APA – Wisconsin Welcomes New Executive Director

BY NANCY FRANK, NEWSLETTER EDITOR AND CHAPTER VICE PRESIDENT FOR PROFESSIONAL DEVELOPMENT
UNIVERSITY OF WISCONSIN - MILWAUKEE

The APA – Wisconsin Chapter Executive Committee (board) has appointed past chapter president Gary Peterson to become the chapter’s first Executive Director. The Executive Committee has been considering this move for over a year. In fall, the membership was asked to weigh in on our discussion through a survey. Two-thirds of chapter members indicated that they would like APA – Wisconsin to increase its involvement in legislative advocacy. Over two-thirds indicated that they would be willing to have their dues increase to achieve this goal.

Fortunately, through savings and ambitious fundraising targets, the chapter has been able to contract with Gary Peterson without needing to increase dues! In his roles as president and past president, Gary has proven his ability to attract significant outside funding to support the chapter. Fundraising and legislative communications will be at the top of Gary’s to-do list. He will be registering with the State of Wisconsin as a lobbyist, to ensure that the chapter is in compliance with those requirements.

“The Executive Committee and I have been concerned that our Chapter is not involved nor consulted when the state is developing legislation or rules that affect planning and planners in our state,” said Larry Ward, Chapter President.

“We need to be involved in such discussions, and Gary will provide that involvement. Everyone else is involved in these discussions and decisions and it’s time for planners to have a place at the table. We’ve been invisible for way too long.”

Continued on page 3
The APA-Wisconsin Newsletter is published electronically four times each year by the Wisconsin Chapter of the American Planning Association to facilitate discussion among its members of planning issues in Wisconsin. Correspondence should be sent to:

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Membership Information: To become a member of the Wisconsin Chapter of the American Planning Association, simply become a member of the APA, or you may choose “chapter only” membership. An application form is provided in this publication and on our Members webpage.

Professional Services Directory: Put your business in the news. Advertising rates are $50.00 per issue or $200.00 per year. Conference sponsorship at some levels also includes newsletter advertising. Send business card or camera-ready copy (2 inches high x 3.5 inches wide) to the newsletter editor at the address below. Digital copy may be sent as an attachment by email to news@wisconsinplanners.org.

Submission of Articles: APA-WI News welcomes articles, letters to the editor, articles from the APA-WI districts, calendar listings, etc. Please send anything that may be of interest to other professional planners in Wisconsin. Articles may be submitted by mail, fax, or email. Articles may be edited for readability and space limitations prior to publication. Content of articles does not necessarily represent the position of APA, the APA-WI Executive Committee, or the editor.

Submit articles by email attachment. Graphics are encouraged!

Deadlines:
Winter issue: submit by January 15.
Spring issue: submit by March 15
Summer issue: submit by June 15
Fall issue: submit by September 15

Visit the APA - Wisconsin webpage for up-to-date news and information between issues of the the APA-WI Newsletter.
In the coming weeks and months, Gary will communicate with members about legislative developments that affect planners’ work and the communities we serve. While Gary will be APA – Wisconsin’s voice on the Square, his efforts to educate legislators about the effects of proposed legislation will need to be supported by an active membership.

The Executive Committee realizes that most planners are not able to take time away from their work to communicate with their legislators. But when they are off the clock, planners (even those in public agencies) have all the rights of any citizen to speak to the issues they care about. Phone calls, emails, and letters (from personal phones, personal email accounts, and personal stationary) are entirely legal under Wisconsin law.

The Executive Committee is developing a process for clearly identifying, for our Executive Director and for the membership, the issues on which APA – Wisconsin will take a legislative position and deciding the specific positions that it will take. When possible, we will survey the membership to gain your input on these matters. We understand that planners have a wide range of opinions, even about our own shared work.

If you would like to welcome Gary to his new position or ask a question, you may reach him at plannergary@sustainablegary.com

Meet Gary Peterson (Again)

Gary Peterson, AICP, spent much of his career as president and principal consultant with Mid-America Planning Services in Madison. He served as president of the APA – Wisconsin Chapter from 2003 to 2012, and continues on the Executive Committee as Past President. He is also a member of the Madison Downtown Rotary and Downtown Madison, Inc. He has advocated before the Madison Common Council, Plan Commission and staff on Zoning Code Rewrite, Downtown Plan, TIF Policy Rewrite, TIF Joint Review Board Limitations, Bicycle Facility Improvements, TIF Projects, Bus Rapid Transit Facilities, Judge Doyle Square Bicycle Station, Economic Development Strategy, and High Speed Train Station location and facilities.

Gary is a strong proponent of sustainability through sound planning. He participated in: the Eco-Municipality Tour of Sweden – 2006, Leadership Training for The Natural Step at Tufts University – 2007, Principal Advocate and Fire Soul for APA Policy on Sustainability within APA-WI. He has been a leading voice within APA-WI on emphasizing Sustainability in our conferences since 2007.

Wisconsin Lobbying Law Requirements

Wisconsin law requires your organization to register with the Wisconsin Government Accountability Board if your organization employs an individual:
• for compensation
• to communicate with state officials
• to attempt to influence state legislation or administrative rule-making on its behalf, and
• that individual communicates with state officials on 5 or more days during either the first or last six months of the year.

The APA-WI board established an endowment fund to support scholarships for students attending either of the accredited masters degree programs in planning in Wisconsin: UW - Madison and UW - Milwaukee. Currently, the chapter supports two students at each of the accredited planning programs in Wisconsin.

APA-WI invites members to contribute to the endowment fund as a way to support the next generation of planners in Wisconsin. Just return this pledge form to APA-WI Treasurer Connie White with your contribution.

Your gift is tax deductible.

Name__________________________
Address________________________
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State____________  Zip __________

Send this form to:

Madison Community Foundation
PO Box 5010
Madison, WI 53705-0010

Make check payable to:
Madison Community Foundation
Milwaukee’s Latest Installment in Food Systems Planning

BY CIARA O’NEILL, EDITORIAL ASSISTANT AND MUP STUDENT
UNIVERSITY OF WISCONSIN - MILWAUKEE

The City of Milwaukee was not successful in winning the Bloomberg “Mayors Challenge” (the winners, announced on March 13, were Providence, Rhode Island, Chicago, Houston, Philadelphia, and Santa Monica. It was Milwaukee’s unlucky Wednesday the 13th.) But the news is not all bad. The Mayor’s Office was already coordinating with stakeholders early this year, making preparations to begin implementing Home Gr/Own in 2013, regardless of the contest’s outcome.

The Home Gr/Own Neighborhood Idea

Many cities are struggling with large inventories of vacant lots and foreclosed homes. Philadelphia has 40,000 vacant lots. Detroit is estimated to have 100,000 vacant lots, 60 percent of them city-owned. Chicago has 14,000. In comparison, Milwaukee’s 3,000 city-owned vacant lots seems less daunting, but to neighborhoods pocked with abandonment, this is a big problem. The city also has 956 foreclosed homes, 750 of which were obtained in 2012. Many of these parcels are clustered together in certain neighborhoods.
neighborhoods, and the residents face health issues brought on by poor nutrition and low-access to fresh produce.

The central idea of the Home Gr/Own program is urban homesteading, where the City will transfer property management of a lot or foreclosed home to a qualified individual or entity interested in developing the land for an agricultural use. Standing structures will either be torn down and the lumber reused for raised-bed gardening or rehabilitated for rainwater harvesting, food processing, and other uses. The idea seeks to form an intricate and supportive web of activity that in the long term will add value back to depressed neighborhoods while strengthening community health (Home Gr/Own Milwaukee, 2012).

According to Magda Peck, dean of the UWM School of Public Health, the real strength of Home Gr/Own is that, “it connects the dots. It’s not just about food production, food supply, food access. It is about the ability to be able to eat well, eat long and be healthy from generation to generation” (Schumacher, 2012).

Planners should be nearly as interested in the proposal process as the proposal itself. Tournavation, held back in August, was a call for proposals to be submitted to the City and was a successful and invigorating example of public participation. The final product, Home Gr/Own, owes much of its character to the other nine Tournavation finalists, including Social Enterprise cafes, the focus on aquaculture, food processing, engaging veterans, and using GIS to make it all more efficient.

“I can tell you in my 8 ½ years as mayor we haven’t had a better response to an initiative that we’ve put together,” said Mayor Tom Barrett (Schumacher 2012).

Milwaukee’s Urban Agriculture Scene

The key to Home Gr/Own’s success will be building off of the urban agriculture scene already in place. Many of these groups embody what the proposal aims to accomplish in targeted neighborhoods across the city.

The first success story is the Walnut Way Conservation Corp, a non-profit neighborhood organization founded in 1999, which has been
very active in engaging its neighborhood residents in gardening and nutrition education. Its main goal is neighborhood improvement and local food production while making progress on solving seemingly diverse issues like crime reduction, stormwater management, urban tree canopy, and housing rehabilitation. In Walnut Way, these efforts all come together and reinforce each other through the development of neighbor-to-neighbor relationships.

Another key partner will be Growing Power, which is a non-profit farm that focuses on sustainability and training while seeking innovative solutions for urban farming, such as its planned expansion into a 5-story vertical urban farm. Zoning was approved for this mid-rise structure on the site on Milwaukee’s northwest side. Growing Power’s founder, Will Allen, was one of the top ten finalists in Tournavation last year.

The City is still developing the exact criteria for neighborhood selection, but Home Gr/Own will be first implemented in zipcodes with the highest number of foreclosed properties and “severe nutritional and wellness challenges.” Despite this targeted approach, new ordinances and clarification of the current agricultural code spurred by the new initiative should benefit all would-be gardeners and farmers across the city.

Planning Challenges to Urban Agriculture in Milwaukee and the Rest of the State

Though Home Gr/Own is in reality a collection of strategies and policies rather than one large program, the question still arises at how applicable or relevant it can be to communities that have not already made urban agriculture a priority. This is the first main challenge to planning for urban agriculture.

In 2012 the EPA audited Milwaukee’s agriculture code with mostly positive results and credit for its food production potential and planning. Milwaukee has been updating its code to make it easier for residents, non-profits, and businesses to operate; 98% of the city is zoned to allow agriculture use, with beekeeping, backyard hens, hoop houses and use of vacant lots permitted. This type of zoning and allowances would not be possible, however, without broad public support, the kind Milwaukee proved again with its recent Sustainability Plan survey, wherein Food Systems was chosen as one of the top priorities.

Meanwhile, many municipalities across Wisconsin have waged battles over whether to allow backyard chickens. Some cities, like Green Bay and La Crosse, have permitted it while others like Eau Claire have argued fiercely before voting it down. In some communities, keeping chickens or encouraging larger agricultural outfits meets substantial opposition and worries about noise, unsanitary conditions, and damage to property values.

The next main obstacle to promoting local food systems is getting the zoning ordinances right. Cities can address agriculture in two ways,
as a “district” or “use.” According to the EPA code audit, a “use” approach is preferable, because it “encourages the citywide distribution of agriculture and agriculture-related uses, particularly in residential and industrial districts.” (EPA, 2012)

Other zoning conflicts include the allowance of gardening on vacant lots and, related, the construction of secondary structures such as storage sheds on plots that have no primary structure, i.e. a house. The EPA audit recommended clarifying whether or not such sheds should be permitted on plots that have a primary use, such as agriculture, instead.

The other huge issue is water access. The 2012 growing season, burdened with drought, was hard on produce growing. Experts predict that for smaller urban enterprises that do not have the infrastructure or access to match a commercial rural farm, this kind of drought can be ruinous. “A lot of fresh market farms didn’t have quite the quality for a number of crops.” (Bussan, no date)

Some communities will allow gardeners access to fire hydrants for irrigation; many do not. Milwaukee stopped allowing large gardens to use fire hydrants for irrigation in 2011, in part due to fire safety concerns, and the issue has become a source of much anxiety for the gardening crowd.

**Home Gr/Own’s Long-Term Impact**

The difference between small-scale community gardening and a local commercially viable food production system in cities is significant. Space is a critical issue, of course; the cut-off point for productivity for a commercial farm is about 5 acres. In an urban region, proximity and access to soil and compost, processing facilities, and market is also critical. Home Gr/Own seeks to address these issues.

Or maybe Home Gr/Own’s success will be far less direct. The biggest take away from all this may be the successful engagement of the public in solving community problems. Or the use of technology in implementing the solutions. Or, if nothing else, the proposal illustrates an important tool of planning; that of turning perceived deficits (like vacant lots) into assets.

Surely a mindset that will become more important in the next few decades.

**References**

Bussan, AJ UW-Extension Vegetable Crop Production System Specialist


Thinking of becoming an advertiser in the APA - Wisconsin newsletter?

Contact Nancy Frank for more information. frankn@uwm.edu
GIS-Based Land Suitability Analysis Workshop

Monday, March 25, 2013
9:30 am – 4:30 pm
Madison, Wisconsin

Land suitability analysis (LSA) is an investigation used to determine the fitness of a piece of land for a specified use or for development in general. It is a fundamental analysis for environmental and land use planners as it can integrate a range of natural resource-based and land use policy-based constraints for development. The intent of this workshop is to introduce practitioners to a GIS-based land suitability analysis. The workshop teaches two distinctly different methods of conducting a land suitability analysis. The first method involves analyzing the defined constraints with a raster-based analysis and lets the user incorporate weights to different criteria. The second method involves analyzing the constraints using a vector-based analysis. We will also cover how to obtain and work with different geospatial data for land suitability analysis.

The workshop is designed for individuals who have at least basic GIS knowledge and experience.

The workshop will be free of charge, however, space is limited.

In order to reserve a spot, please answer the following questions and e-mail Amanda Jacobson (my assistant for the workshop) at: amjacobson3@wisc.edu or Asli Gocmen at gocmen@wisc.edu. We will keep track of registration and notify you about whether there is a seat for you in the workshop or whether your name will be kept in a waiting list.
Law Update

January Case Law Update
January 31, 2013

By Brian Ohm
Department of Urban and Regional Planning
APA-WI Vice President for Chapter Affairs
University of Wisconsin - Milwaukee

[A summary of published Wisconsin court opinions decided during the month of January related to planning]

Wisconsin Supreme Court Opinions

Attorney Invoices Are Public Records

In Juneau County Star-Times v. Juneau County, 2013 WI 4, the Wisconsin Supreme Court held that invoices from a private law firm representing Juneau County in an employment dispute are public records under the Wisconsin Public Records Law.

Wisconsin Court of Appeals Opinions
Court Upholds Variance Denial for a 200+ Home Development

In Michaels v. Town of Farmington the Wisconsin Court of Appeals upheld the denial of a variance for a large residential development. The case is unpublished (meaning it has limited precedent) but it is an interesting read nonetheless.

The Michaelses operated a 340-acre dairy farm since the 1970s in the Town of Farmington located in Washington County. The town has its own zoning and subdivision ordinances. In 2005, the Town adopted a new zoning code and revised its subdivision ordinance. The zoning ordinance established a five-acre minimum lot size for the Michaels’ property and the subdivision ordinance established a rate of development standard limiting the number of building permits that could be issued on an annual basis.

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APA National Dues
(mandatory for regular members)

Choose the range that reflects your salary and other professional income. APA and its members operate with integrity. Our salary-based dues structure depends on that integrity. Records are kept confidential.

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Division Dues
(optional)

Each division is $25 for regular members; $10 for students.

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APA also offers affordable group planning board membership to agencies that enroll multiple commissioners. Learn more at www.planning.org/join/commissioners/index.htm.

Round percentages of APA National Dues to the nearest dollar:
- Includes Washington, D.C., Montgomery County, Md., and Prince George’s County, Md.
- Includes Maine, New Hampshire, and Vermont.
- Includes Montana, North Dakota, South Dakota, and Wyoming.
The Michaelses hoped to sell their land to fund their retirement. They applied to the board of zoning appeals (BOZA) for a variance to allow them to develop over 200 building sites of 1½ acre each. The Town Board refused to convene the town board of appeals. The Michaelses sued and the court ordered the Town to convene the BOZA. The BOZA denied the request on the basis that the Michaelses’ actual goal was a rezoning. The Michaelses then appealed the BOZA’s denial to the circuit court. The court remanded the case to the BOZA and ordered the BOZA to state the reasons for denying the variance. The BOZA clarified its reasons for the denial stating that the variance was based solely on economic considerations and did not meet the unnecessary hardship standard. The Michaelses again appealed the BOZA’s decision. The circuit court upheld the denial of the variance. The Michaelses then brought this appeal to the Wisconsin Court of Appeals.

On appeal, the Michaelses made the argument that the zoning was so restrictive it constituted an unconstitutional permanent moratorium and that “nothing in the record support[s] the proposition that five-acre zoning will preserve agricultural uses any more effectively than 1 or 1½ acre zoning” and that the 5 acre zoning will result in a “vista of scattered, unregulated McMansions.” The Court of Appeals responded: “True or not,” the Michaelses failed to demonstrate unnecessary hardship (the standard for granting a variance).

**Determination of Just Compensation for Taking of Easement Must Consider Injury to the Property as a Whole**

**Savage v. American Transmission Co., LLC.** involved a condemnation action brought by the American Transmission Company (ATC) to acquire an easement adjacent to an existing power line owned by ATC. In 2007, ATC began the process of acquiring a 20.32-foot-wide easement adjacent to the existing power line to “secure aerial rights to add additional conductors (wires) to an existing transmission line.” The easement included the express provision that ATC “shall not place any structures” within the easement without the fee property owner’s written consent. The easement also prohibited the fee owner from placing any dwelling, structure, fixtures, trees, or shrubs” within the easement area, including any below-ground water, sewer, or drainage facilities, without the express written consent of ATC. The easement also prohibited the fee owner from changing the grade of the land within the easement area by more than one foot without ATC’s consent.

During the eminent domain process, the circuit court interpreted the easement to involve a loss of only “aerial rights” and precluded the fee owner from offering testimony as to the value of his “whole” property before and after the taking of the easement. On appeal, the Wisconsin Court of Appeals held that the circuit court erroneously precluded the fee owner and his appraisal experts from testifying as to the value of the whole property on a before and after basis: “Any factor related to an easement condemnation that affects the fair market value of property and that could influence the decision of a prospective buyer should be considered in the valuation.” As further stated by the Court: “[I]t is proper public policy that a private citizen whose property is taken has the statutory right to have just compensation determined by a jury of his or her peers rather than by an arm of the same government that authorized the taking of the citizen’s property in the first place.”

The Court of Appeals reversed the circuit court and remanded the case for a jury trial as to the amount of just compensation. The case is recommended for publication in the official reports.
Notice Based on Information in Record Sufficient in Tax Lien Foreclosure Action

*Juneau County v. Associated Bank* involved an appeal of a tax lien foreclosure action initiated by Juneau County on numerous parcels in the county with tax delinquencies. Associated Bank held a mortgage on two of the properties. The County sent notice of the foreclosure action to Associated Bank at the address listed in the mortgage records in the office of the register of deeds (P.O. Box 208, Stevens Point, Wisconsin 54481). The notice was acknowledged by someone on behalf of the bank but the bank never appeared or filed an answer in the foreclosure action. The circuit court entered judgment for the county, passing ownership of the property to the county.

On appeal, Associated Bank sought to void the foreclosure judgment by arguing that the County failed to provide notice to a different address (1305 Main Street, Stevens Point, Wisconsin 54481). The Court of Appeals disagreed. The Court held that the County is under no obligation to go beyond the information contained in the recorded documents to ascertain the address of parties who appear in the County’s records as having an interest in the property subject to foreclosure proceedings.

The case is recommended for publication in the official reports.

Building Permits and the Amish

*Eau Claire County v. Borntreger* is another unpublished case of interest. The case involved an action brought by Eau Claire County to order the defendant to comply with the County’s building code. The defendant failed to respond and the circuit court entered a default judgment against the defendant. About a month-and-a-half later, the defendant, now represented by an attorney, asked the court to reopen the judgment due to excusable neglect and the existence of a meritorious defense. The defendant, a bishop in the Amish Church, argued that his religious beliefs prevented him from complying with the County’s building code. As an example, the defendant noted the code requirement for smoke detectors was problematic because the Amish do not use smoke detectors. The Wisconsin Court of Appeals, however, found that the smoke detector requirement was not at issue in the case. Rather the case focused upon the application of the building code to insure structurally sound buildings. Since the defendant failed to establish a religious reason for not following the structurally sound code requirements, the defendant had not established a valid religious-based reason for not following the code.

Agricultural Use Value Assessment and Urban Lands

In yet another unpublished case of interest, *Miller v. City of Monona*, the Wisconsin Court of Appeals reviewed a property owner’s challenge to their tax assessment based on the argument the City of Monona incorrectly classified the property as residential use instead of the agricultural use classification. The property is unimproved though the property owner had tried to build condominiums on the property. The property owner leased the property to different individuals for $100 over a two-and-a-half year period who attempted to grow some corps on the vacant land.

The use value assessment law requires that land must be “devoted primarily to agricultural use” for the production season of the prior year and not in a use that is incompatible with agricultural use. The city assessor determined that there was no evidence that the tenants harvested crops for actual farm purposes. The assessor observed a garden that covered about one-quarter of the property. The property owner, however, provided little specific testi-
mony about whether there was any evidence of agricultural use but admitted the tenants had little success in cultivation efforts. Based on the lack of evidence of agricultural use, the Court of Appeals determined that the assessor’s classification of the property was reasonable.

Northwest District News

Submitted by Dennis Lawrence, AICP, APA-WI Northwest District Representative

Each year there are many plans completed throughout the nation, state, and district, but only some are fortunate to receive peer recognition. In 2012, two Northwest communities received that recognition.

The American Planning Association's Small Town and Rural Division presented the City of Mosinee its 2012 Outstanding Comprehensive or Special Project Plan award for the Mosinee Downtown Development Plan. This project arose from a traffic study in preparation for the reconstruction of State Highway 153 through the city’s downtown, which suggested a reconfiguration of the circulation pattern into an unbalanced one-way pair. Local officials, business leaders, and residents all came together with the goal of rejuvenating the downtown as a destination.

The plan looks at current land use, property values, conditions of existing buildings, and opportunities for the downtown area. A shortage of retail outlets in the downtown mix was identified and a reconfiguration of on-street parking was determined. Redevelopment opportunities were also identified along with suggested facade restorations. Three significant recommendations came out of the plan: 1) redeveloping a surface parking lot in the center of the downtown as a commercial/office building; 2) maintaining parking along Main and Pine Streets to compensate for lost parking; and 3) establishment of a downtown destination that could be used for special events. The destination place envisioned is a Heritage Centre which would celebrate Mosinee’s role in the timber and paper industries. Along with a new bike trailhead near the river, it is hoped that the Heritage Centre will strengthen the city’s visitor appeal. The plan and award presentation can be viewed on the City’s website.

This planning effort has already spurred change in Mosinee. The City has recently acquired the parking lot and developers are in the process of developing the site, WisDOT has agreed to maintain parking along the reconstructed highway, and the local historical group is considering moving forward with the Heritage Centre project.

Also awarded last year was a Northwest District recognition award to the City of Eau Claire for its recent Bicycle and Pedestrian Plan. The plan provides a detailed analysis of the existing conditions with respect to pedestrian and bicycling facilities and provides specific recommendations for the City to address deficiencies. The plan was prepared by the City’s Community Development and Public Works Departments under the direction of the Eau Claire Pedestrian and Bicycle Advisory Commission (BPAC). Preparation of the plan was one of several pedestrian/bicycle-related recommendations contained in the City’s Comprehensive Plan.

The overall objective of the plan is to “Establish bicycling, pedestrian, and other non-motorized travel as a viable, convenient, and safe transportation and recreational choice throughout the City of Eau Claire, which will contribute to the quality of life in Eau Claire, sustainability of the environment, and health of all residents.” Development of the plan was based on input from community individuals and organizations having varying interests in pedestrian and bicycle-related issues.

Upon adoption of the plan, a variety of activities have taken place, including: All proposed street construction (new and reconstructed) is reviewed by BPAC prior to being forwarded to
the City Council for consideration. BPAC provides recommendations related to pedestrian and bicycle issues and improvements for the street under consideration, and these recommendations are included in the City Engineer’s Report to the City Council. The City Council also adopted a bicycle parking ordinance for new development. The ordinance addresses the general design and placement of bicycle parking facilities, as well as standards for the number of bicycle parking spaces required for a new building, and over 2.6 miles of bicycle lanes have been added within the City.

The adoption of this plan demonstrates the commitment of the City of Eau Claire to provide facilities and programs for pedestrians and bicyclists. Its implementation also sends a strong signal within the community that walking and bicycling are no longer considered as alternative modes of travel, rather they are essential components of the City’s multi-modal transportation system.

Keep up the good work Northwest District Planners! Please feel free to contact me if you have any questions, ideas, or concerns about the Northwest District or APA-WI. I can be reached at 715.849.5510, Extension 304, or at dlawrence@ncwrpc.org.