - 8. Planning Commission holds public hearing on revised plan.
 - 9. Adopt final plan (Planning Commission & maybe Legislative Body).
 - 10. Copies of plan sent to all governments within/contiguous to the planning area.

March 2008 38

MICHIGAN STATE UNIVERSITY Extension

March 2008 39

MICHIGAN STATE UNIVERSITY Extension

E. Zoning

- United States Supreme Court (*Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926))
 - upheld zoning as a proper exercise of the police power to protect the public welfare. (Euclid is a suburb of Cleveland, Ohio.) Court warned zoning must “find their justification in some (proper) aspect of . . . protecting the public welfare.” e.g. a Plan.
- Many Other Court Cases.

March 2008 40

MICHIGAN STATE UNIVERSITY Extension

E. Enabling Statute in Michigan

- Michigan Courts ruled local government can not just adopt a zoning. Local government must be given authority to zone by Legislature (“enabling statutes”)
 - Zoning is based on a plan: Legal Basis (Know where your zoning authority comes from)
 - P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 *et seq.*)

March 2008 41

MICHIGAN STATE UNIVERSITY Extension

E. Some claim zoning is unconstitutional

- That is nonsense. (*Village of Euclid v. Ambler Realty Co.*, U.S. Supreme Court)
- It is possible for part of a specific zoning ordinance to be unlawful, unconstitutional
- Big difference between:
 - Zoning is unconstitutional (not true), and
 - A specific part of a particular zoning ordinance is unconstitutional.

March 2008 42

MICHIGAN STATE UNIVERSITY Extension

E. Zoning is:

- Use of Land
- Form
- Impact on land and adjacent uses

March 2008 43

MICHIGAN STATE UNIVERSITY Extension

E. Zoning is not:

- to promote/oppose economic, racial, or religious views.
- enforcement of private deed restrictions.
- a solution for neighborhood feuds or personal quarrels.
- a promoter of development (it merely permits it).
- a tool for the political arena (to reward/punish others).
- a public popularity contest – zoning decisions are to be based on facts, not majority of votes.

March 2008 44

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- General Rule:
 - **Cannot totally prohibit anything.** (Must have a place for it somewhere when a need is demonstrated....)
 - Must allow continued use of **nonconforming** (grandfathered) land uses.
 - Cannot result in a **taking** of private property without paying for it.
 - Must provide for **due process of law** and **equal protection** under law.

March 2008 45

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- Outright Preemption of local zoning:
 - **Hazardous waste** disposal
 - **Solid Waste** Facilities (landfills) (See county Solid Waste Plan)
 - **Utility lines** (electric, phone, etc.)
 - **Wind energy power transmission lines** in designated resource zones
 - **Pipelines** regulated by the PSC

March 2008 46

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- Outright Preemption of local zoning:
 - **Railroads**
 - State **prisons** and public correctional facilities
 - **Oil and Gas wells**
 - **Surface coal mining**
 - **Water pollution** and **Non-point source pollution** regulations

March 2008 47

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- Outright Preemption of local zoning:
 - Aspects of a **farm**, "**agricultural**" that is already covered in Right to Farm Act or in a *Generally Accepted Agricultural and Management Practices*:
 - Manure management and utilization
 - Pesticide utilization and pest control
 - Nutrient utilization
 - Care of farm animals
 - Cranberry production
 - Site selection and odor control of livestock production facilities
 - Irrigation water use
 - Farm Markets

March 2008 48

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- Outright Preemption of local zoning:
 - **Fertilizer** regulation
 - **Mackinac Island Park Authority** activity on state land
 - **State fairgrounds**
 - **Trails** designated by DNR as "Michigan Trailways"
 - **State Police radio communication** system
 - State-owned **armories** etc. for military uses
 - **Nuclear power** facilities
 - United States **military facilities**

March 2008 49

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- Outright Preemption of local zoning:
 - **Native American (Indian) tribe** activity on tribal land/in "Indian country"
 - Only site plan review of **public schools**
 - Certain public **colleges** and **universities**.
 - **County buildings**
 - **Underground storage tanks**
 - Large quantity **water withdrawal**
 - **Pistols** and **firearms**
 - SE Michigan regional **Transit authority facilities**

March 2008 50

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- Outright Preemption --sort of:
 - **Mobile home parks**
 - Activities of the **United States Government**
 - Federal government must consider local ordinances
 - Must follow them to "the maximum extent feasible"
 - Shall not obtain a local permit.
 - **Nonferrous metallic mineral mining**
 - Certain aspects of **extraction (mining)** of natural resources.

March 2008 51

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- Outright Preemption --sort of:
 - **Wireless communication** facilities
 - **Reception antennas**
 - **Fireworks**
 - Lansing **Airport**
 - The **municipality** that adopted the zoning ordinance
 - **County buildings**

March 2008 52

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- **If** one is permitted, **then** also permit:
 - **If** zoned "residential" (2, or fewer, units per acre) **then** must provide for "**open space**"/"**cluster**" **development**
 - **If** dwellings are permitted, **then** must allow **mobile homes**
 - **If** dwellings are permitted, **then** must allow "**state licensed residential facilities**"
 - **If** dwellings are permitted, **then** must allow **craft/fine art home occupations**

March 2008 53

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- **If** one is permitted, **then** also permit:
 - **If** dwellings are permitted in a county or township, **then** must allow **day-care**
 - **If** a county zones an area commercial, (or similar, or if not zoned at all) **then** must permit **billboards**.
 - **If** allows farms **then** must permit **biofuel production** under a certain size

March 2008 54

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- Can Regulate, but not prohibit:
 - Content of a **sign**.
 - **Religious** activities/land uses
 - **Adult entertainment/sexually** oriented businesses
 - **Shooting ranges** (gun clubs)
 - Medical **Marihuana**

March 2008 55

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Limitations:

- Can Regulate, but must be as strict or stricter than the state:
 - **Air Pollution** regulations
 - **Airport** zoning
 - **High risk erosion** areas (along the Great Lakes)
 - Designated **sand dune** protection
 - State **Natural Rivers** protection
 - **Wetlands** regulations/protection
 - **Floodplains**
 - **Soil Erosion** and sedimentation
 - Disposal of **Septage**

March 2008 56

MICHIGAN STATE UNIVERSITY Extension

E. Division of duties and types of zoning decisions

- Three parts
 - Executive/Administrative
 - Legislative
 - Quasi Judicial

March 2008 57

MICHIGAN STATE UNIVERSITY Extension

E. Division of duties

ZONING ADMINISTRATOR	PLANNING COMMISSION	LEGISLATIVE BODY	APPEALS BOARD
Permits	Adopts plan (recommends adopting plan)	Might adopt plan (active in plan adoption)	Hear appeal of zoning administrator decision
Receive applications for special use, PUD, site plans and checks for completeness	Acts on special use, PUD permits (usually)	Appoints members of planning commission, appeals board, may hire zoning administrator	Hear appeal on special use, PUD, <u>only</u> if zoning says
Enforcement	Conduct hearing and make recommendation on zoning amendments	Adopt zoning amendments (might hold additional hearing)	Hear appeal on interpretation of zoning ordinance
Collect fees		Sets fees	Hear requests for variances

March 2008 58

MICHIGAN STATE UNIVERSITY Extension

Creating Local Diversity on Boards and Commissions

- Review local census data
- Identify underrepresented populations
- Reach out to women and minority populations in your community



Terry Gibb

March 2008 59

MICHIGAN STATE UNIVERSITY Extension

E. Typical Zoning Ordinance Table of Contents

- Legal Authority
- Definitions
- General Provisions (regulations that apply everywhere)
- Specific special use standards
- Reference to zoning map
- Zoning Districts (regulations unique to a zoning district)
 - Special areas, Environmental
 - Farm/Forest
 - Rural residential
 - Residential
- Commercial
- Industrial
- Overlay
- Zoning Administrator
- Permits
- Site Plans
- Special Use Permits
- Planned Unit Development
- Appeals Board
- Enforcement
- Amendments

March 2008 60

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Functions

- A. Permits (must be specifically listed)
- B. **Special Use Permits (must be specifically listed)**
- C. Amendments (based on a Plan)
- D. Variances, Appeals

March 2008 61

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Actions

- The Public has influence on **b. Special Uses**, **c. Amendments**, **d. Variances & Appeals** (public notices, hearing, or similar)
 - Means any of the following can participate and make submissions:
 - Applicant/Developer
 - Neighborhood wishing to support or oppose
 - Local government/agency wishing to support or oppose, or provide facts.

March 2008 62

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Actions

- Little public influence on:
 - Permits (no review)
 - Apply; zoning administrator issues/denies permit often the same day
 - Decision on what is a permitted use (listed in zoning ordinance) made in preparing the plan; writing the zoning ordinance.
- Zoning Amendments
 - Decision based on the plan – influence is in preparing the plan.

March 2008 63

MICHIGAN STATE UNIVERSITY Extension

E. Permits

- The general “land use permit” or “zoning permit.”
 - A person makes application, pays fee, the administrator checks for compliance
 - Use must be specifically listed in the zoning ordinance for the district
 - Each district should have a list of permitted uses
 - If not listed, the permit can not be issued
 - An example would be a permit for a house in a residential zoning district.

March 2008 64

MICHIGAN STATE UNIVERSITY Extension

E. Special Use Permit (incl. PUD)

- The “special use permit” or “conditional use permit” or “discretionary permit.”
 - It is for land uses which may be allowed in a particular district
 - If certain standards and conditions are met

March 2008 65

MICHIGAN STATE UNIVERSITY Extension

E. Special Use Permit (incl. PUD)

- Process:
 - A person makes application, pays a fee, the administrator makes sure application is complete, forwards to planning commission
 - The planning commission will meet and decide whether to issue the special use permit
 - The decision often requires a public hearing first.
 - May require a performance bond to guarantee compliance

March 2008 66

MICHIGAN STATE UNIVERSITY Extension

E. Special Use Permit (incl. PUD)

- Special use must be specifically listed in the zoning ordinance for the district
- If not listed, the special use permit can not be issued
- Special use generally for land uses which are borderline to being appropriate for the area.
- The use may/may not have an adverse impact on surrounding land
- The idea is the use is not appropriate for the district, but could be okay if it meets standards

March 2008 67

MICHIGAN STATE UNIVERSITY Extension

E. Special Use Permit (incl. PUD)

- An example would be a permit for a party store in a residential zoning district
- Standards, conditions might include:
 - a hedge, tree border so it is not seen by neighbors,
 - lighting which is shaded so it does not shine off property,
 - entrance and location only on main roads,
 - hours to avoid late night noise.

March 2008 68

MICHIGAN STATE UNIVERSITY Extension

E. Special Use Permit (incl. PUD)

- **Focus is on “Standards.”**
- Rule: If all the “standards” are met; then must approve.
- Special Use permit is an administrative action.
- Notices that someone has applied sent to everyone within/around 300 feet & in newspaper.

March 2008 69

MICHIGAN STATE UNIVERSITY Extension

E. Special Use Permit Standards:

- Standards in four places:
 1. General standards in Article on Special Uses.
 2. In the Article on the respective zoning district
 - Setbacks (front, rear, side, waterfront), Parcel Size, Parcel width, Building size, and more.
 3. In the Article on General Provisions (regulations that apply everywhere)
 - Parking, Screening, Groundwater protection, and lots more.
 4. Sometimes there will also be specific standards for a specific type of Special Use
 - Mining, Mobile Home Parks, Heavy Industry, and more.
- **(Don't like the standards: then amend the zoning ordinance)**

March 2008 70

MICHIGAN STATE UNIVERSITY Extension

E. Planned Unit Development


- A Planned Unit Development (PUD) is commonly used to allow for cluster development, mixed uses in a single development
 - Can be handled as a special use permit (above)
 - Can be handled as a zoning amendment (below)

March 2008 71

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Amendment (incl. PUD)

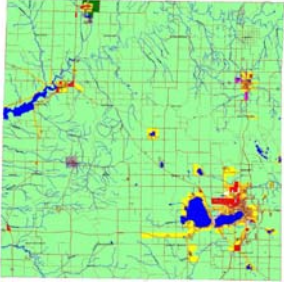
- Zoning is based on a Plan.
- An amendment to zoning must also be based on (follow) the Plan.
- Zoning amendment is a legislative action.
 - The elected officials have much more discretion on adopting, or not adopting, a zoning amendment.



March 2008 72

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Amendment (incl. PUD)



- Two types of zoning amendments:
 - Changes a zoning district boundary on the zoning map
 - Changes the text of the zoning ordinance.

March 2008 73

MICHIGAN STATE UNIVERSITY Extension

E. Amendments change a lot

- **A zoning amendment makes changes for more than just what is being proposed.**
 - A text amendment might **change rules for an entire zoning district, or the entire area under that zoning ordinance** – not just the property that someone is proposing something for.
 - A map amendment means **any of the permitted or special uses can happen**, not just what someone is proposing on that day.

March 2008 74

MICHIGAN STATE UNIVERSITY Extension

E. Amendments process

- Briefly, the amending process includes:
 - A. the planning commission studying the proposed amendment,
 - B. planning commission writing the text of the amendment,
 - C. planning commission giving proper hearing notices:
 - sent to everyone within/around 300 feet & in newspaper, (if rezoning is 10 or fewer parcels) or
 - in newspaper (if rezoning is 11 or more parcels).
 - D. planning commission holds at least one public hearing: **attend with submissions**

March 2008 75

MICHIGAN STATE UNIVERSITY Extension

E. Amendments process, 2

- Briefly, the amending process includes:
 - E. action by the planning commission to recommend elected body adopt the amendment,
 - F. in a city or village: **can file a protest petition** (abutter's challenge).
 - See a lawyer to do this.
 - Do not delay. There are deadlines and things that must be done within a certain amount of time.

March 2008 76

MICHIGAN STATE UNIVERSITY Extension

E. Amendments process, 3

- Briefly, the amending process includes:
 - G. action by the Legislative Body to adopt the amendment and giving it a date in which it takes effect,
 - Legislative Body can:
 - Adopt proposed amendment, as recommended.
 - Hold additional Hearing(s).
 - » **Attend and give submissions**
 - Return proposed amendment to the Planning Commission for further study.
 - » When a proposed amendment comes back a second time, the Elected body can adopt, hold hearings, or reject it.

March 2008 77

MICHIGAN STATE UNIVERSITY Extension

E. Amendments process, 3

- Briefly, the amending process includes:
 - H. publication of a "notice of ordinance adoption."
 - I. **Petition for an election** (if a township or county)
- There are no shortcuts and each step, fully documented, is important. Proper notice forms, timing requirements, etc., must be followed.

March 2008 78

MICHIGAN STATE UNIVERSITY Extension

E. Still not happy?

- If the Amendment is adopted and one is still opposed to it:
 - Can petition to bring the amendment to a vote of the people (maybe not in a city/village).
 - See a lawyer to do this.
 - Do not delay. There are deadlines and things that must be done within a certain amount of time.



March 2008

79

MICHIGAN STATE UNIVERSITY Extension

E. Appeals / Variances

- Appeals Board does four things:
 - Interpretation of the Zoning Ordinance
 - Interpretation of the Zoning Map
 - Issues Dimensional/Regulation and use (sometimes) Variances
 - Appeal administrative decisions

March 2008

80

MICHIGAN STATE UNIVERSITY Extension

E. Appeals / Variances

- Who can appeal?
 - Any aggrieved person
 - Officer, department, board, bureau of the state
 - Officer, department, board, bureau of the local unit of government.

March 2008

81

MICHIGAN STATE UNIVERSITY Extension

E. Appeal, Interpretations

- Appeal decision of the Zoning Administrator. Text, Map: Interpretations
 - “**Administrative appeal**” and “**ordinance interpretations**” occur when someone is asking the appeals board to double-check a decision of the zoning administrator.
 - There will be cases where the permit applicant, zoning administrator, and planning commission will read the ordinance, or look at the zoning map, and decide the wording means two different things, or not agree on where a zoning district boundary is located.

March 2008

82

MICHIGAN STATE UNIVERSITY Extension

E. Appeal, Interpretations

- For **text** interpretation issues (=standards):
 - Research zoning ordinance, old minutes, etc.
 - Consider in context of entire ordinance, section.
 - Review the definitions in the ordinance.
 - Review other zoning districts. If questioning “if it is allowed in one zoning district?”, and it is listed in another district, but not the one district, then the answer is likely “no.”
 - Seek advice of planning and legal counsel.
 - When it is not clear how to interpret, benefit of doubt is extended to the property owner.


March 2008

83

MICHIGAN STATE UNIVERSITY Extension

E. Appeal, Interpretations

- For **map** interpretation issues:
 - (see specific rules spelled out in the zoning ordinance (§ 1807 or § 18XX) e.g. = to standards).



March 2008

84

MICHIGAN STATE UNIVERSITY Extension

E. Appeal, Variance

- Request a Regulation Variance.
 - Grant an exception to regulations for a given use in a zoning ordinance --such as lot size, yard setbacks, building height, building size, parking requirements, etc.
 - Appeals board find that a “**practical difficulty**” exists. Thus, one of the regulations must be waived.

March 2008 85

MICHIGAN STATE UNIVERSITY Extension

E. Appeal, Variance

- Request a Regulation Variance, continued.
 - Example: Parcel is large enough to use, but because it has a pond, a minimum-size house would not fit between the pond (water setback) and the setback from the road or property line. In such a case, a variance to the set back for the side yard setback or road setback may be appropriate.

March 2008 86

MICHIGAN STATE UNIVERSITY Extension

E. Appeal, Variance

- A regulation variance should be difficult to obtain. “Practical difficulty” (court established standards):
 - Will strict compliance with the dimensional requirements of the zoning ordinance prevent the applicant from using the property for the permitted purpose?
 - Will granting the variance be fair to the applicant or would a lesser variance work just as well?
 - Is the need for the variance due to a situation that is unique to the property and would not generally be found elsewhere in the same zoning district?
 - If granted, will the variance uphold the spirit and intent of the ordinance and be fair to neighboring properties?
 - Has the need for the variance been created by some action of the applicant?

March 2008 87

MICHIGAN STATE UNIVERSITY Extension

E. Appeal, Use Variance

- Request a Use Variance.
 - An example might be someone who wishes to build a tavern in a residential district and the zoning ordinance does not list “tavern” as a permitted use or special use for the residential district.
 - A use variance should be almost impossible to obtain. The person seeking the variance from the board of appeals must show that an “**unnecessary hardship**” exists.

March 2008 88

MICHIGAN STATE UNIVERSITY Extension

E. Appeal, Use Variance

- Request a Use Variance.
 - A county and township appeals board may not have the authority to grant use variances.
 - Can grant use variance if:
 - A city or village.
 - A township or county that has zoning which prior to February 15, 2006 specifically authorizes granting use variances: “Use variance” or “variances from uses of land.”
 - A township or county that actually granted one or more use variances before February 15, 2006.

March 2008 89

MICHIGAN STATE UNIVERSITY Extension

E. Appeal, Use Variance

- A use variance should be almost impossible to obtain. “Unnecessary hardship” (court established standards):
 - The property owner must show credible proof his property will not yield a reasonable (any) return if used only for a purpose allowed by the ordinance.
 - The property owner must show the zoning ordinance gives rise to hardship amounting to confiscation or the disadvantage must be so great as to deprive the owner of all reasonable use of the property
 - The need for the variance is not created by some action of the applicant.
 - The need for the variance is due to a situation that is unique to the property and would not generally be found elsewhere in the same zoning district.

March 2008 90

MICHIGAN STATE UNIVERSITY Extension

E. All appeals

- Notices that someone has asked for a variance must be sent to everyone within/around 300 feet & in newspaper.
- If all else fails, go to court.



March 2008 91

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Enforcement

- Zoning administrator's Duty: Responsible for making sure the zoning ordinance is complied with
 - Making sure no construction and no changes in the use of land take place without permits, when needed.
 - Making sure, once a permit is issued, the work is done as approved.

March 2008 92

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Enforcement

- There are three types of legal actions:
 - Criminal: pursuing the violation as a criminal matter.
 - Injunctive relief in Circuit Court: A civil action in Circuit Court to stop the violation.
 - Civil infraction: The newest technique is to use process of writing a ticket, similar to a traffic ticket (not a criminal matter).

March 2008 93

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Enforcement

- Techniques to obtain voluntary compliance.
 - Zoning administrator travels to find possible violations before improper construction or use has progressed too far. Catching a situation early means many more options for voluntary compliance.
 - Zoning administrator should be an extra pair of "eyes and ears" for the various agencies which enforce other similar statutes and regulations.
 - to report to them possible violations to their respective statutes; to help them find the location and to help make sure that an actual violation is pursued through appropriate channels.

March 2008 94

MICHIGAN STATE UNIVERSITY Extension

E. Zoning Enforcement

- Maintain a good working relationship with other agencies.
 - When a zoning administrator encounters a hostile individual bring another person along to see him. Others can be the building inspector, DEQ inspector, Health Department sanitarian, Sheriff's deputy and/or others.
 - Bringing another is often the technique which obtains the individual's cooperation.
 - In some cases, the problem will also involve the Construction Code, environmental statutes, and/or Health or Sanitary Code and other violations. Should coordinate with those enforcement officers in such cases.

March 2008 95

MICHIGAN STATE UNIVERSITY Extension

F. Training, Keep up-to-date

- Subscribe to: **Planning and Zoning News**©:
 - Mark A. Wyckoff, Editor, 715 N. Cedar Street, Lansing, Michigan 48906-5206, Phone: (517)886-0555, Fax: (517)886-0564
 - www.pzcenter.com



March 2008 96

MICHIGAN STATE UNIVERSITY Extension

F. Training, Keep up-to-date

- MSUE Training programs
 - Training in response to specific needs and requests.
 - Contact your MSU Extension Land Use Educator
 - www.msue.msu.edu
- MSUE Bulletins (formal and informal):
 - Schindler's own web page of training programs:
 - www.msue.msu.edu/lu/

March 2008 97

MICHIGAN STATE UNIVERSITY Extension

F. Training, Keep up-to-date



Citizen Planner
Michigan State University Extension
A land use training and certificate program for volunteer land use decision-makers.

- Seven class series. (21 class hours)
- Contact:
http://msue.anr.msu.edu/program/info/michigan_citizen_planner

March 2008 98

MICHIGAN STATE UNIVERSITY Extension

F. Training, Keep up-to-date



MICHIGAN ASSOCIATION OF PLANNING

- **Membership (conferences, training programs):**. Michigan Association of Planning (MAP), 219 South Main Street-Suite 300, Ann Arbor, Michigan 48104. phone: (734)913-2000 fax: (734)913-2061. info@planningmi.org
- Includes subscription: **Michigan Planner**®
- <http://www.planningmi.org/>

March 2008 99

MICHIGAN STATE UNIVERSITY Extension

F. Training, Keep up-to-date

American Planning Association
Making great communities happen

- Membership: Includes subscription to **Planning**® magazine.
- (Michigan is unique, weak planning and zoning laws compared to many other states. A national organization is not always germane.)
- But APA has many services: technical reports (Planning Advisory Service), books to order, **APA Journal**® (of peer reviewed research academic and science papers), **JobMart**® (job advertisements), American Institute of Certified Planners (professional planner certification), and smaller newsletters specializing in topics (economic development, environment, housing, planning law, small towns and rural planning, transportation, urban design).
- APA, 122 S. Michigan Avenue, Suite 1600, Chicago, Illinois 60603-6107, Phone: (312)431-9100, Fax: (312)431-9985
- <http://www.planning.org/>



March 2008 100

MICHIGAN STATE UNIVERSITY Extension

Thank you

- [Name]
 - Land Use Educator
 - Public Policy Educator
 - MSU Extension, Greening Michigan Institute
 - Government and Public Policy Team
 - xxx@anr.msu.edu
 - www.msue.msu.edu/

February 17, 2015 101


MICHIGAN STATE UNIVERSITY Extension

What we covered

- A. Why Plan
- B. Planning
- C. Implement the plan
- D. Coordination
- E. Zoning
- F. Training, Keep up-to-date

March 2008 102

MSU is an affirmative-action, equal-opportunity employer. Michigan State University Extension programs and materials are open to all without regard to race, color, national origin, sex, gender, gender identity, religion, age, height, weight, disability, political beliefs, sexual orientation, marital status, family status or veteran status.



The graphic features a stylized, monochromatic image of the Statue of Liberty's head and crown. Above the statue, the words "AND JUSTICE FOR ALL" are written in a bold, sans-serif font, with each word on a separate line. The text is set against a background of horizontal lines and small stars, reminiscent of the American flag. Below the main text, there is a smaller, less legible section of text.