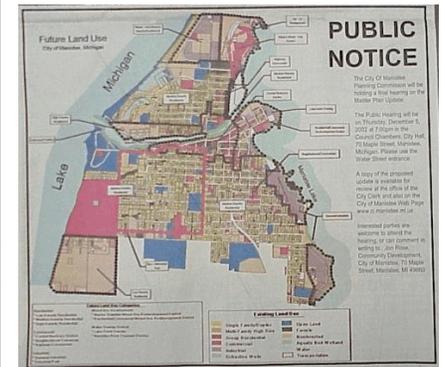
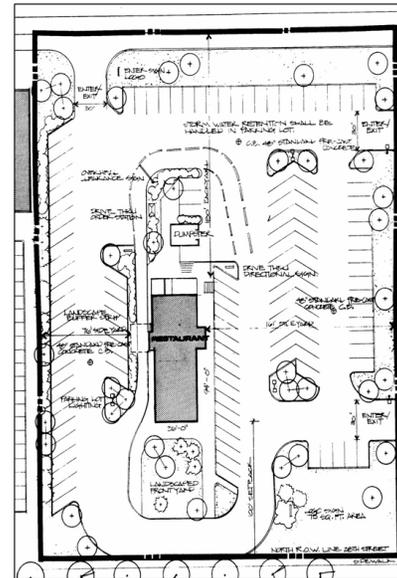


Capital Improvements Review

June 30, 2010



MICHIGAN STATE
UNIVERSITY
EXTENSION

Land Use Team

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Chapter 1: Introduction

The *Community Planning and Zoning Audit* is a comprehensive assessment of local government planning and zoning in Michigan. It covers basic topics and practices that members of every local planning and zoning entity should understand and should be doing. Each chapter of the *Community Planning and Zoning Audit* contains key points in the format of questions, checklists, and tables to assess your community's land use planning and zoning, including the adoption and amendment process, day-to-day administration and record keeping, and decision making about special land uses, planned unit developments, and site plan reviews.

Purpose of the Audit

The *Community Planning and Zoning Audit* is intended for use by local units of government in Michigan to help perform a self-evaluation of the basics of the community's planning and zoning system. The reason for doing an assessment is to learn of shortcomings and problems before they become controversial issues. As a result of going through this booklet, local officials will be alerted to things that need "fixing" and deficiencies in the community's files. The document helps accomplish three objectives:

1. Identify liability risks from not following proper procedures and practices, and not having adequate documentation of those procedures and practices.
2. Learn to better manage the planning and zoning administration in your community.
3. Take corrective steps to improve your planning and zoning system.

Organization and Content

This publication is one of a series of 11 Michigan State University Extension *Community Planning and Zoning Audits* available to walk a community through a performance audit. Topics are:

1. **Basic Setup** (E-3051) makes sure that your planning commission and zoning board of appeals are set up properly and a system is in place to make sure the community keeps up-to-date.
2. **The Plan** (E-3052) reviews the process of plan and plan amendment adoption (to make sure that it was done properly) and reviews of an existing plan to determine if it needs to be updated,

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■ Merritt Brown, CITY ENGINEER & INTERIM PLANNING DIRECTOR, City of Three Rivers, MI

■ Leslie Johnson, EDITOR, MSU Agriculture and Natural Resources Communications.

■ Curt Penny, CHAIR, Planning Commission, City of Three Rivers, Mich.

■ Doug Piggott, AICP, PCP, PLANNER, Rowe Professional Services Company, Flint, Mich.

- and reviews what should be in a plan.
3. **Planning Coordination** (E-3053) covers the process of coordination with neighboring government planning (review of each other's plans); coordination with state, federal and other government agencies; coordination practices; and joint planning commissions.
 4. **The Zoning Ordinance** (E-3054) reviews the process of zoning ordinance and zoning amendment adoption (to make sure that it was done properly) and what needs to be in the file to document that the proper steps were taken. This publication also reviews what should be in a zoning ordinance.
 5. **Administrative Structure** (E-3055) provides a performance audit for the operation of the planning commission, zoning administrator, and zoning board of appeals. It covers office procedures, job descriptions, filing systems, bylaws, rules of procedure, compliance with the Open Meetings Act, minutes, and process for meetings and decision making.
 6. **Special Land Uses** (E-3056) provides a review of the administrative structure for handling special use permits: pre-applications, applications, public notification, record keeping, and use of standards in making decisions.
 7. **Planned Unit Development** (E-3057) provides a review of the administrative structure for handling planned unit development handled as a special use permit and as a zoning amendment: pre-applications, applications, public notification, record keeping, and use of standards in making special use decisions or basis in the plan for zoning amendment decisions.
 8. **Site Plan Review** (E-3058) provides a review of the administrative structure for handling site plan reviews: applications, public notification, record keeping, and use of standards in making decisions.
 9. **Capital Improvement Program** (E-3104) provides a review of

the process of creating an annual capital improvement program (CIP).

10. **Subdivision and Land Splitting Reviews** (E-3105) provides a review of the administrative structure for handling land divisions, subdivisions or plats, site-condominiums, lot splits, and certified plats: preapplication meetings with the developer, public notification, plat review, record keeping, and use of standards in making decisions.
11. **Capital Improvements Review** (E-3106) provides a review of the process for the planning commission to review and comment on local government construction projects (which are otherwise not subject to zoning), and outlines how this review can be used as a constructive way to ensure that government-funded projects comply with the adopted plan and local ordinances.

Each of these *Community Planning and Zoning Audits* is available at <http://web2.msue.msu.edu/bulletins/subjectsearch.cfm> and www.msue.msu.edu/lu, and from your county Extension office.

How to Use the Audit

The *Community Planning and Zoning Audit* is not difficult to complete. However, it does take time and the ability to search for and find various records in your local government. The actions taken as a result of this exercise should help reduce liability risk and improve your community's planning and zoning program.

The *Community Planning and Zoning Audit* can be utilized by local units of government in a variety of ways. A community can go through this booklet as a group (e.g., the planning commission or a subcommittee), or a community can have an individual do so. The advantage of performing the assessment as a group is that reviewing the community's documents and files in detail is a great educational experience for local officials. Alternatively, a staff person within the planning department may be able to perform the audit quicker because

of having greater familiarity with how the unit or government maintains its records.

Additionally, a community can perform the *Community Planning and Zoning Audit* with certain chapters reviewed by various groups or individuals. For instance, the planning commission could review a few chapters of the audit while the zoning board of appeals addresses another set, and the legislative body performs the evaluations in the remaining chapters. Regardless of the approach taken, the main idea is to take the time to find out where various documents are and to make sure that proper documentation is on file. Then, where necessary, take action to correct any shortcomings.

Upon completion, if your community still has questions or wants help, please contact your county Extension office. They can contact the Michigan State University Land Use Team to provide further assistance and educational programming.

Organization and Content

This *Community Planning and Zoning Audit* contains the following chapters:

1. Introduction.
2. Capital Improvements (a.k.a. Public Works) Review.
3. Smart Growth.

The audit is based on Michigan Public Act 110 of 2006, as amended (the Michigan Zoning Enabling Act, M.C.L. 125.3101 *et seq.*), Public Act 33 of 2008 (the Michigan Planning Enabling Act, M.C.L. 125.8101 *et seq.*), recommendations from members of the MSU Extension Land Use Team, and “best planning practices” derived from a proposed Coordinated Planning Act developed by the Michigan Association of Planning.

The *Community Planning and Zoning Audit* is not designed to be a substitute for reading and understanding the Michigan Zoning Enabling Act or the Michigan Planning Enabling Act. Nor is this

document a substitute for legal advice or for professional planner services. It is important to document each step of the process in planning and zoning a community. Keep detailed minutes, affidavits of publication and mailing, open meeting notices, letters of transmittal, and communications all on file so that years from now they are still available.

Defined Terms

“*Appeals board*” means the zoning board of appeals (ZBA).

“*Certified*” (resolution, minutes, ordinance, etc.) means that the keeper of the records for the local unit of government (secretary of the planning commission or clerk of the local unit of government for the planning commission or the clerk of the municipality for the legislative body) provides an affidavit that the copy provided is a true and accurate copy of the document.

“*Elected official*” means a member of a legislative body.

“*Legislative body*” refers to the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or any other similar duly elected representative body of a county, township, city, or village.

“*Local unit of government*” means a county, township, city, or village.

“*Municipality*” means a city, village, or township.

“*Plan*” means any plan or master plan adopted under the Michigan Planning Enabling Act or one of the three former planning acts, regardless of what it is titled.

“*Planning commission*” means a zoning board, zoning commission,¹ planning commission, or planning board.²

¹On or before July 1, 2011, the duties of the zoning commission or zoning board shall be transferred to a planning commission. Thus, the zoning commission or zoning board will no longer exist (M.C.L. 125.3301(2)).

²After September 1, 2008, “planning boards” needed to be named “planning commissions” even if a charter, ordinance, or resolution says otherwise (M.C.L. 125.3811(1)).

Chapter 2: Capital Improvements (a.k.a. Public Works) Review

The purpose of this chapter is to help determine if legal requirements are being followed and best planning practices are being used in review of proposed capital improvements. The planning commission's capital improvements review is also sometimes referred to as "public works review", "infrastructure review", or "public capital expenditures review". The term "capital improvements review" is used throughout the audit to show the parallel between the planning commission's duty to prepare an annual capital improvements program (CIP) (unless exempt) and to regularly review the expenditure of public funds on proposed capital improvements, public works, or infrastructure. These planning commission duties are distinct and separate. Please note that another audit (*Community Planning and Zoning Audit #9*) details the process for preparing a capital improvements program (CIP).

After adopting a master plan, the planning commission is responsible for reviewing proposed capital improvements. The purpose of this requirement is to ensure that capital improvements are consistent with the land uses and infrastructure policies in the master plan. The planning commission's role is advisory only; but it can be instrumental in ensuring that public money on new capital improvements is being spent in a manner consistent with the plan.

The Michigan Planning Enabling Act, P.A. 33 of 2008 (M.C.L. 125.3801 *et seq.*), requires in Section 61(1) that:

A street; square, park, playground, public way, ground, or other

open space; or public building or other structure shall not be constructed or authorized for construction in an area covered by a municipal master plan unless the location, character, and extent of the street, public way, open space, structure, or utility have been submitted to the planning commission by the legislative body or other body having jurisdiction over the authorization or financing of the project and has been approved by the planning commission.

Similar language exists in Section 61(2) for county planning commissions. For the purposes of this audit, these types of projects will be referred to as "proposed capital improvements", and the required planning commission reviews of these types of projects will be called "capital improvements reviews".

To conduct this audit, you will need the following:

1. An individual(s) familiar with past practices and the history of conducting capital improvements reviews.
2. A copy of your plan and capital improvements program (if applicable).
3. A copy of the comments made by your planning commission during a past capital improvements review.
4. Minutes of planning commission meetings during which the capital improvements review took place.
5. A copy of the Michigan Planning Enabling Act.

Capital Improvements Review

Question	Affirmative (we are doing it) answer	Negative (need to correct) answer	Action to correct has been done
<p>1. Does the legislative body (or other bodies having jurisdiction over the authorization or financing of projects) submit information regarding the location, character, and extent of proposed capital improvements to the planning commission for review and approval?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> Doing so is required by the Michigan Planning Enabling Act. Start the practice of doing so immediately (see <i>Land Use Series</i>, “Checklist #1K: Review of Infrastructure and Public Capital Expenditures” at www.msue.msu.edu/lu).</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>2. When performing the capital improvements review, does the planning commission consider whether the proposed capital improvement is consistent with the adopted plan(s) of your jurisdiction?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> This best planning practice should be started right away.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>3. When performing the capital improvements review, does the planning commission consider whether the proposed capital improvement is consistent with the adopted capital improvements program of your jurisdiction, if any?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> This best planning practice should be started right away.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>4. When performing the capital improvements review, does the planning commission consider whether the proposed capital improvement is consistent with the adopted plan(s) of each adjacent municipality?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> This best planning practice should be started right away.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>

Question	Affirmative (we are doing it) answer	Negative (need to correct) answer	Action to correct has been done
<p>5. When performing the capital improvements review, does the planning commission consider whether the proposed capital improvement is consistent with the adopted plan(s) of the county?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> This best planning practice should be started right away.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>6. Does the planning commission approve or disapprove the proposed capital improvement within 35 days after submission and submit its reasons for approval or disapproval to the body having jurisdiction over the authorization or financing of the project?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> Doing so is required by the Michigan Planning Enabling Act. Start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>7. Does the planning commission conduct a formal review of the proposed capital improvement and act by adoption of a motion that includes findings of fact, recitation of reasons, and the action?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> Doing so is required by the Michigan Planning Enabling Act. Start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>8. If the planning commission fails to respond within 35 days of submission of the proposed capital improvement to the planning commission, is the proposed capital improvement considered to be approved by the planning commission?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> Doing so is required by the Michigan Planning Enabling Act. Start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>9. For a city, village, or township created under former P.A. 285 of 1931 (the repealed Municipal Planning Act): if the planning commission's action is to disapprove the proposed capital improvement, is the body having jurisdiction over the authorization or financing of the proposed capital improvement given the opportunity to overrule the planning commission by a vote of not less than two-thirds of its entire membership?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> Doing so is required by the Michigan Planning Enabling Act. Start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>

Question	Affirmative (we are doing it) answer	Negative (need to correct) answer	Action to correct has been done
<p>10. For a township planning commission created under former P.A. 168 of 1959 (the repealed Township Planning Act): if the planning commission's action is to disapprove the proposed capital improvement, is the body having jurisdiction over the authorization or financing of the proposed capital improvement given the opportunity to overrule the planning commission by a vote of not less than the majority of its entire membership?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> Doing so is required by the Michigan Planning Enabling Act. Start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>

For a county planning commission or a township planning commission that was created under former P.A. 168 of 1959 (being the repealed Township Planning Act), the questions end here (do only questions 1-10). Skip to page 11.

For a city or village planning commission or a township planning commission that was created under former P.A. 285 of 1931 (the repealed Municipal Planning Act) before September 1, 2008, the process continues (do questions 1-10 and 11-19) if the legislative body chooses to rescind or revoke its authorization of a proposed capital improvement that was previously approved by the planning commission.

<p>11. Is the proposed capital improvement resubmitted to the city or village planning commission for the planning commission to consider on the rescission? (A proposed capital improvement previously recommended for approval by a city or village planning commission may be rescinded, or revoked, by a city or village legislative body; however, the legislative body shall not rescind its authorization for a previously approved capital improvement unless the matter has been resubmitted to the planning commission and the rescission has been approved by the planning commission.)</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> Doing so is required by the Michigan Planning Enabling Act. Start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
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Question	Affirmative (we are doing it) answer	Negative (need to correct) answer	Action to correct has been done
<p>12. After the recision is resubmitted to the planning commission, does the planning commission hold a public hearing on the recision of the proposed capital improvement and do all of the following?</p> <ul style="list-style-type: none"> a. Give notice of the public hearing in a local newspaper of general circulation not less than 15 days before the recision will be considered. b. Describe in the notice the nature and location of the proposed capital improvement being considered for recision. c. Include in the notice a statement of when and where the recision will be considered and when and where written comments on the recision will be received. 	<p>Yes <input type="checkbox"/></p> <p>Good. Go to the next question.</p>	<p>No <input type="checkbox"/></p> <p>A public hearing is required by the Michigan Planning Enabling Act, but notice requirements for a public hearing on a recision are not specified. Recommended best practice is to give notice of this public hearing in a manner consistent with other public hearing notice requirements.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done.</p> <p>Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>13. Do you have on file a copy of the planning commission's public hearing notice published in a local newspaper of general circulation?</p>	<p>Yes <input type="checkbox"/></p> <p>Good. Go to the next question.</p>	<p>No <input type="checkbox"/></p> <p>Filing a copy of the newspaper notice is recommended but not required. If desired, start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement needed to be done.</p> <p>Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>14. Do you have on file a copy of the affidavit of publication of the planning commission's public hearing notice in the local newspaper?</p>	<p>Yes <input type="checkbox"/></p> <p>Good. Go to the next question.</p>	<p>No <input type="checkbox"/></p> <p>This is recommended but not required. If desired, start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement needed to be done.</p> <p>Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>

Question	Affirmative (we are doing it) answer	Negative (need to correct) answer	Action to correct has been done
<p>15. Is notice of the planning commission’s public hearing sent by mail to each electric, gas, and pipeline public utility company, each telecommunication provider, each railroad operating within the affected area, and any government entity that registers its name for the purpose of receiving copies of your community’s master plan?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> This is recommended but not required. If desired, start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement needed to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>16. Do you have on file a certified copy of the minutes of the planning commission’s public hearing?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> Doing so is required by the Open Meetings Act. Hold another public hearing and again review the proposed recision.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement needed to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>17. After the recision is resubmitted to the planning commission, does the planning commission approve or disapprove the recision of the proposed capital improvement within 63 days and submit its reasons for approval or disapproval to the legislative body?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> Doing so is required by the Michigan Planning Enabling Act. Start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement needed to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>18. If the planning commission’s action is to disapprove the recision of the proposed capital improvement, is the legislative body given the opportunity to overrule the planning commission by a vote of not less than two-thirds of its entire membership?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> Doing so is required by the Michigan Planning Enabling Act. Start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement that needs to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>
<p>19. If the planning commission fails to act within 63 days after submission of the proposed recision to the planning commission, is the recision of the proposed capital improvement considered to be approved by the planning commission?</p>	<p>Yes <input type="checkbox"/> Good. Go to the next question.</p>	<p>No <input type="checkbox"/> Doing so is required by the Michigan Planning Enabling Act. Start the practice of doing so immediately.</p>	<p>Check this box: <input type="checkbox"/> to indicate this is an improvement needed to be done. Check this box: <input type="checkbox"/> to indicate when improvement is done.</p>

Chapter 3: Smart Growth

The purpose of this section is to provide basic information and introduce communities to the 10 tenets of smart growth. Covered here are the basics necessary for the administration and operation of zoning. If your community is interested in incorporating the principles of smart growth into its ordinances and develop according to the smart growth principles, the Smart Growth Readiness Assessment Tool (SGRAT) can be used to guide your community through an evaluation of the plans and implementation tools currently used to guide growth. This assessment can also help your community identify tools that may help produce a smart pattern of growth in the future.

This document represents the first stage of a community assessment. To go on to the next step in assessing your community's planning and zoning, you should review the Smart Growth Readiness Assessment Tool on the Internet. Go to <http://www.landpolicy.msu.edu/sgrat/>.

1. The Governor's Land Use Leadership Council used the following smart growth tenets³ for many of the recommendations contained in its report on land use in Michigan. These 10 tenets can form the basis for establishing a set of state land use goals.
 - a. Mix land uses.
 - b. Compact building design.
 - c. Increase housing choice.
 - d. Encourage walking.

³Smart Growth Network. *Getting to Smart Growth*. Washington, D.C.: Smart Growth Network. [Online, cited 8/3/03.] Available at: <http://www.smartgrowth.org/PDF/GETTOSG.pdf>.

For more detail and examples, see <http://www.smartgrowth.org/pdf/gettosg.pdf>.

- e. Offer transportation variety.
 - f. Create a sense of place.
 - g. Protect farms, unique natural features, open spaces.
 - h. Direct new development to existing communities.
 - i. Make development process fair, predictable, efficient.
 - j. Involve stakeholders.
2. What is smart growth?
 - a. Smart growth is development that serves the economy, the community, and the environment.
 - b. It provides a framework for communities to make informed decisions about how and where they grow.
 3. Why smart growth? It makes dollars and sense because it is financially conservative, environmentally responsible, and socially beneficial.
 - a. Financially conservative
 - i. Makes responsible use of public money.
 - ii. Reuses existing buildings.
 - iii. Uses existing roads and highways.
 - iv. Uses existing water/sewer infrastructure.
 - v. Uses higher density to maximize the value of publicly funded facilities and services.
 - vi. Keeps taxes and public service costs low.
 - b. Environmentally responsible
 - i. Uses and/or reuses developed areas.
 - ii. Keeps impervious surfaces to a minimum by concentrating dense development.
 - iii. Builds to fit existing land rather than changing the land to fit what is built.
 - iv. Avoids oversized lots and yards to reduce excessive

- mowing, fertilizing, etc.
- c. Socially beneficial
 - i. Encourages people to live close enough to one another for comfortable interaction.
 - ii. Designs residential areas for conversation from the sidewalk to the front porch.
 - iii. Encourages “eyes on the street” at all hours to reduce crime and fear of crime.

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