

## WAPA LEGISLATIVE UPDATE

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October 15, 2003

### A. Hearing Held on Assembly Bill 435 – Repeal of “Smart Growth” Law

Assembly Bill 435, introduced by Representative Mary Williams, repeals Wisconsin Statute § 66.1001, the comprehensive planning statute or “Smart Growth” law. This bill was referred to the Assembly Committee on Rural Affairs, chaired by Representative Eugene Hahn.

On October 9, 2003, the Committee on Rural Affairs held a public hearing on AB 435. Based on the preliminary Record of Committee Proceedings, forty-six individuals testified in favor of this legislation and seventy-seven registered in favor of this legislation. One individual, Michael Blaska from the Wisconsin Department of Administration, appeared for informational purposes only. Forty-seven individuals registered their opposition to the legislation, and the following twelve individuals testified against the bill:

1. Bev Anderson, Darlington
2. Mort McBain, Weston
3. Lisa MacKinnon, 1000 Friends of Wisconsin, Madison
4. Phil Salken, Realtors Association - South Central Wisconsin, Verona
5. Alice Morehouse, WISDOT, Madison
6. Michael Neuman, Preserve Our Climate Coalition of Dane Co., Madison
7. Gary Peterson, Wisconsin Chapter of American Planning Assoc., Madison
8. Charles Kell, Stevens Point
9. Betty Wolcott, Woodlands Land Preserve, Osseo
10. Steve Gutschick, Genoa City
11. Robert Gehring, Bassett
12. Rick Stadelman, Wisconsin Towns Association, Shawano

No executive session has been scheduled for this legislation.

### B. New Stand-Alone Legislation

#### 1. *Assembly Bill 527 – Effectiveness of County Shoreland Zoning Ordinances*

On September 18, 2003, Representative Scott Gunderson (a Republican from Union Grove) introduced AB 527, which was referred to the Assembly Committee on Urban and Local Affairs. Current law provides, with certain exceptions, that if a city, village, or town annexes a county shoreland area after a specified date and that area, before annexation, was subject to a county shoreland ordinance, then the county shoreland ordinance continues to be in effect and must be enforced by the annexing city,

village, or town. This bill eliminates this requirement that the annexing city, village, or town continue to keep the ordinance in effect and enforce the ordinance. A public hearing was held on AB 527 on October 7, 2003. No executive action was taken. To review the full text of this proposal, go to <http://www.legis.state.wi.us/2003/data/AB-527.pdf>.

2. *Assembly Bill 551—Town Board Approval of County Development Plans*

On October 2, 2003, Representative Donald Friske (a Republican from Merrill) introduced AB 551, which was referred to the Committee on Rural Development. Under current law, before a county development plan, or an amendment to a plan, may take effect, it must be adopted by the county board. Under this bill, neither a county development plan (in whole or in part), nor an amendment to a county development plan plan, may take effect in a town unless that town's board approves the county board's action. No public hearing has yet been scheduled on this legislation. To review the full text of this proposal, go to <http://www.legis.state.wi.us/2003/data/AB-551.pdf>.

3. *LRB 3204/2 – Changes to the “Smart Growth” Law*

Representative Sheryl Albers (a Republican from Reedsburg) is proposing legislation that will make several changes to the “Smart Growth” law.

Beginning on January 1, 2010, under Smart Growth, any program or action of a local governmental unit that affects land use must be consistent with that local governmental unit's comprehensive plan. This bill reduces the number of programs or actions with which a comprehensive plan must be consistent. Under the bill, the only actions which must be consistent with a comprehensive plan are official mapping, local subdivision regulation, and zoning ordinances, including zoning of shorelands or wetlands in shorelands. In addition, the bill also reiterates that a regional planning commission's comprehensive plan is only advisory in its applicability to a political subdivision (a city, village, town, or county), and a political subdivision's comprehensive plan.

Although this legislation is not yet introduced, it had a public hearing before Representative Albers' Property Rights & Land Management Committee on October 8, 2003. (It is not yet available on the Internet. However, I have included the text of the Legislative Reference Bureau's analysis of this draft at the end of this Update.)

C. Update on Previously Introduced Legislation

1. *Assembly Bill 340 – Town Maps*

Assembly Bill 340, which was introduced on May 13, 2003 by Representative Sheryl Albers (a Republican from Reedsburg), passed out of the Assembly Committee on Property Rights & Land Management with a vote of 6-2 on October 8, 2003. This bill authorizes a town to adopt an official map at any time, and requires that a county development plan include the official map of any town in the county that has adopted a

comprehensive plan. It is not available for scheduling for debate on the Assembly Floor. (Note: This is the Assembly companion bill to Senate Bill 110).

2. *Assembly Bill 271 – Notices for Zoning Changes*

Assembly Bill 271, which was introduced on April 18, 2003 by Representative Sheryl Albers (a Republican from Reedsburg) passed out of the Assembly Property Rights & Land Management Committee with a vote of 8-0 on October 8, 2003. This bill specifies that a town zoning committee must hold a public hearing and give notice of the hearing on a preliminary report on recommended zoning district boundaries and zoning regulations for such districts and that a town board give notice of a public hearing on a proposed zoning ordinance.

3. *Assembly Bill 442 – Quorum Requirements for a Zoning Board of Appeals or Adjustment*

Assembly Bill 442, introduced on July 21, 2003 by Representative Sheryl Albers (a Republican from Reedsburg), had a public hearing before the Assembly Property Rights & Land Management Committee on October 8, 2003. This bill required all municipalities or counties that have a board of appeals or adjustment to appoint alternate members of the board. The bill also specifies that for any such board to take action a quorum must be present and further specifies that a quorum is all members-elect of the board. No executive action was taken on this legislation.

4. *Assembly Bill 493 – Approval of Conditional Use Permits*

Assembly Bill 493, introduced by Representative Terri McCormick (a Republican from Appleton) prohibits a zoning entity from withholding approval of a conditional use permit for a reason that is not directly related to the requested conditional use permit. In addition, the zoning entity may not condition approval of such a permit on the property owner taking, or not taking, some action with respect to an existing use of the property, that is not directly related to the permit. This bill has been referred to the Assembly Committee on Urban and Local Affairs, chaired by Representative Scott Gunderson.

I spoke with staff from Representative Gunderson's office on October 14, 2003 and learned that although this legislation has not yet been scheduled for a public hearing, it will likely get a hearing during this fall session.

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(Note: There have been no other changes to the status of introduced legislation described in previous issues of the *Update*.)

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**Legislative Reference Bureau Analysis of LRB 3204/2  
Changes to the "Smart Growth" Law:**

Under current law, a county board may engage in zoning and land use planning by creating a county planning agency or by designating a previously constituted county committee or commission as the county planning agency. If a county board creates or designates such an agency, the agency is required to direct the preparation of a county development plan for the physical development of the towns within the county and for the cities and villages within the county whose governing bodies agree to have their areas included in the county plan.

Also under current law, a city or village, or certain towns that exercise village powers, may create a city, village, or town plan commission to engage in zoning and land use planning. If a city, village, or town creates such a commission, the commission is required to adopt a master plan for the physical development of the city, village, or town, including in some instances, in the case of a city or village, unincorporated areas outside of the city or village which are related to the city's or village's development.

Under the current law popularly known as the "Smart Growth" statute, if a local governmental unit (city, village, town, county, or regional planning commission) creates a comprehensive plan (a development plan or a master plan) or amends an existing comprehensive plan, the plan must contain certain planning elements. The required planning elements include the following: housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; and land use.

Beginning on January 1, 2010, under Smart Growth, any program or action of a local governmental unit that affects land use must be consistent with that local governmental unit's comprehensive plan. The actions to which this requirement applies include zoning ordinances, municipal incorporation procedures, annexation procedures, agricultural preservation plans, and impact fee ordinances. Also beginning on January 1, 2010, under Smart Growth, if a local governmental unit engages in any program or action that affects land use, the comprehensive plan must contain at least all of the required planning elements.

This bill reduces the number of programs or actions with which a comprehensive plan must be consistent. Under the bill, the only actions which must be consistent with a comprehensive plan are official mapping, local subdivision regulation, and zoning ordinances, including zoning of shorelands or wetlands in shorelands.

The bill also reiterates that an RPC's comprehensive plan is only advisory in its applicability to a political subdivision (a city, village, town, or county), and a political subdivision's comprehensive plan.