



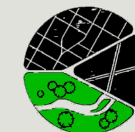
# **Hall County Regional Planning Commission**

**Wednesday, January 10, 2018  
Regular Meeting**

## **Item 1**

### **The Comprehensive Plan and its Relationship to Zoning**

**Staff Contact: Chad Nabity**



January 2018

# *THE COMPREHENSIVE DEVELOPMENT PLAN AND ITS RELATIONSHIP TO ZONING*

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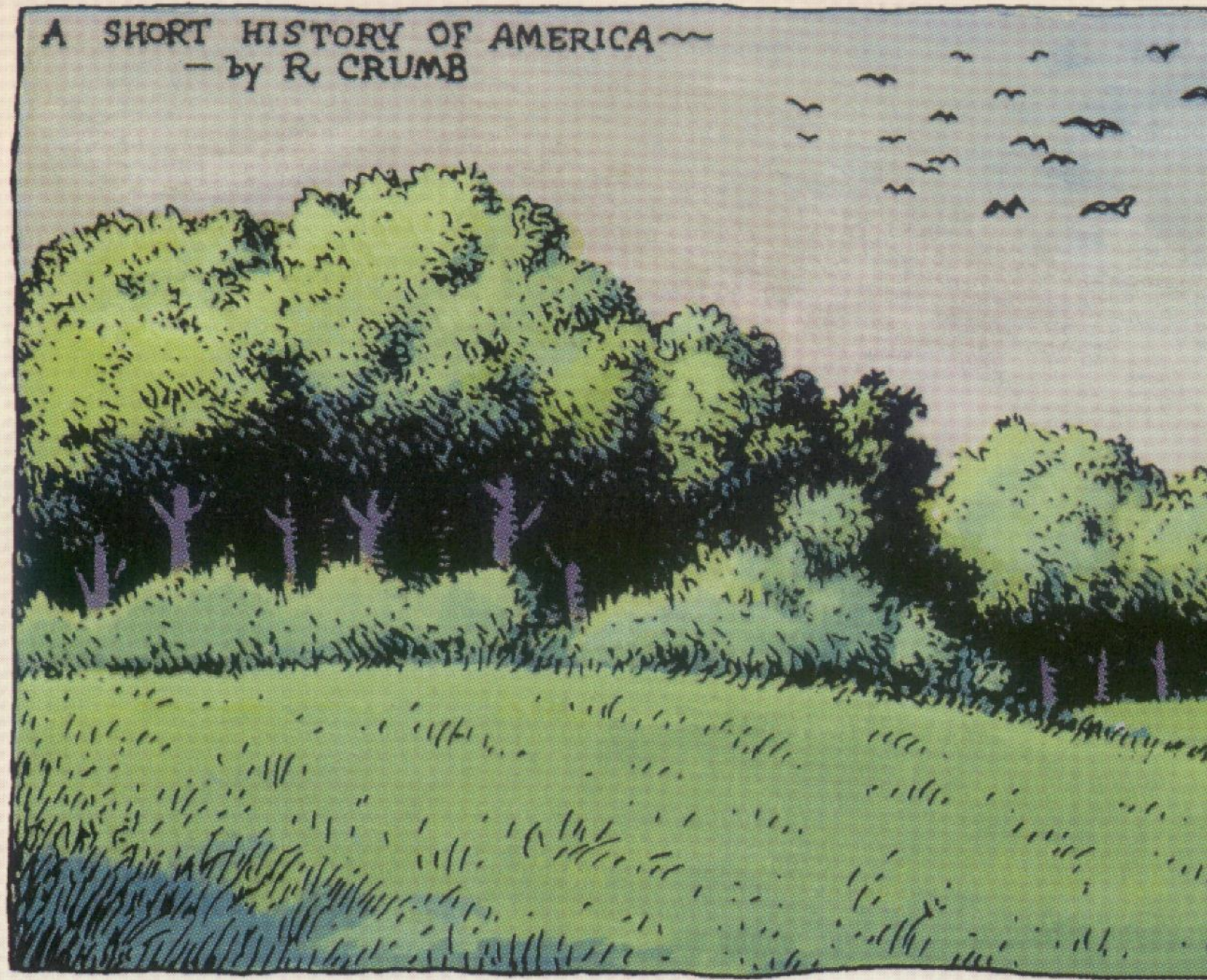
*Presenter:*

*Chad Nabity, AICP*



# *Why Plan?*

In the  
beginning...





## *Why Plan?*

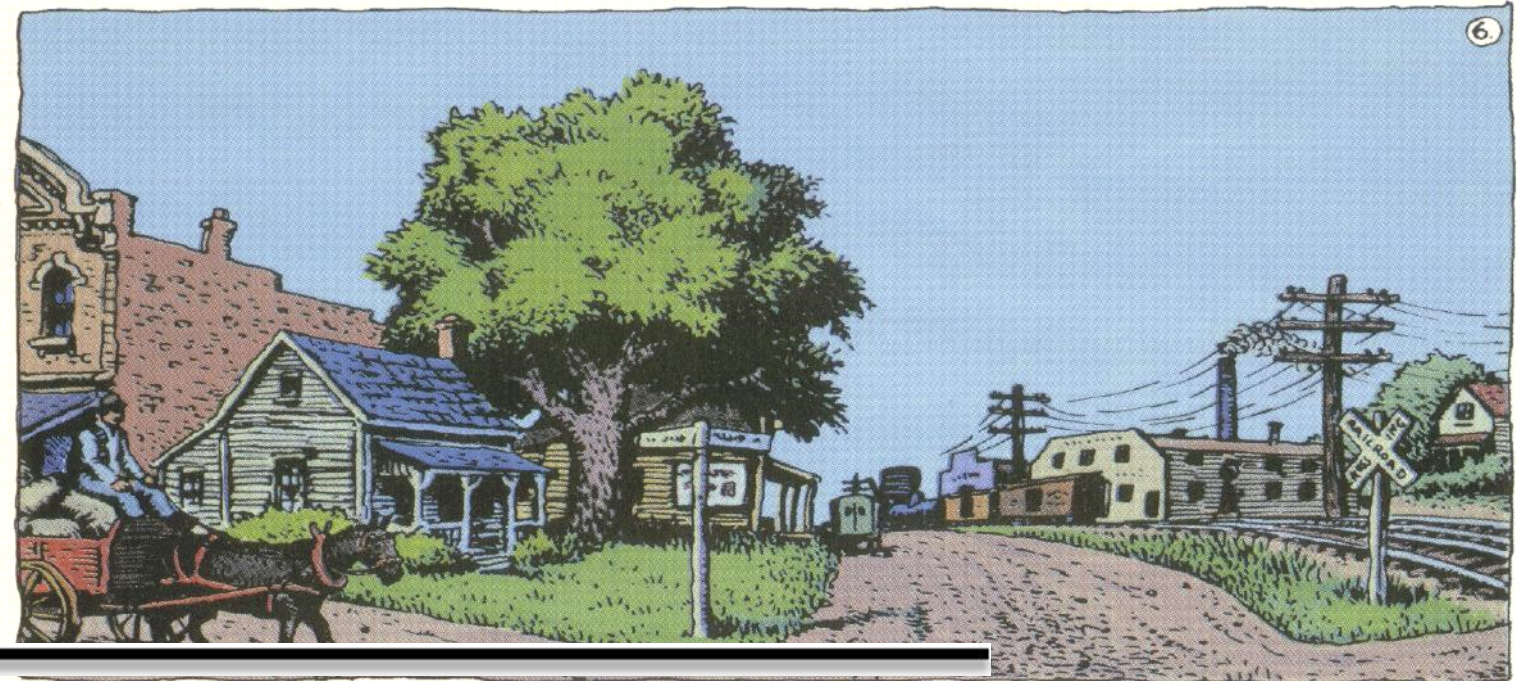
Then came the  
Transportation  
systems.....and  
People





## Why Plan?

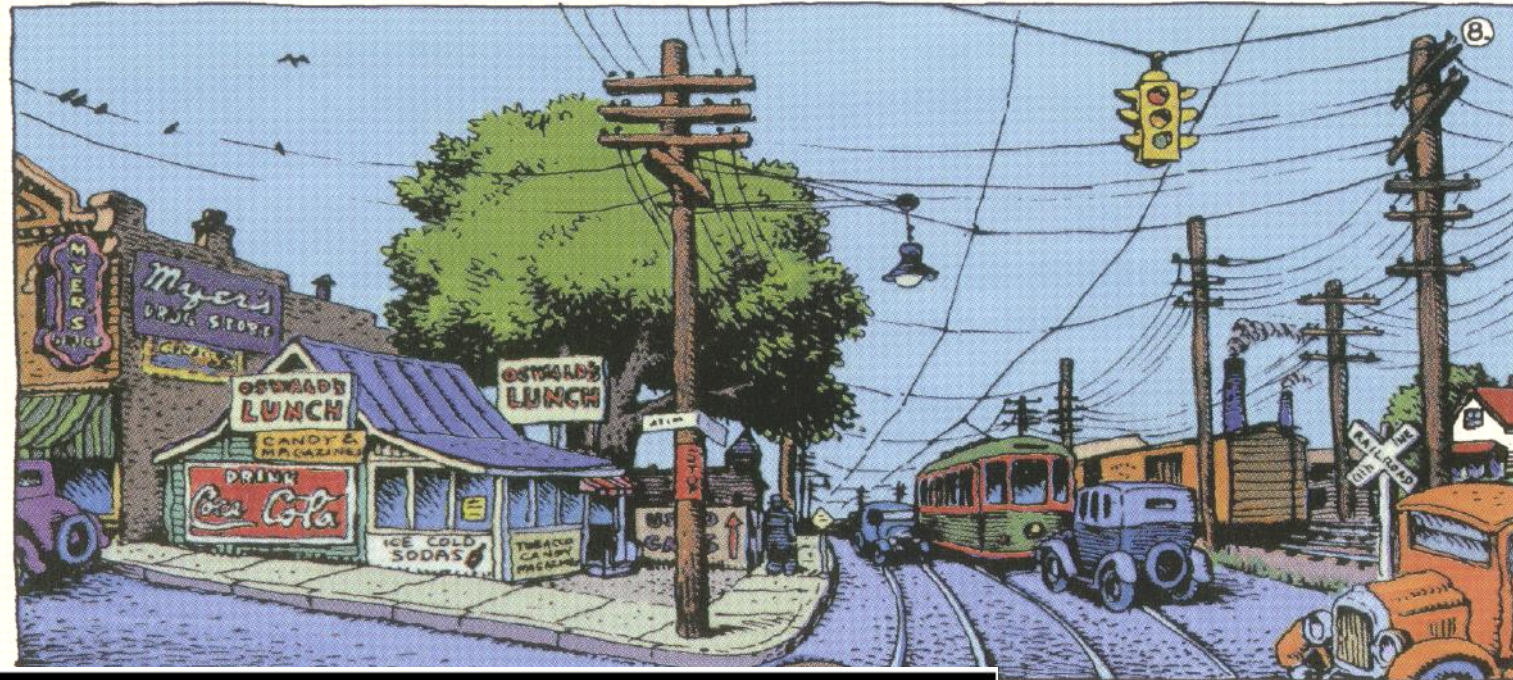
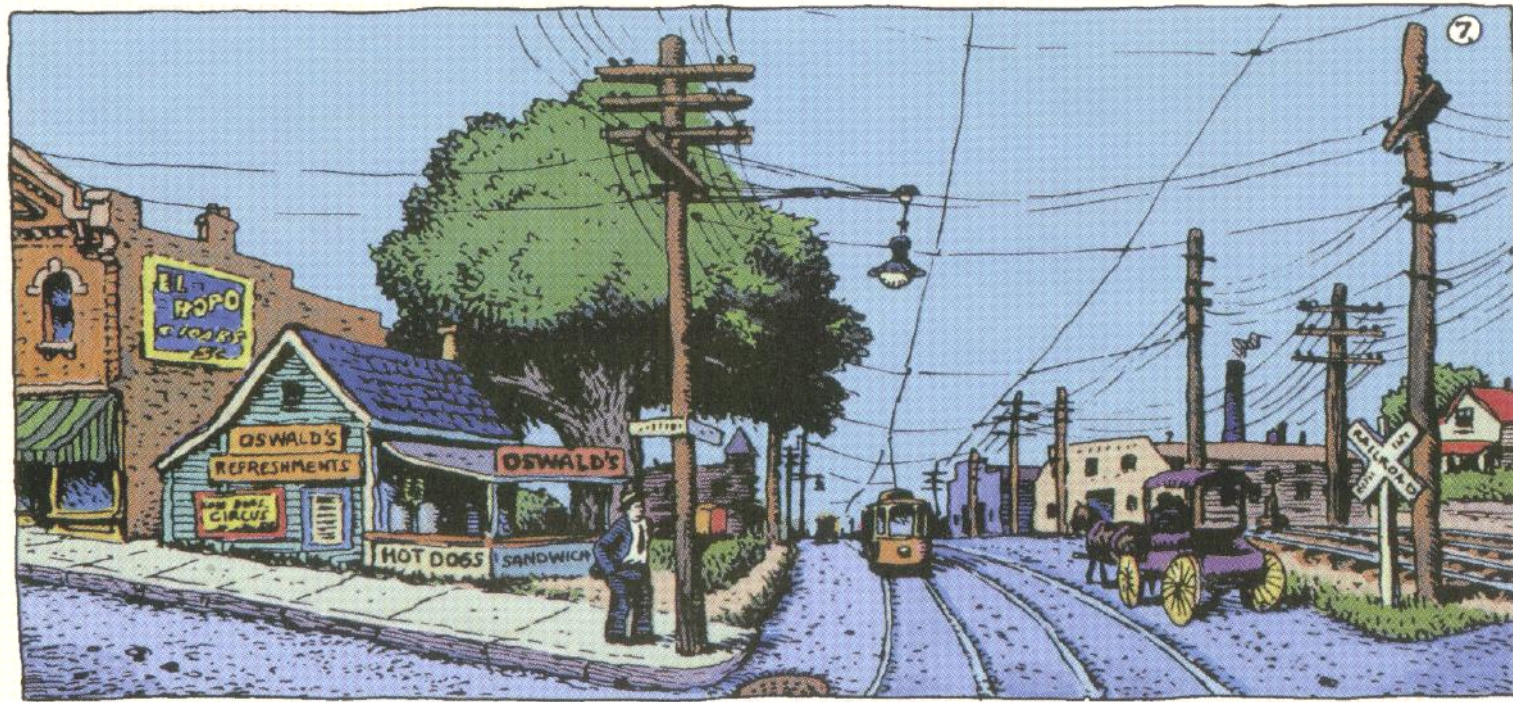
Then more people came and formed a town with different uses.....





## Why Plan?

Then more people,  
more uses and  
signs.....

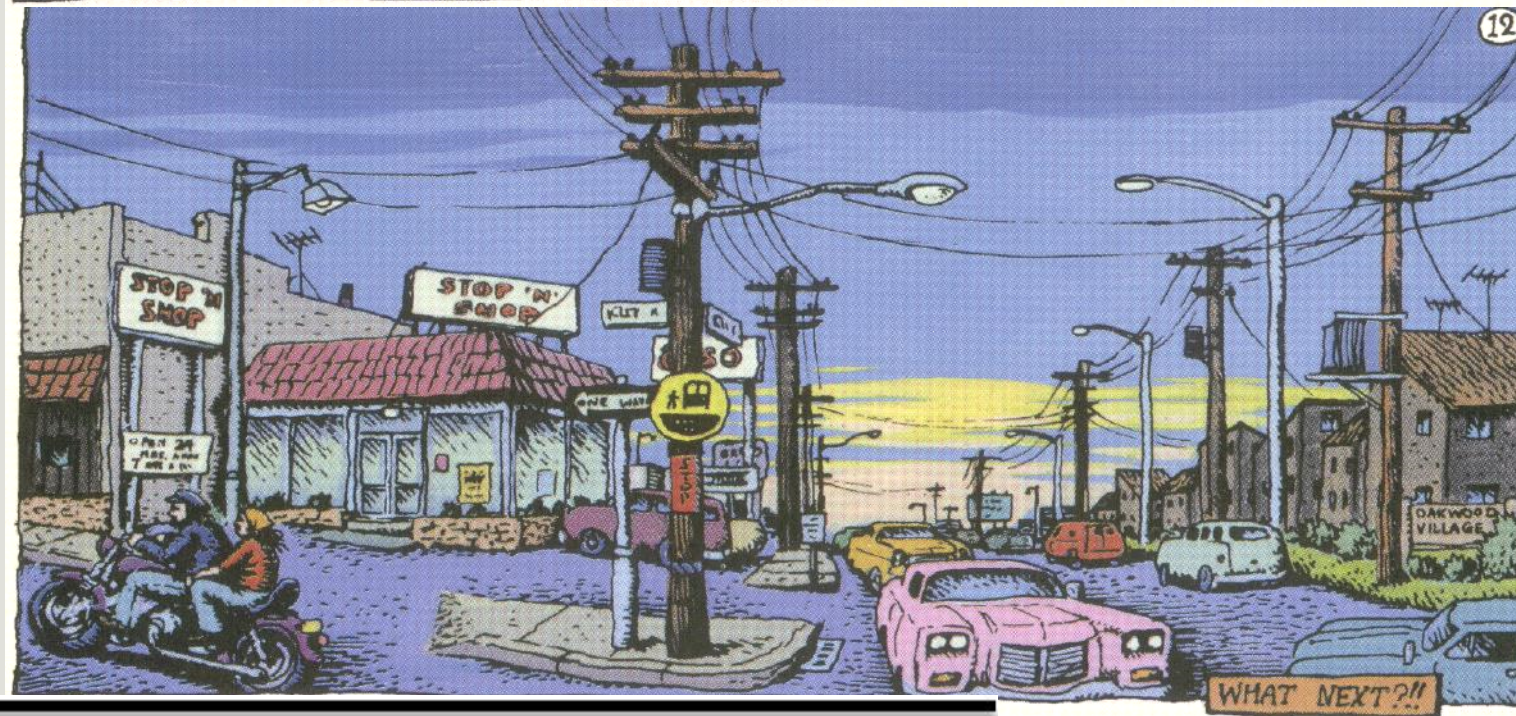
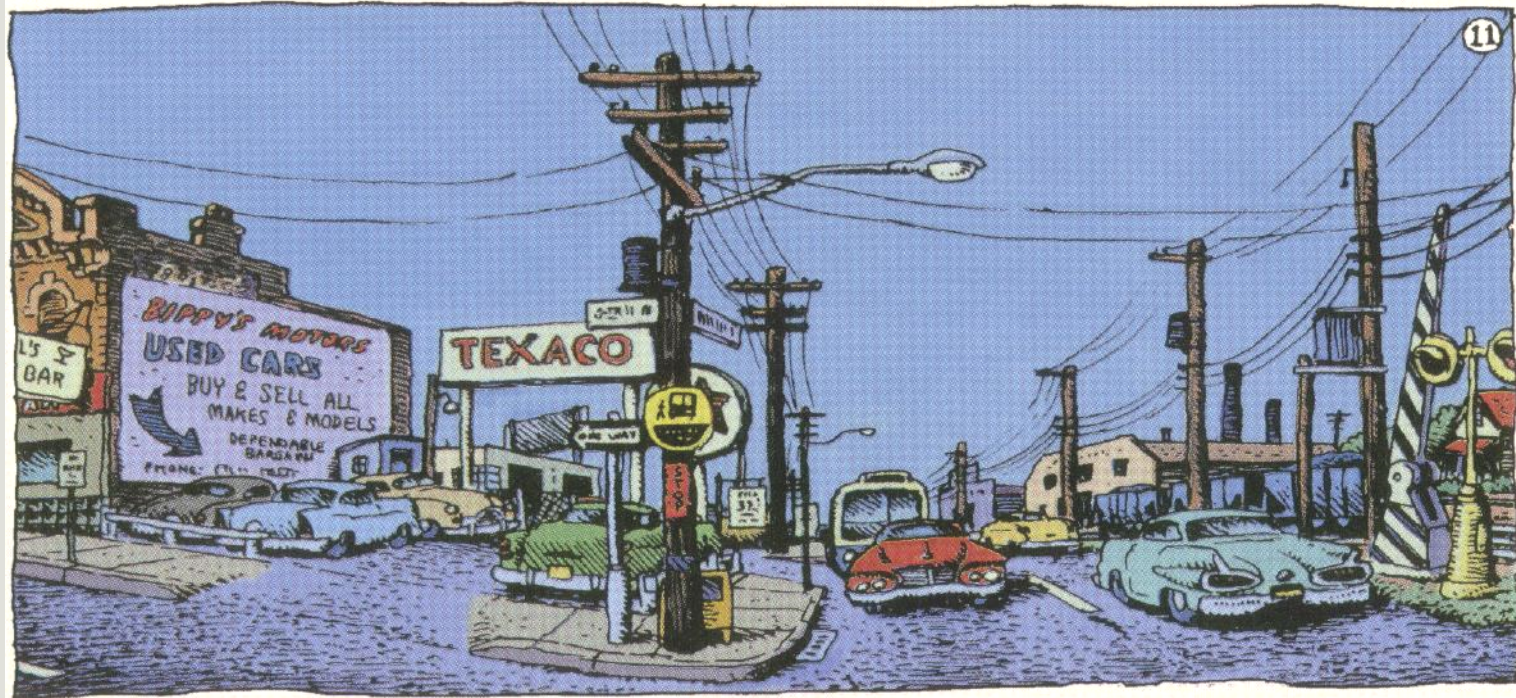




## Why Plan?

Then comes  
redevelopment and  
reuse and more  
people....

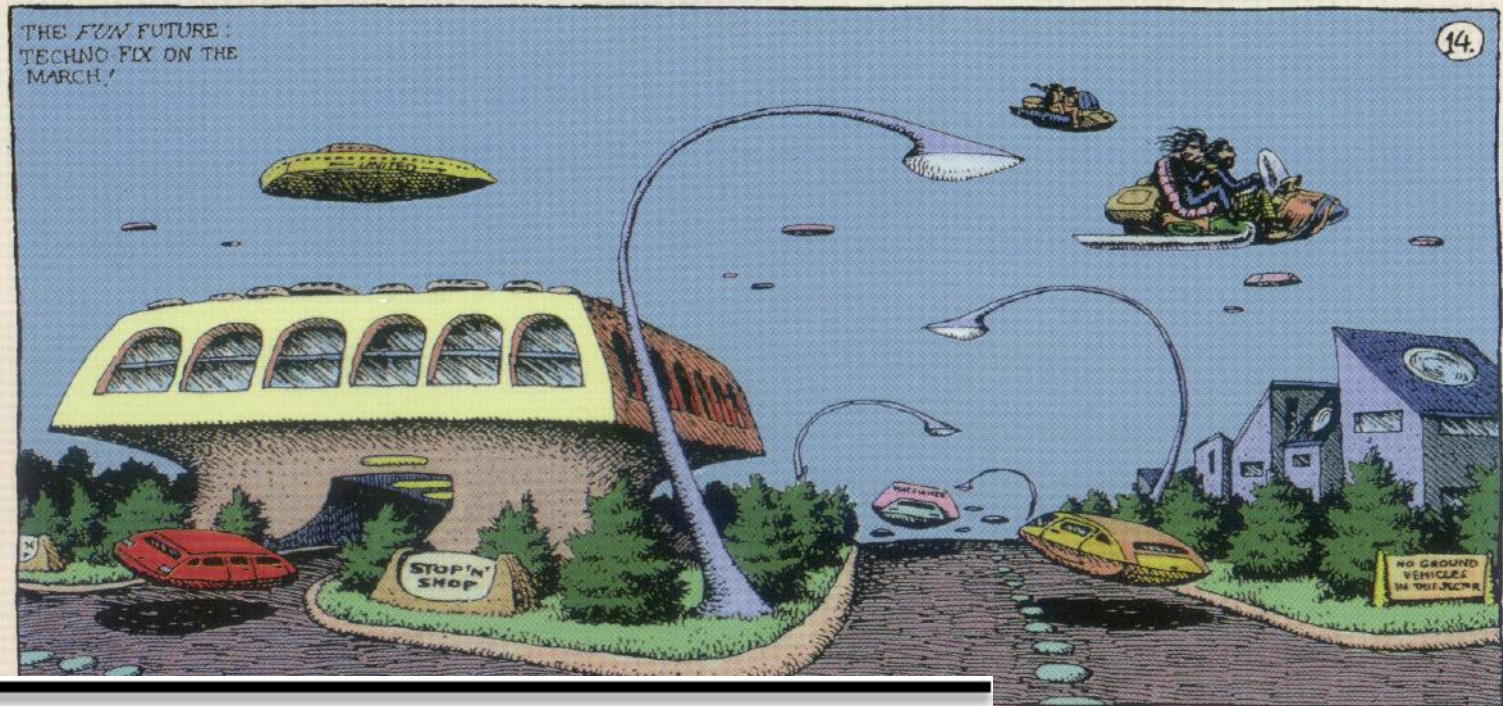
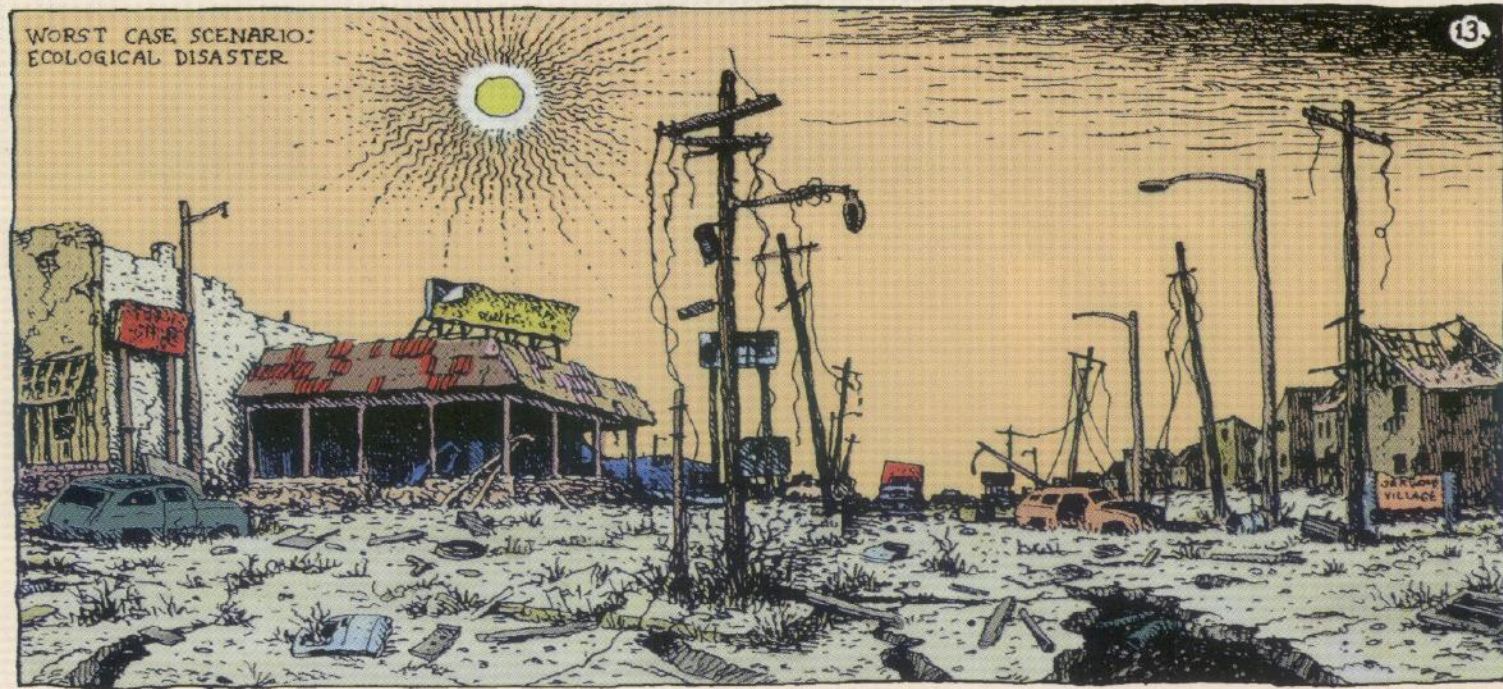
What next?????



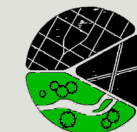


## Why Plan?

Blight and deterioration OR a community that evolves through Planning







## **What Is Planning**

***PLANNING IS AN ORGANIZED WAY OF DETERMINING  
COMMUNITY NEEDS AND SETTING GOALS AND  
OBJECTIVES TO ADDRESS THE NEEDS.***

***PLANNING IS A FORWARD THINKING PROCESS.***

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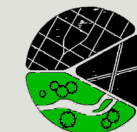
# **What Is Planning**

***PLANNING BRIDGES THE GAP FROM WHERE WE ARE TO  
WE WANT TO GO.***

***PLANNING IS A PROCESS THAT CAN HELP MOVE A COMM  
FROM TODAY'S REALITY TO TOMORROW'S POSSIBILITIES.***

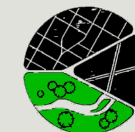
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# *What Is Planning*

Even a journey of a thousand miles must begin with a single step.



# *Authority to Plan*

## *IF A COMMUNITY OR COUNTY CHOOSES TO PLAN THE GOVERNING BODY SHALL:*

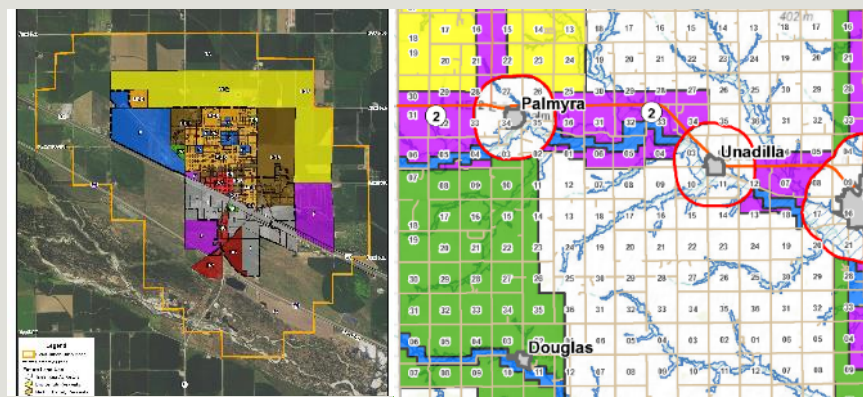
- *Create a planning commission*
- *Create, revise and implement a comprehensive plan*
- *Adopt and enforce a zoning resolution/ordinance*

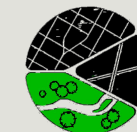




# Jurisdictions

- CITY/VILLAGE JURISDICTION



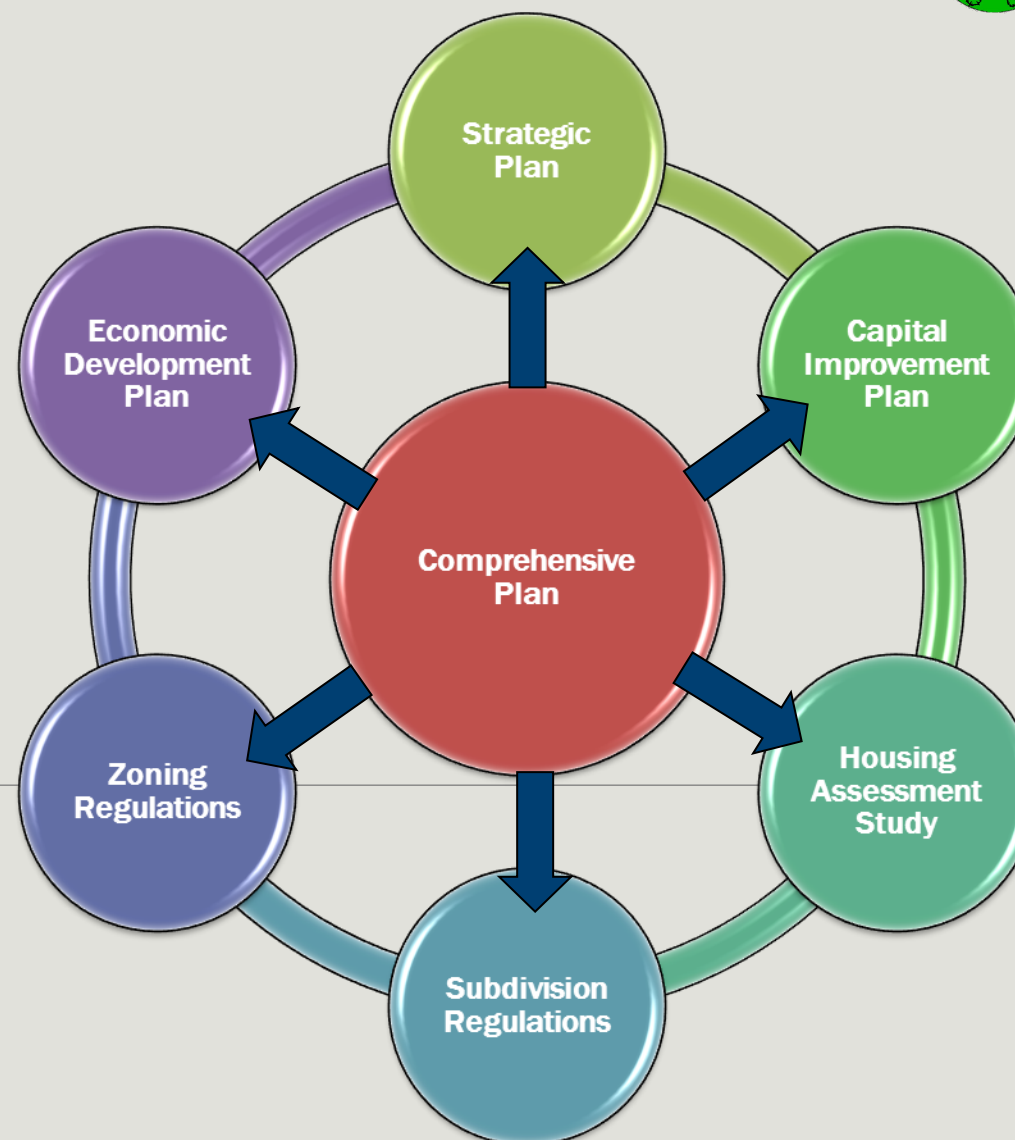


# *Purpose*

*THE COMPREHENSIVE PLAN  
IS ABOUT POLICY*

*POLICIES DRIVE  
REGULATIONS AND OTHER  
IMPLEMENTATION TOOLS*

*COMPREHENSIVE PLANS  
ARE NOT DIRECTLY  
REGULATORY*



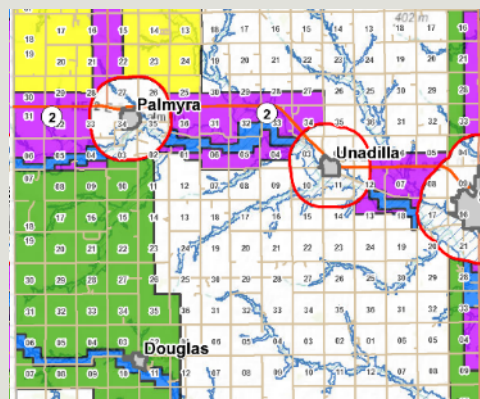


# *Purpose*

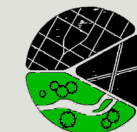
*DETERMINE DISTRIBUTION AND USE OF LAND*

*GENERAL LOCATION, CHARACTER AND EXTENT OF  
ROUTES AND FACILITIES*

*GENERAL LOCATION, TYPE, CAPACITY AND AREA OF  
AND PROJECTED COMMUNITY FACILITIES*



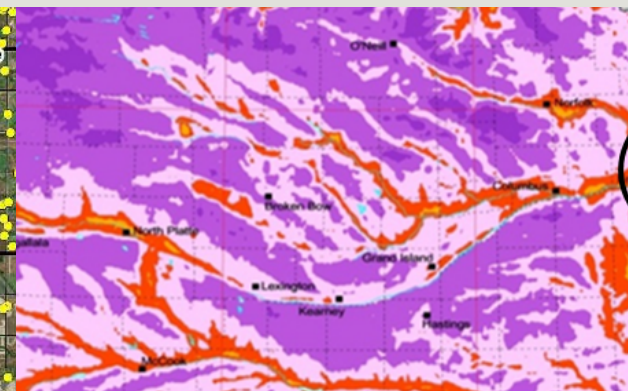
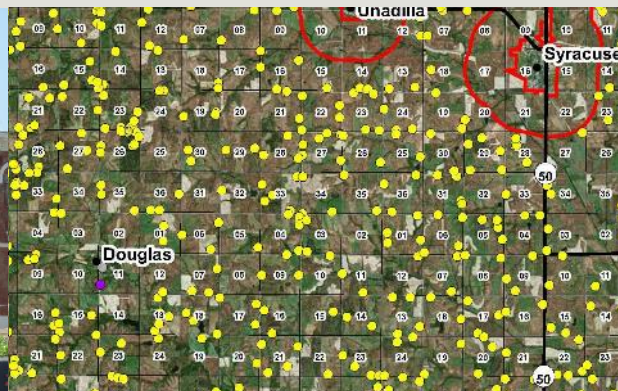
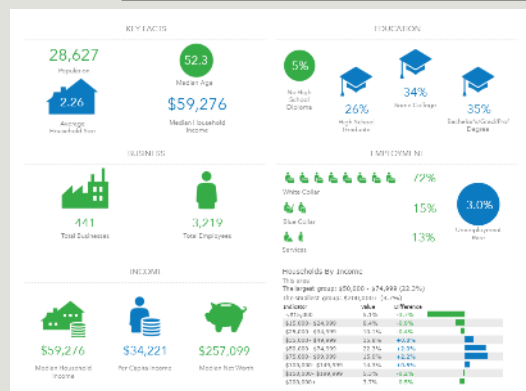




# *Comprehensive Plan*

## *PLANS SHOULD CONTAIN THE FOLLOWING ELEMENTS:*

- *Demographics (Population statistics, housing statistics, economic statistics)*
- *Community/County Facilities*
- *Existing Land Uses*
- *Energy Element*

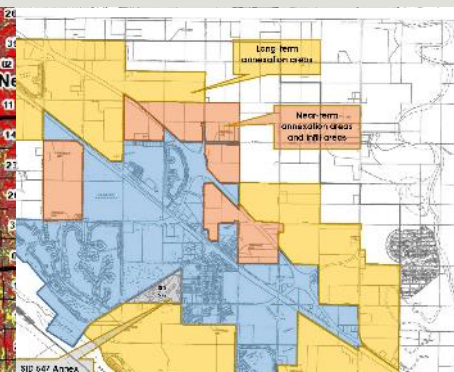
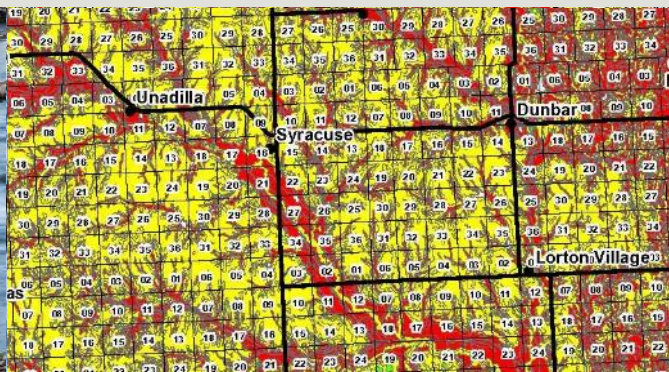




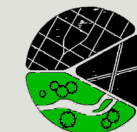
# *Comprehensive Plan*

## *PLANS SHOULD CONTAIN THE FOLLOWING ELEMENTS:*

- *Environmental Data*
- *Issues, Goals & Objectives*
- *Future Land Uses*
- *Transportation Elements*
- *Annexation and SIDS (municipalities only)*







# **Environmental Issues**

## **REVIEW ENVIRONMENTAL CONDITIONS**

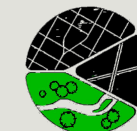
- Soil Suitabilities

## **EXISTING ENVIRONMENTAL CONDITIONS/EXISTING LAND USES = FUTURE LAND USES**

- Steeper slopes may require special conditions or prohibit development
- Floodplains and wetlands
  - special conditions for development/livestock production

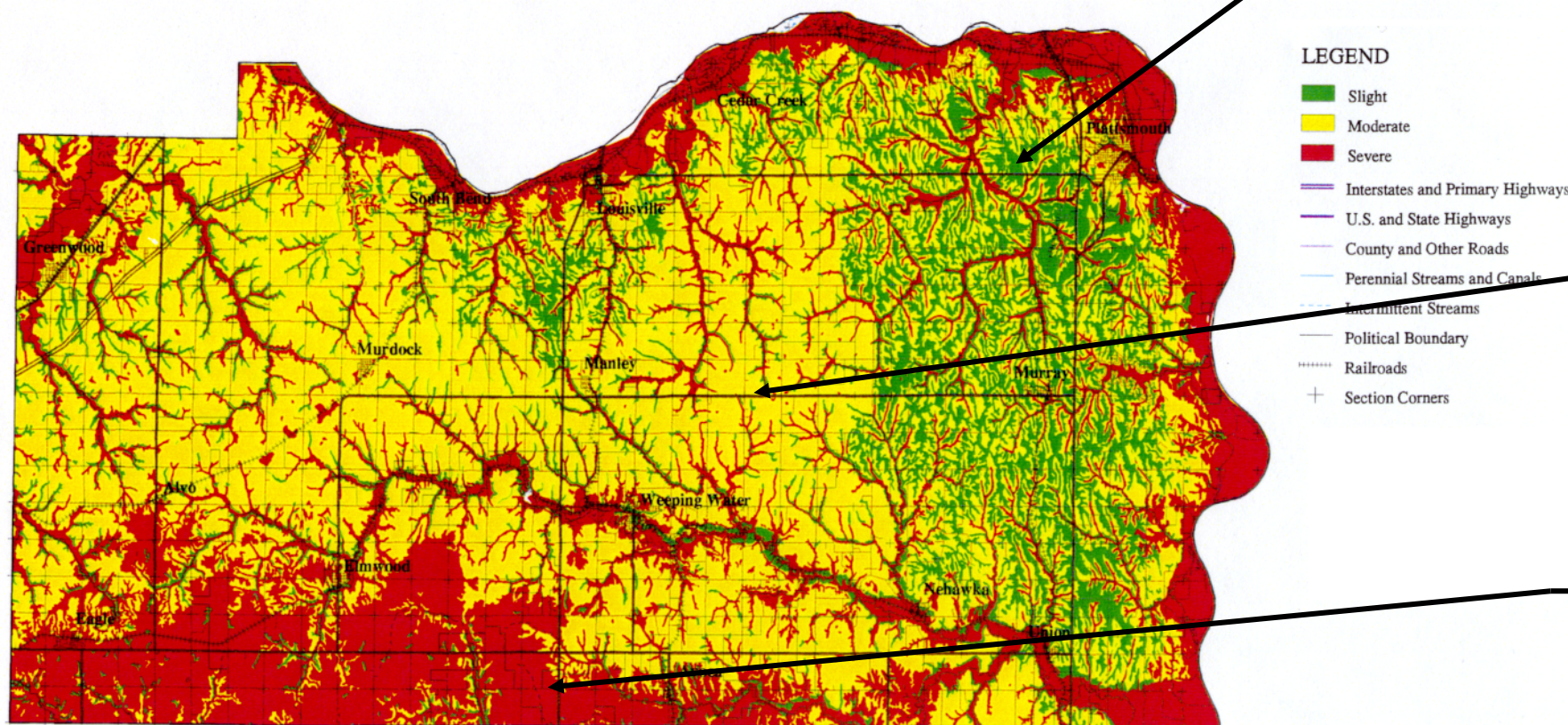






# Soils Mapping

Soil Suitability for Septic Tank Absorption Fields Map  
Cass County, Nebraska



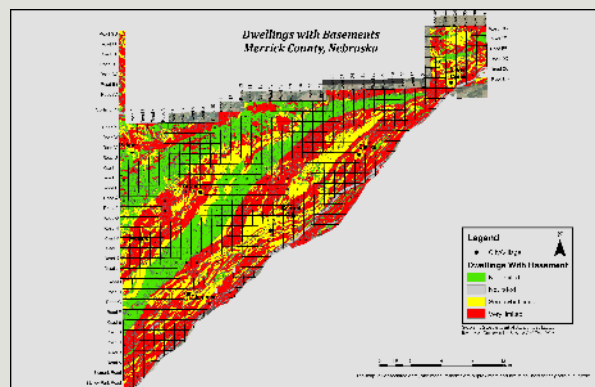
**GREEN** areas are ideal for  
Septic System placement

**YELLOW** areas may need  
special consideration depending  
on the conditions affecting the soil

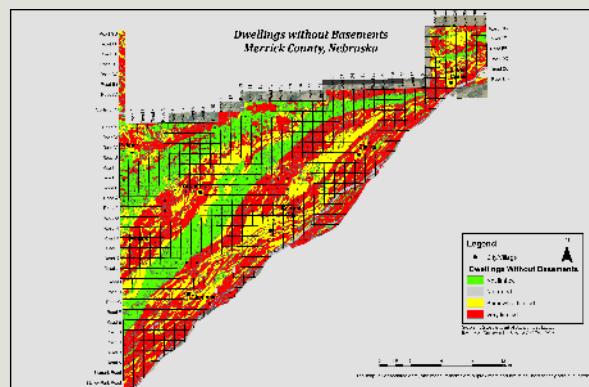
Special Conditions needed in  
areas colored **RED**



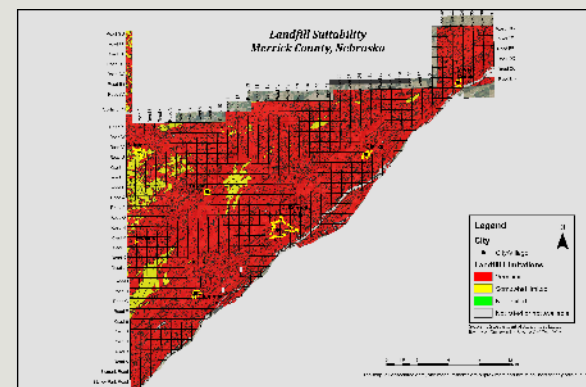
# Soils Mapping



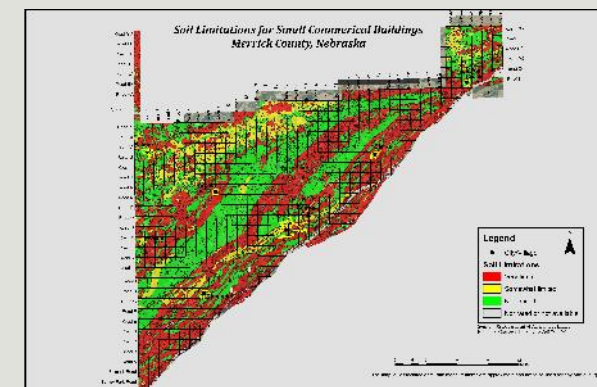
Dwellings with Basements



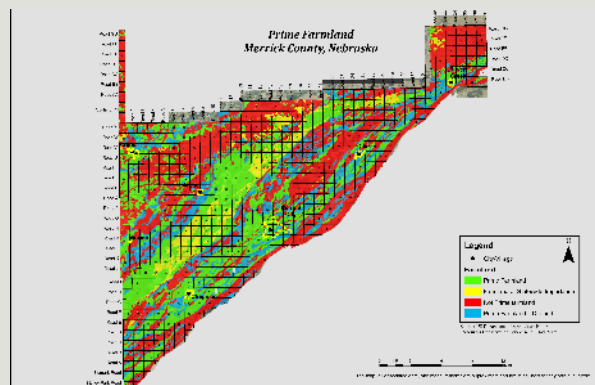
Dwellings without Basements



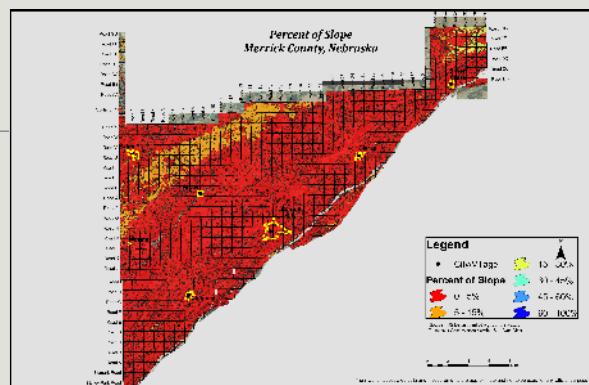
Landfill Suitability



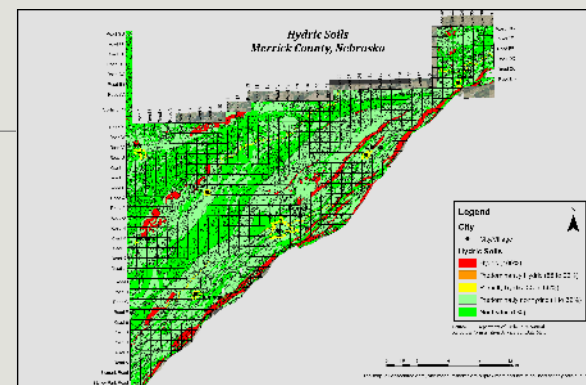
Limitations on Small Commercial Buildings



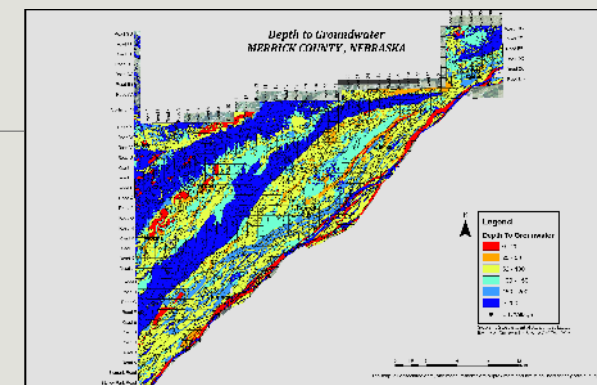
Prime Farmland



Percent Slope

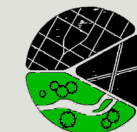


Hydric Soils



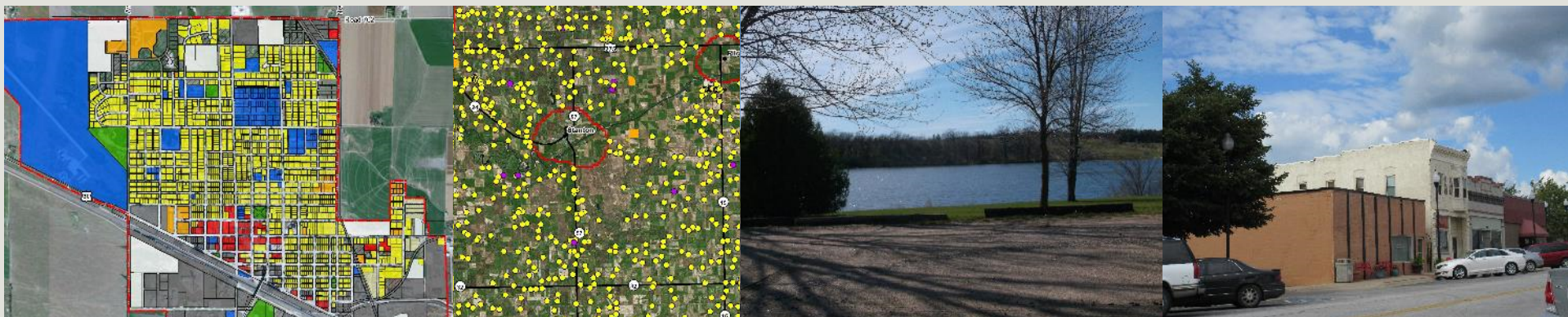
Depth to Groundwater





# Land Use

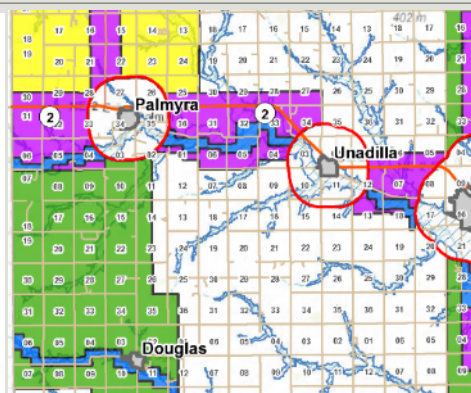
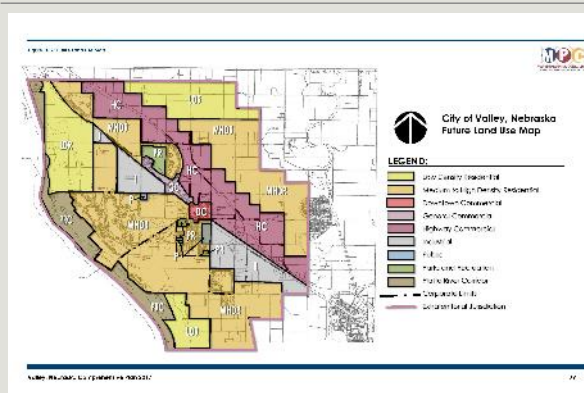
- *SHOULD INCLUDE BOTH GRAPHIC & TEXTUAL MATERIAL*
- *LAND USE PLAN SHOULD:*
  - *Distribution and location of specific uses*
  - *Recommended standards of population density*
  - *Review existing Land Uses throughout the Community and County to:*
    - *Document the uses for potential non-conforming uses*
    - *guide the Future Land Uses.*





# Land Use

- THE FUTURE LAND USE PLAN CAN BE AS SIMPLE OR COMPLEX AS DESIRE
- THE FUTURE LAND USE PLAN IS A POLICY STATEMENT
  - directs future growth and uses.
  - Works at placing compatible uses together while separating incompatible uses





# Land Use

## • THE FUTURE LAND USE PLAN IS A POLICY STATEMENT

- directs future growth and uses.
- Works at placing compatible uses together while separating incompatible uses

### Medium to High Density Residential Land Use

#### General Purpose

This land use area is typically the most protected residential uses. This district is intended to be similar to the typical residential area covering most of Valley. City services such as water and sewer would be provided.

It is intended for this district to encourage different residential zoning classifications to be located throughout. Instead of attempting to identify specific areas where key densities will be allowed, the plan recognizes that various zoning densities may reside next to each other throughout the community. This area should include all types of residential uses depending upon the zoning classification including single-family detached dwellings, with occasional townhomes, condominiums, and multi-family apartment developments.

In specific cases, where the design criteria are met, mobile home residential development may be allowed in any of these areas. These criteria are intended to provide for an area that has livable lot sizes, landscaping, streets and storm shelters that are safe and clean.

#### Typical uses

1. Single-family residential dwelling units
2. Accessory uses associated with single-family residential dwelling units
3. Townhouses, condominiums and duplexes
4. Multi-family complexes
5. Lakefront developments
6. Industrial sand and gravel operations; provided the eventual remediation plan is for lakeside residential developments
7. Parks and Recreational facilities
8. Public facilities
9. Educational uses and structures
10. Community/Recreational Center
11. Religious uses and structures
12. Health care facilities

#### Potential natural issues to consider

1. Depth to water table
2. Topography
3. Natural amenities such as trees, ponds, and streams
4. Site drainage
5. Flooding hazard
6. Wetlands

#### Buildable lot policies

1. Minimum lot sizes should be in the 7,000 to 10,000 square foot range

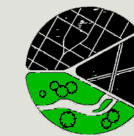
#### Residential densities

1. The proposed density for this land use district ranges from four to 18 units per acre (a typical city block is approximately two acres). This density would allow lots for single family dwellings ranging from approximately 14,500 square feet to 7,000 square feet.
2. The higher densities would be in the form of horizontally connected multi-family dwelling units and will be on various lot sizes.

#### Development policies to consider

1. Cluster developments should be considered and used whenever soils, topography, natural amenities warrant. **See subsection of clustered developments.**





# Comprehensive Plans

- IMPLEMENTATION IS CRITICAL TO A SUCCESSFUL PLAN
- ZONING AND SUBDIVISION REGULATIONS ARE KEY IMPLEMENTATION TOOLS

	Land Use Action Items		\$\$\$	CIP		Less than 1 year	1 to 5 years	5 to 10 years	10 to 20 years	Major Investment Strategy
				Y	N					
DBHLL-1.1	The cost of acquiring improvements, both on the east and west side, to a subdivision that will be exclusively used for property owners, off the subdivision should be borne by the developer of the property owners within each subdivision.	1	-	•						
DBHLL-1.2	The City of Valley, when feasible, may choose to add a development or redevelopment with specific funding mechanisms such as Tax Increment Financing, special assessments, etc.	1	-	•						
DBHLL-1.3	The City should design to ensure the Land Use Plan that addresses and manages future growth within the jurisdiction of western Douglas County.	1,2	-		•					
DBHLL-1.4	The City should develop zoning and subdivision regulations that promote efficient land usage, while avoiding land use conflicts.	1,2	-		•					
DBHLL-1.5	Land use policies should encourage and encourage developing development outside of the corporate limits.	1,2	-	•						
DBHLL-1.6	Commercial land uses should be encouraged to be located along the corridors of and along major transportation corridors.	1,2	-	•						
DBHLL-1.7	Freight roads should be located, as possible, where commercial development is located along major roads/highways.	1,2	-		•					
DBHLL-1.8	Continued development of the downtown commercial district should be encouraged and assisted whenever possible.	1,2,3	-	•						
DBHLL-1.9	The long-term vision for the downtown Valley area will be to allow its growth across the entire city limits.	1,2,3	-		•					

Organization:  
1 City  
2 Douglas County  
3 NEED  
4 NIFA  
5 Omaha Area Chamber  
6 Private Businesses  
7 Developers  
8 Consultants  
9 Nebraska Department of Roads  
10 MUD  
11 OPD  
12 Local Organizations  
13 Schools

Funding Sources:  
1 General Funds  
2 Bonding  
3 SF  
4 Grants  
5 Private Funds  
6 Sales Tax





# *What is Zoning*

- It is NOT the Zoning Police
- It is NOT Communism
- It is about PROTECTING ones INVESTMENT and PROPERTY VALUES
- It is about placing COMPATIBLE USES next to each other



Quincy Herald-Whig -  
January 16, 2008



# *Bridging from the Comprehensive Plan to Zoning*

- **COMPREHENSIVE DEVELOPMENT PLAN IS THE BASIS FOR WRITING THE REGULATIONS**

- §19-903 Comprehensive development plan; requirements; regulations and restrictions made in accordance with plan; considerations .

The regulations and restrictions authorized by sections [19-901](#) to [19-915](#) shall be in accordance with a comprehensive development plan which shall consist of both graphic and textual material and shall be designed to accommodate anticipated long-range future growth which shall be based upon documented population and economic projections. The comprehensive development plan shall, among other possible elements, include:

---

- **Case Law**

Zoning regulations must be made in accordance with comprehensive plan. Weber v. City of Grand Island, 165 Neb. 827, 87 N.W.2d 575 (1958).



# ***Bridging from the Comprehensive Plan to Zoning***

## **COMPREHENSIVE DEVELOPMENT PLAN IS THE BASIS FOR WRITING T REGULATIONS**

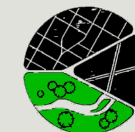
- **§23-114.03 ZONING REGULATIONS; PURPOSE; DISTRICTS.**

Zoning regulations shall be adopted or amended by the county board only after the adoption of the county comprehensive development plan by the county board and the receipt of the planning commission's specific recommendations. Such zoning regulations shall be consistent with an adopted comprehensive development plan and designed for the purpose of promoting the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Nebraska, including, among others, such specific purposes as:

---

- **CASE LAW**

Under the 1967 act, a county engaged in zoning ought to adopt a comprehensive development plan within a reasonable time. *Bagley v. County of Sarpy*, 189 Neb. 393, 202 N.W.2d 841 (1972).



# Zoning

- EXERCISE OF “POLICE POWER”
- TO PROMOTE:
  - Health and safety
  - Morals (in Nebraska)
  - Convenience , order and prosperity
  - Welfare of public

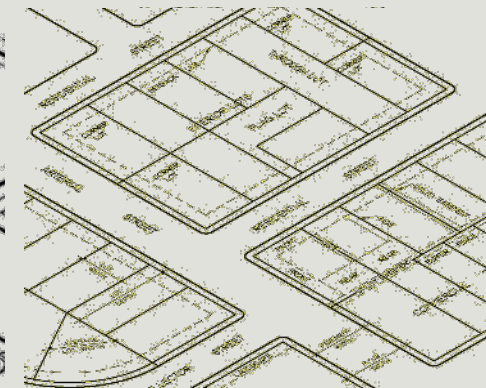
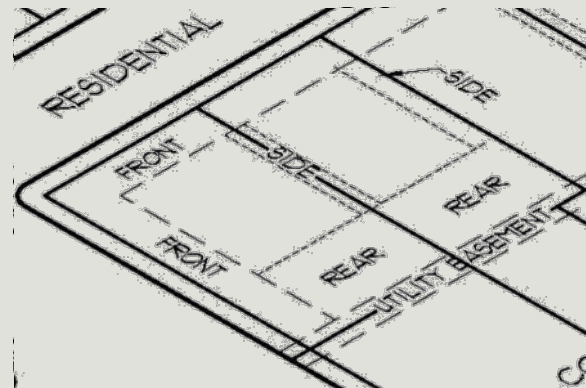


*Property owner refuses to comply  
to the zoning regulations*



# ***Zoning Addresses***

- LOCATION, HEIGHT, BULK, NUMBER OF STORIES, AND SIZE
- PERCENTAGE OF LOT AREAS TO BE OCCUPIED
- BUILDING SETBACK LINES
- SIZES OF YARDS, COURTS AND OPEN SPACES
- DENSITY OF POPULATION
- USES OF BUILDINGS
- USES OF LAND

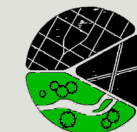


# **Purpose of Zoning**

- **DISTRIBUTE/CONSOLIDATE POPULATION AND LAND DEVELOPMENT**
- **PROTECT TAX BASE**
- **PROTECT PROPERTY AGAINST BLIGHT AND DEPRECIATION**
- **SECURE GOVERNMENTAL EXPENDITURES**
- **FOSTER AGRICULTURE, RECREATION AND INDUSTRIES**
- **ENCOURAGE APPROPRIATE USE OF LAND**
- **PRESERVE AND ENHANCE HISTORIC PLACES**

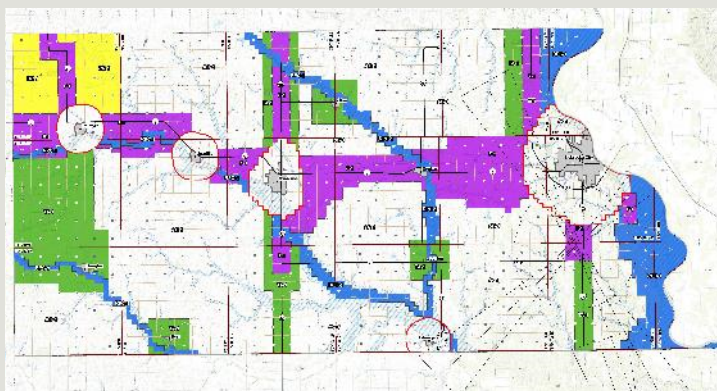






# *Zoning Districts*

- MAY DIVIDE JURISDICTION INTO DISTRICTS
- REGULATE, RESTRICT OR PROHIBIT
  - Erection
  - Construction
  - Reconstruction
  - Use
- USE, CONDITION OR OCCUPANCY OF LAND



# *Zoning Districts*

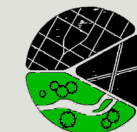
- **EXCEPTION (REGARDING BUILDING PERMITS ONLY\*)**
    - Agricultural Structures (counties only)
    - Buildings utilized for agricultural purposes on twenty acres or more which produces \$1,000 or more of farm products each year
- \* Nebraska Supreme Court ruled that agricultural uses were not exempt from land use and setbacks regulations nor was it the intent of the legislature when the Statutes were written. Holt County v. Premium Farms



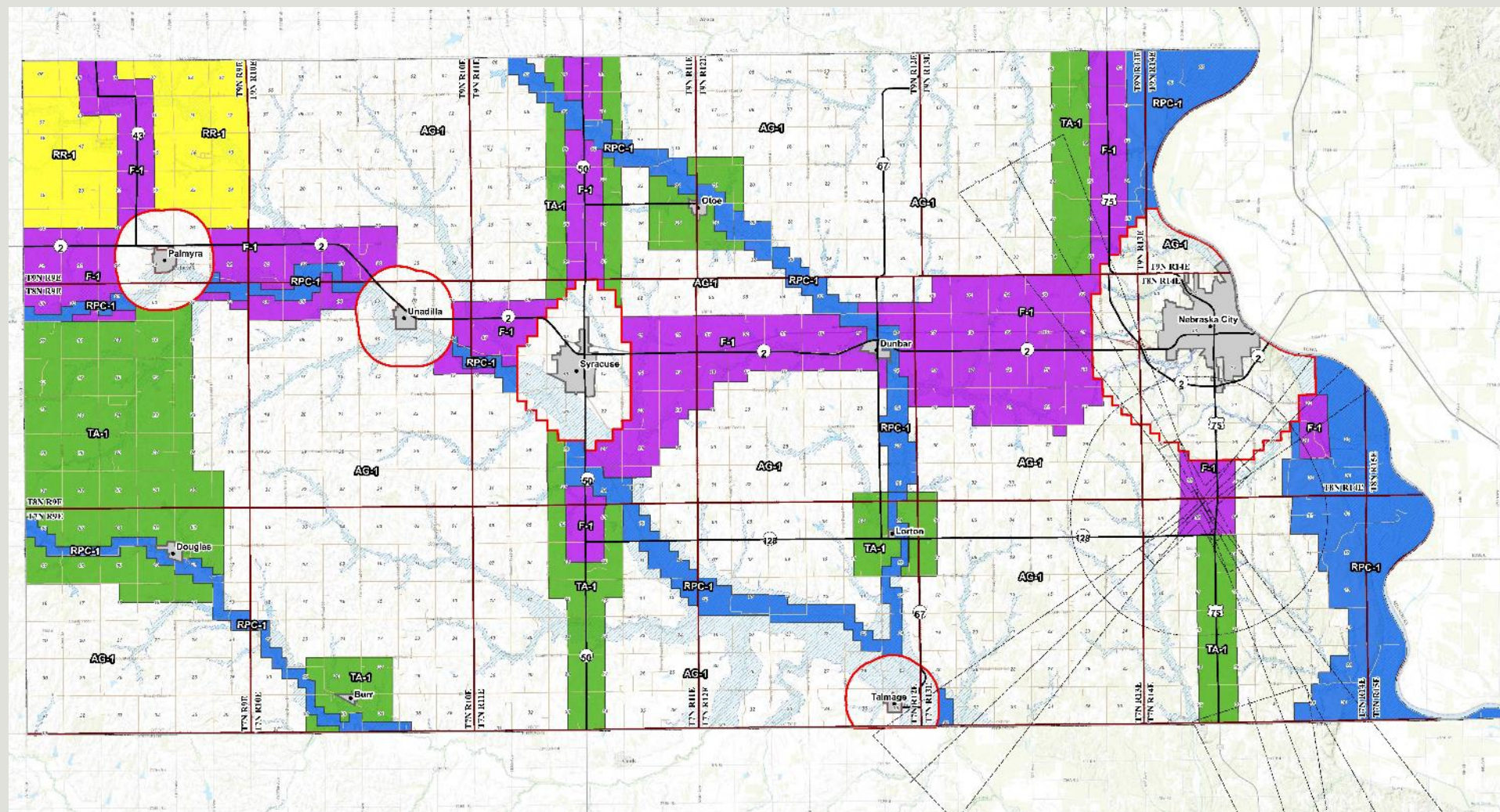
**Zoning Permits -  
YES**

**Building Permits -  
NO**

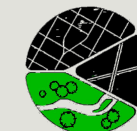




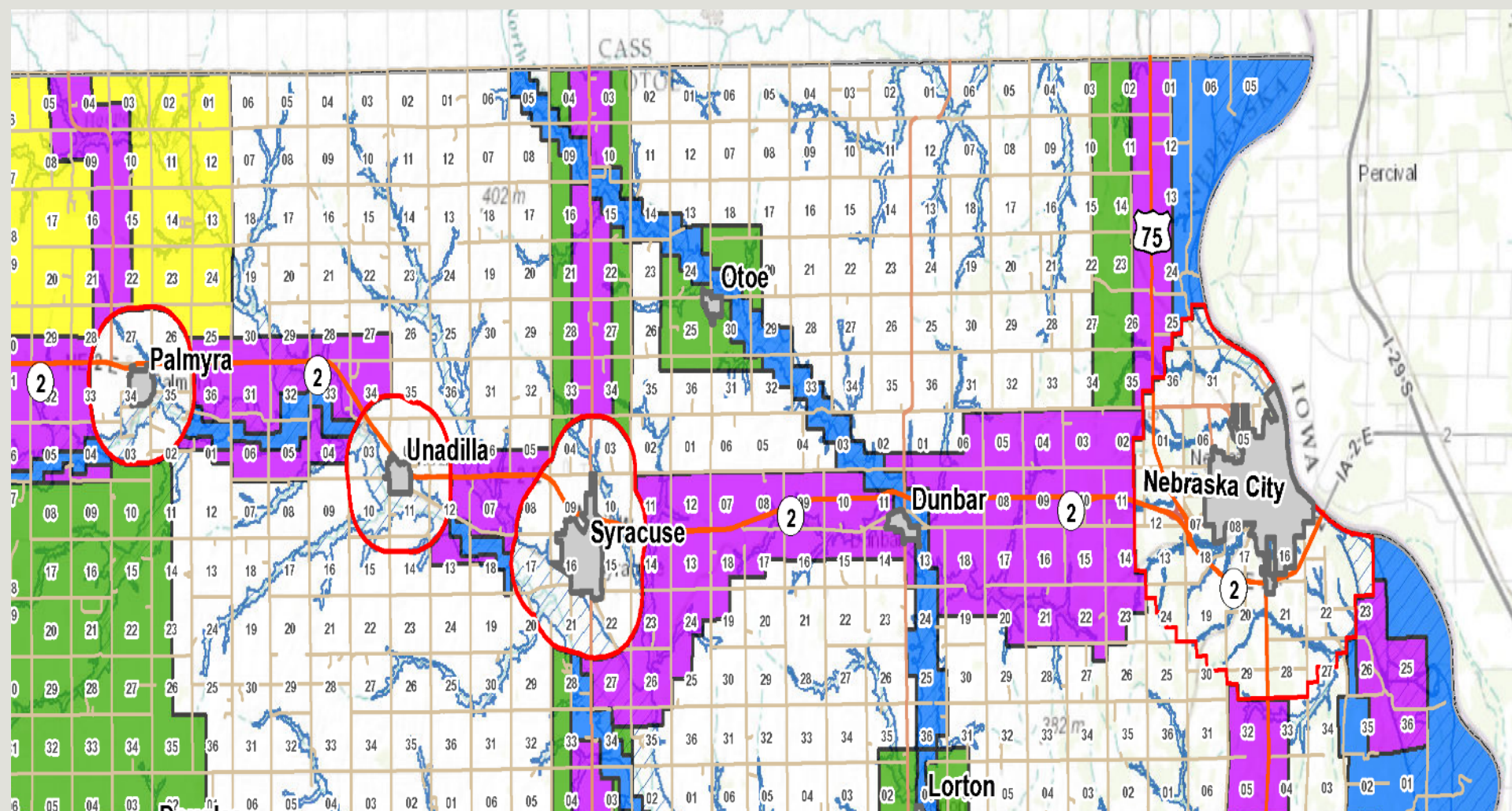
# The Zoning Map



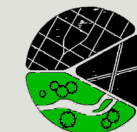




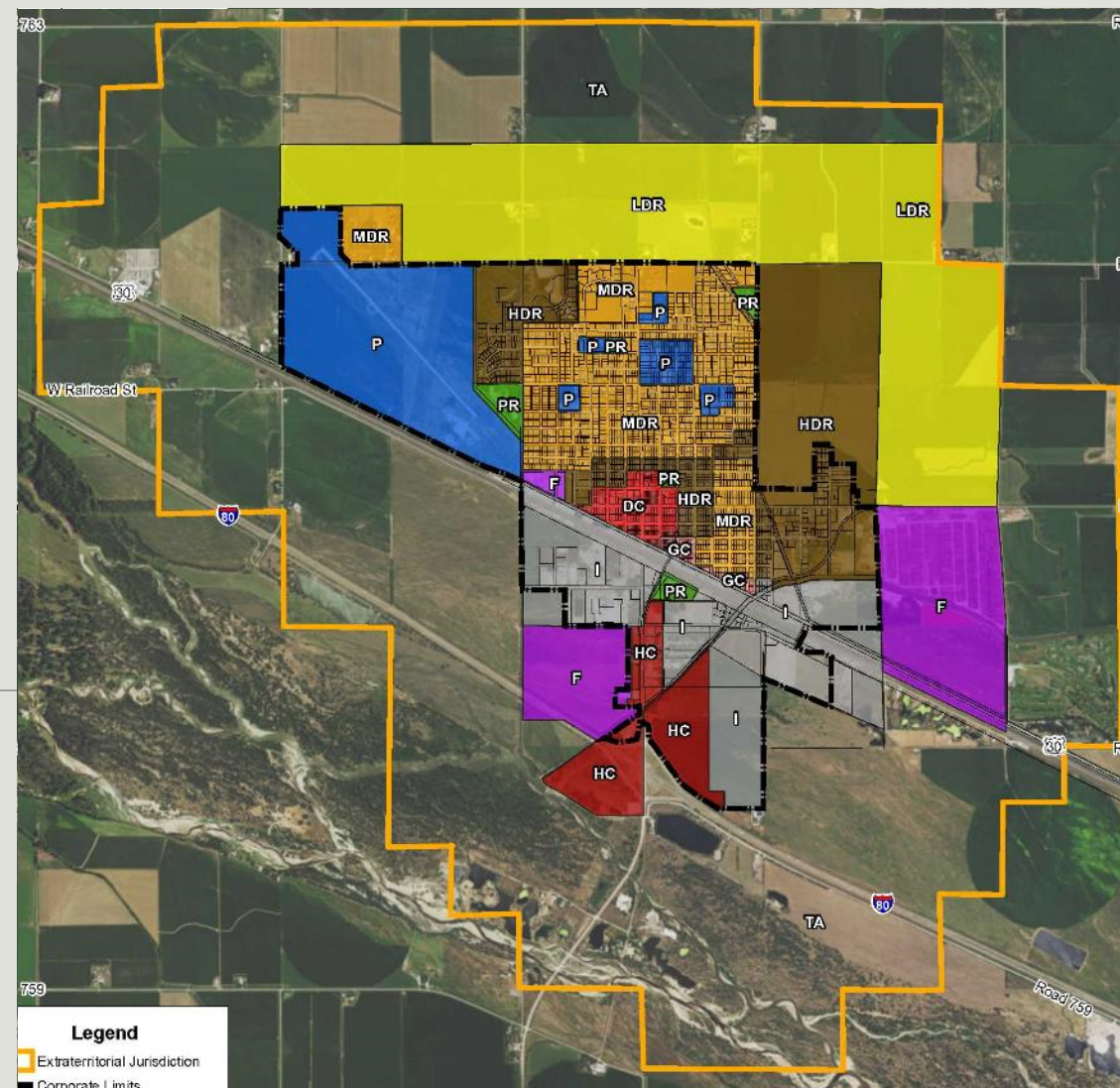
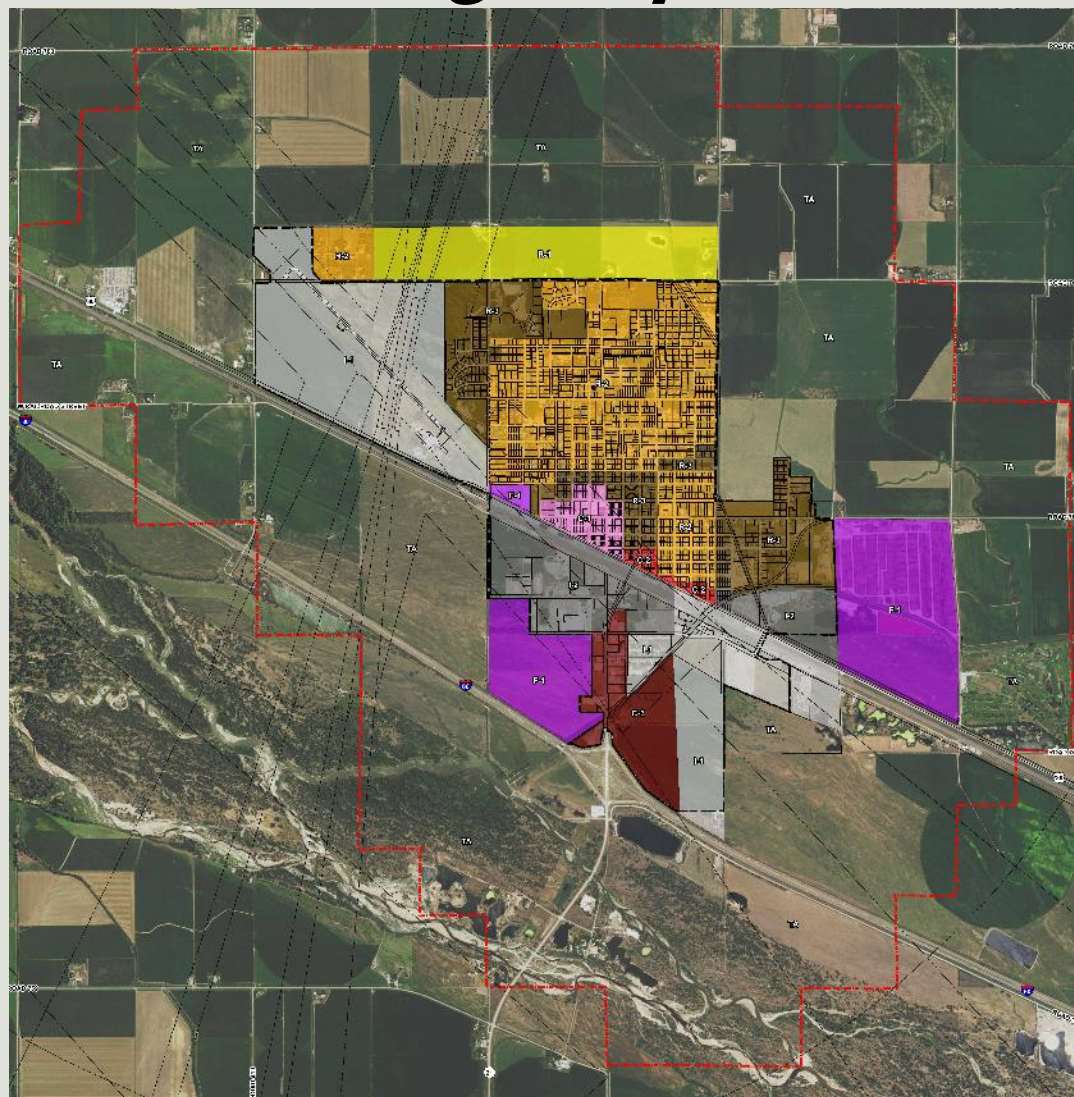
# *The Future Land Use Map*







# *The Zoning Map*



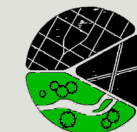


# Zoning Districts

- WHAT USES GO WHERE?
  - What makes sense to your community or county
  - You want similar uses near each other
  - Minimizing land use conflicts is critical

P = Permitted C = Conditional Use Permit T = Temporary "X" = not permitted "1" = Floodplain regulations shall be met												
Use Category	Use Type											Additional Requirements
		TA-1	R-1	R-2	R-3	RM	C-1	C-2	F	I-1	I-2	
	Assisted Living Facilities	A	A	-	-	-	U	U	U	-	-	
	Bed and Breakfast	P	P	U	U	-	-	-	-	-	-	See Section 9.14
	Convents	P	P	U	U	-	-	-	-	-	-	
	Emergency Residential Services/Shelters	P	P	P	P	P	A	P	P	U	U	
	Group Care Home	P	P	P	P	P	A	A	A	U	A	
	Group Home	P	P	A	A	A	A	A	A	-	-	
	Hospice	A	A	A	A	A	A	A	A	-	-	
	Life Care Facility	A	A	-	-	-	U	U	U	U	U	
	Monasteries	A	U	-	-	-	-	-	-	-	-	
	Nursing Homes	-	-	-	-	-	U	U	U	-	-	
	Retirement Homes	-	U	C	C	-	U	C	C	-	-	
	Transitional housing	P	P	P	P	P	A	A	P	P	P	
	Community Services/ Civic Uses	Animal shelters	P	-	-	-	-	U	U	C	C	-
Cemetery		P	P	P	-	-	-	-	-	-	-	
Churches, synagogues, temples & similar		C	P	P	-	P	P	P	P	-	-	
Church, Storefront		-	-	-	-	-	U	C	C	-	-	
Community centers & buildings		U	U	C	-	U	P	P	P	P	P	
Fire and Rescue facilities		P	P	P	-	P	P	P	P	P	P	
Fraternal Organization		C	U	C	-	U	A	A	A	P	P	
Governmental offices and uses		P	A	P	-	P	A	P	P	P	P	
Law enforcement centers		P	A	P	-	P	A	A	P	P	P	
Public Libraries and museums		P	P	P	-	P	A	A	P	P	P	
Philanthropic Organizations		C	C	C	-	C	P	P	P	P	-	
Museums		C	-	-	-	-	P	P	P	P	-	
Planetariums		U	-	-	-	-	-	-	P	-	-	
Senior citizen centers		U	U	C	-	U	A	P	P	U	-	
Treatment, Rehabilitation, Incarceration Facilities	Community correction centers	C	-	-	-	-	-	-	-	-	-	
	Drug & alcohol rehabilitation centers	U	U	-	-	-	U	U	C	-	-	
	Halfway houses	P	P	P	P	P	P	P	P	P	P	
	Public Detention Center	C	-	-	-	-	-	-	-	C	U	
	Juvenile Detention Center	U	-	-	-	-	-	-	-	U	U	
	Private Prisons	U	-	-	-	-	-	-	-	U	U	
	Public Prisons	U	-	-	-	-	-	-	-	U	U	

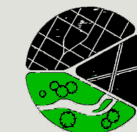




# *Conditional Uses*

- **MAY GRANT CONDITIONAL USE PERMITS**
  - Specific Conditions
  - Public hearings
  - Equitable
  - Promotes public interest
  - Site Specific
  - Planning Commission/Governing Body





# Conditional Uses

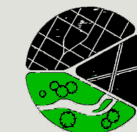
- **BE VERY CAUTIOUS WITH WHAT YOU REQUIRE A CUP FOR?**
  - Adult Entertainment venues
  - Signs
  - Anything that has a direct constitutional protection under the 1<sup>st</sup> Amendment





# **Conditional Uses**

- COUNTIES ARE REQUIRED UNDER STATUTE TO MAKE “FINDINGS OF FACT” ON CONDITIONAL USE PERMITS
    - Actually **all decisions** should include “Findings of Fact”
    - “findings of Fact” by the Planning Commission provides the Governing Bodies with key pieces of information - gives elected officials some insight into how the Planning Commission is thinking.
    - “Findings of Fact” by Planning Commission and the Governing Body provides a record by which a judge can make a ruling if a municipality/County Decision is appealed.
-



# **Board of Adjustment**

- **BOARD OF ADJUSTMENT**
    - **Appointed by Governing Body**
    - **Five members and one alternate**
    - **Decisions appealed to District Court, not Governing Body**
    - **Three distinct powers**
      - **Hear and decide appeals**
      - **Hear and decode requests for interpretation of maps**
      - **Grant variance**
-



# **Variances**

- **VARIANCE GRANTED BY BOARD OF ADJUSTMENT WHEN:**
  - Regulation would produce undue hardship
  - Hardship not shared by other properties
  - Variance will not be detriment to adjacent property
  - Based upon exceptional hardship, not profit, convenience or caprice
- **SITUATION OR USE NOT TO BE ADOPTED AS AMENDMENT**
- **VOTE OF FOUR MEMBERS NEEDED TO:**
  - reverse any decision of Zoning Administrator
  - grant a variance
  - Decide a line on a map



# ***QUESTIONS?***

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