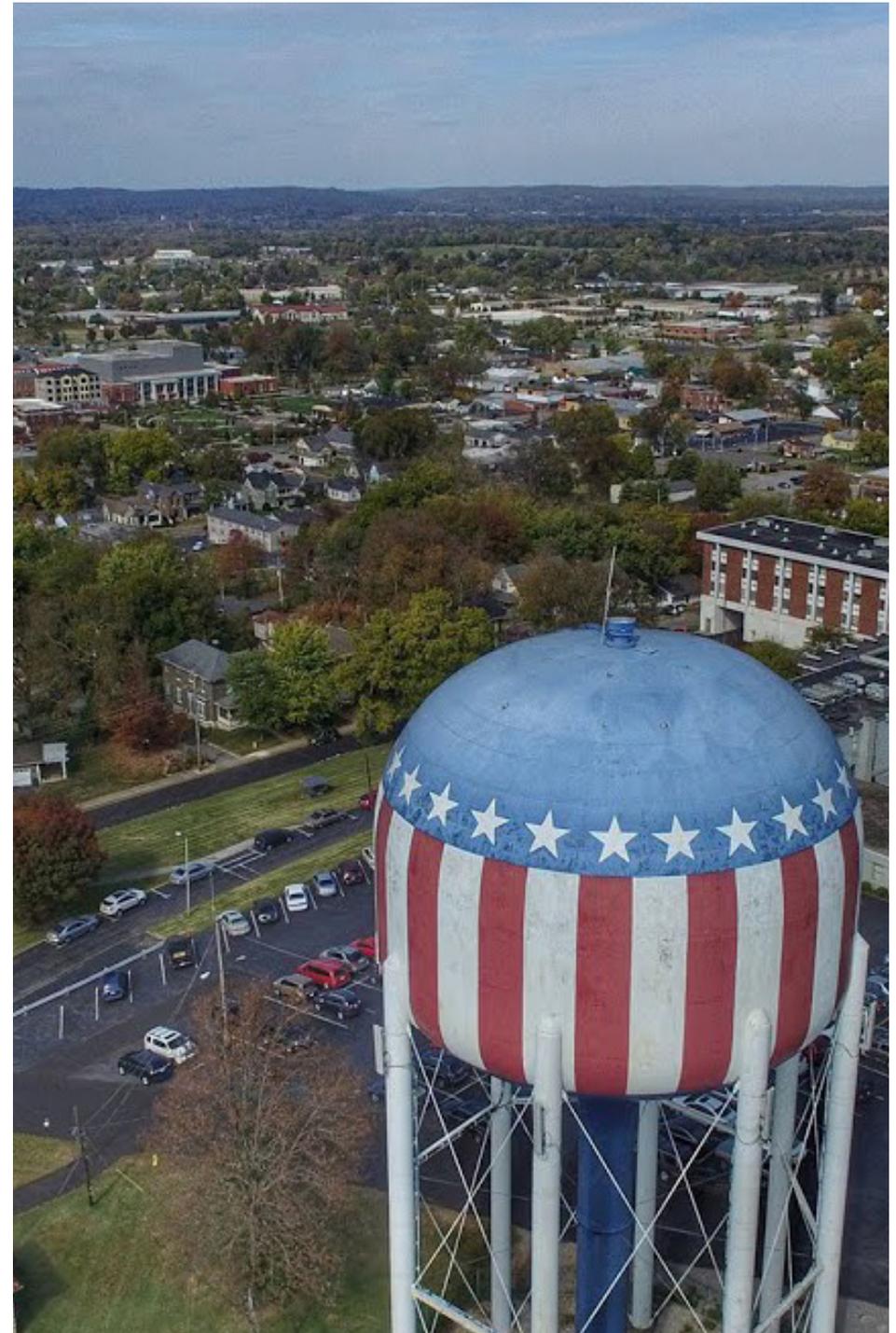




**A PEOPLE'S GUIDE TO PLANNING  
BOWLING GREEN, KY**

## TABLE OF CONTENTS

<b>INTRODUCTION</b>	<b>3</b>
<ul style="list-style-type: none"><li>• How to use this guide</li><li>• Glossary of terms</li></ul>	
<b>SECTION 1: WHAT IS PLANNING?</b>	<b>8</b>
<ul style="list-style-type: none"><li>• Overview of planning and introduction to the key players in the planning process in Bowling Green</li></ul>	
<b>SECTION 2: WHAT IS ZONING?</b>	<b>11</b>
<ul style="list-style-type: none"><li>• The basics of zoning and tips for accessing and understanding land use information in Bowling Green</li><li>• Explanations of some common exceptions and flexibilities of zoning</li></ul>	
<b>SECTION 3: PLANNING LAW</b>	<b>14</b>
<ul style="list-style-type: none"><li>• The power local governments have to plan</li><li>• Federal laws that impact planning, state laws for land use control, and important planning law cases</li></ul>	
<b>SECTION 4: THE FORMAL PLANNING PROCESS</b>	<b>19</b>
<ul style="list-style-type: none"><li>• Comprehensive planning process</li><li>• Development review process</li></ul>	
<b>SECTION 5: IMPLEMENTATION OF PLANS</b>	<b>22</b>
<ul style="list-style-type: none"><li>• Three broad methods of implementation</li><li>• An implementation strategy used in Bowling Green</li></ul>	
<b>SECTION 6: TEAR OUT SUMMARY</b>	<b>28</b>
<ul style="list-style-type: none"><li>• Summary for pocket reference or a handout</li></ul>	



## INTRODUCTION

This guide explains general planning concepts and planning processes for Bowling Green, KY. With this guide, you will obtain common language and knowledge of planning already known to professional planners and developers. This guide is an effort to provide a better understanding of planning as it exists in Bowling Green today.

## HOW TO USE THIS GUIDE

**Residents:** You can use this guide however you feel necessary, but it should help you navigate the local planning process and understand your current role in the planning of your community.

**Community Organizers:** You can use this guide to strategize how you may leverage the planning process to enhance your organizing work in your community. You can also become educated through this document to support a vision, promote ideas, projects and efforts, and become better community advocates to enhance your neighborhoods. This guide may also help you find planning policies or parts of the planning process that could be improved and at what level (federal, state, local) those gaps exist.



## GLOSSARY OF TERMS

All of these terms may not be used in this guide but are common planning terms that you may hear from planners or developers at planning commission or city commission meetings.

**Abut or abutting:** To physically touch at a point or line; or to share a common property line, or zone lot line.

**Accessory dwelling unit (ADU):** A second residence on the property of a single-family house, or second residence within a single-family house (such as an apartment over the garage or a smaller house in the backyard) with its own separate entrance and living space. Sometimes they are called "granny flats" or "mother-in-law apartments."

**Activation:** The addition of amenities, activities or events that encourage people to use or visit parks, public spaces or neighborhoods by "activating" the area.

**Adjacent:** adjacent or adjoining includes all property that borders, directly adjoins or would adjoin the property in the absence of any right-of-way, water body, railroad or other similar public or quasi-public feature

**Alternative transportation:** Travel by means other than a car. Bus, cycling and walking are often grouped together under this heading.

**Amenity:** Benefits that increase the value of a property or area. Amenities can be tangible, such as a pool or recreation center, or intangible such as high neighborhood walkability or access to alternative modes of transportation.



**Bicycle lane:** A separate lane reserved for bicyclists on a street, marked by striping. "Protected" bike lanes include additional barriers to separate car traffic from bicyclists, ranging from plastic posts to a parking lane between the bike lane and the street.

**Bicycle route:** A designated route marked by signage, usually on more lightly traveled residential or secondary roads.

**Block:** A tract of land bounded by platted streets, public parks, cemeteries, railroad rights-of-way, shore lines, or the corporate boundaries of the city.

**Brownfield:** An abandoned, idled or under-used industrial or commercial site where expansion or redevelopment is complicated by real or perceived environmental contamination.

**Building form:** Generally, the shape or configuration of a structure.

**Building form standards or building siting standards:** Standards in the zoning ordinance that regulate the size, dimension and height of buildings on lots. May also include the placement, orientation, and coverage of a building on a lot.

**Built environment:** The collection of man made buildings and structures where a city's residents live and work.

**Bus rapid transit (BRT):** A bus-based transit system with specialized design, services and infrastructure above and beyond traditional bus service (including its own, separate lane) intended to improve system quality and remove the typical causes of delay. BRT is sometimes called "surface subway" and aims to combine the speed and capacity of light-rail with the lower cost of a bus system.

**Capital Improvement Program (CIP):** The pot of dollars available annually for Bowling Green to spend on infrastructure improvements.

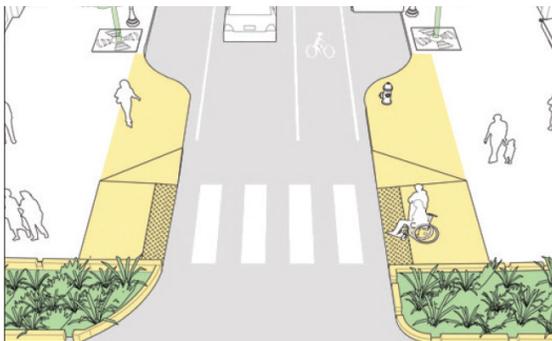
**Common area:** Areas within a building or within a residential development that are available for common use by all owners or tenants. Examples of common areas include: a clubhouse, courtyard; building lobbies, corridors, and stairways; parking areas; laundry room; roof; or storage rooms.

**Conditional use:** A use specifically named in the zoning ordinance which may be limited to specific locations and/or by the requirement that certain conditions be met. Such conditions may be set forth generally in the zoning regulations and/or may be specifically established on a case-by-case basis by the Commission or board of adjustment. Such conditions may include limitations on the hours of operation and other time limitations, and other requirements of a continuing nature as well as requirements which are made a condition precedent to the construction of a building or the commencement of a use.

**Connectivity:** This term refers to how well a transportation network is connected, based on the number and density of connections or links as well as how direct the connections are from Point A to Point B.

**Context:** The setting or conditions in which planning and community growth/development take shape.

**Curb bump-outs:** Extensions of the sidewalk into the street usually used to shorten crossing distances and make it easier for pedestrians to cross the street safely. These can also be called "bulb-outs" or "curb extensions."



**Curb cut:** A ramp leading smoothly down from a sidewalk to the street, rather than an abrupt step down to the street. Driveways are common examples of curb cuts, but a curb cut can also refer to a wheelchair-accessible ramp from the sidewalk to the street often found at the end of blocks and/or at crosswalks.

**Development plan conditions:** Also sometimes called binding elements. Refers to voluntary restrictions on the property imposed at the time of rezoning to make the proposal more compatible with the surrounding area. These are conditions that must be met in addition to the zoning ordinance.

**Dwelling:** Any building or portion of building that is used as the residence of one or more households, but not including hotels and other lodging accommodation uses, hospitals, tents, or similar uses or structures providing transient or temporary accommodation with the exception of an accessory short-term rental.

**Eyes on the street:** The concept that activating an area and increasing the number of people (and eyes) present has a positive effect on undesirable behavior.

**Façade:** Any exterior wall surface located at the ground level of a building that encloses the interior of the building.

**Frontage:** The part of someone's property that touches the street.

**Green streets:** Streets with additional landscaping, often linking parks.

**Historic site:** A building, structure or site having a special historical, architectural cultural or aesthetic value. The land on which a landmark and related buildings and structures are located and the land that provides the grounds, the premises or the setting for a landmark.

**Infill:** Development on vacant lots in areas of the city where there are existing buildings and other development.

**Infrastructure:** Public improvements such as roads and traffic signals, sidewalks and bicycle paths, water and sewer lines, power and telecommunication lines.

**Land bank:** Acquisition of land, typically by a local government or non-profit corporation, to be held for future development.

**Land-use planning:** The process by which the city creates a vision for the city or a smaller area by setting goals or guidelines for how property may be used and what types of buildings and structures may be built there.

**Mass transit:** The general term used to identify bus, fixed rail, or other types of transportation service available to the general public that move relatively large numbers of people at one time.

**Mixed-use development:** The development of a site or building with two or more different principal or primary uses including, but not limited to residential, office, manufacturing, retail, public or entertainment uses.

**Mobility:** The ability of people to move around as part of their daily routines.

**Mode (of transportation):** A particular form or method of travel, for example, walking, driving, bicycling, or public transit (bus or train).

**Multi-modal:** The issues or activities that involve or affect more than one mode of transportation or a path that can be traversed through different forms of travel. Includes transportation connections, choices, cooperation and coordination of various modes. Also known as "intermodal."

**Neighborhood character (or "context"):** The defining physical characteristics, such as lot size, setbacks and scale that identify an area or community.

**Non-conforming structure:** A structure or building that was lawful prior to the adoption, revision, or amendment to the

zoning ordinance, but that fails to conform to the present requirements of the current zoning code because regulations changed since the building of the now, "non-conforming" structure.

**On-street/off-street parking:** On-street parking refers to parking within the right-of-way of a public street, typically in designated parallel or diagonally striped spaces adjacent to moving traffic lanes. Off-street parking refers to parking on a surface lot or parking structure that is off the public right-of-way.

**Open space:** Space that is clearly intended to be usable, publicly accessible, and a visual amenity, but not including parking lots or vestigial landscaped areas left over after the placement of buildings and parking on a zone lot. Publicly accessible open space may be publicly or privately owned, managed or maintained.

**Overlay zone district:** A set of additional zoning requirements that are mapped and imposed on top of the underlying zone district. Development within an overlay zone must either meet the requirements of both the zoning in place and the additional overlay zoning, or the more restrictive of the two.

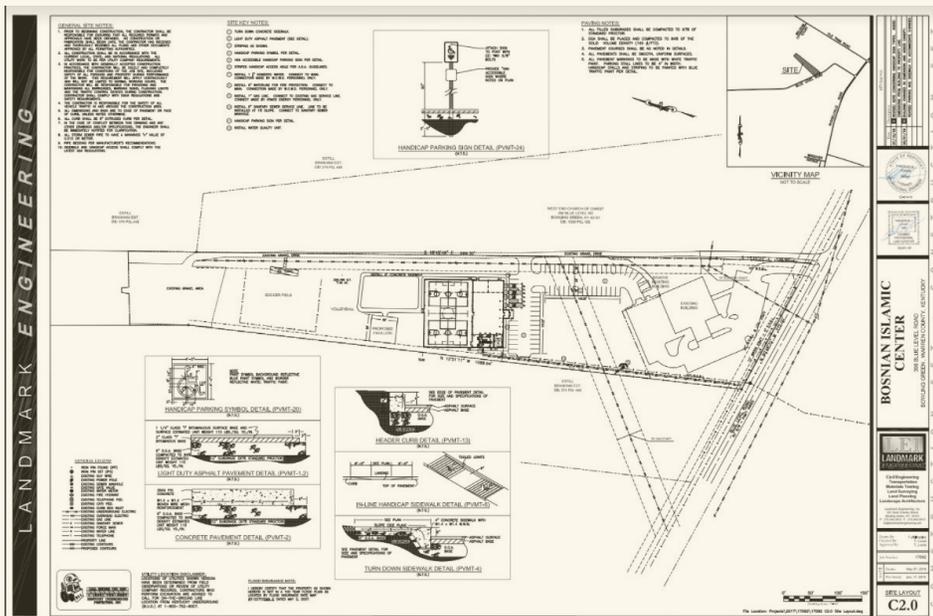
**Parcel:** A tract or plot of land defined by specific boundaries. Parcels are owned by a person or entity and are used by the Assessor for tax purposes. Parcels are different from "zone lots" as zone lots define what can happen on the land while parcels tell us who owns them.

**Placemaking:** An approach to planning for a space, neighborhood or area that capitalizes on community assets and potential to create spaces that encourage activity, community engagement and wellness.

**Planned unit development (PUD):** A development of land under unified control which is planned and carried out as a whole, or programmed in a series of development stages and which adheres to a development plan approved by the Planning Commission. The development may include a mixture of land uses, clustering of residential units of varying types, and common recreational/open space and other site features and improvements through flexible regulations which encourage creative design.

**Resiliency:** The ability of a community to adapt to both internal and external social, economic and environmental challenges without adverse effect to its residents, essential functions and identity.

**Site development plan:** A specific development plan for a zone lot, use, or building, specifying how the entire site will be developed including, but not limited to, building envelopes, uses, densities, open space, parking/circulation, access, drainage, building area, landscaping, and signs.



Site Development Plan for 396 Blue Level Rd Bowling Green, KY

**Stormwater drainage:** Infrastructure that controls surface runoff from snow and rain. Infrastructure includes alleys, curbs, and gutters, and intersection drainage in addition to underground pipes.

**Transferable Development Rights:** Transfer of Development Rights (TDR) is a zoning technique used to permanently protect land with conservation value (such as farmland, community open space, or other natural or cultural resources) by redirecting development that would otherwise occur on this land (the sending area) to an area planned to accommodate growth and development (the receiving area).

**Urban Design:** Involves the social, economic, functional, environmental, and aesthetic objectives that result in the plan or structure of a city, in whole or in part.

**Variance:** A minor exception to the zoning code decided by the Board of Adjustments on a case by case basis. A variance could be that someone is approved to have a shorter setback in the front of their property than is normally allowed due to a natural feature of the land that prohibits them to build further back on the property.

**Wayfinding:** Knowing where you are in a building or area and how to get where you are going. Wayfinding signage is intended to help you move through or around a building or space.

**Zone lot:** The land designated as the building site for a structure; also, the land area occupied by a use or a structure. Such land area may be designated as a zone lot only by the owner or owners of the lot.

**Zoning:** The collection of regulations that governs what uses, activities and building types are allowed in different areas.



## SECTION 1: WHAT IS PLANNING?

Planning is a visionary, technical, and political process that takes place primarily at the local government level. A plan focuses on the needs of the community such as housing, transportation, and job creation. Plans also focus on the wants of the community and should be visionary exercises that manifest in a higher quality of life overall.

There are typically three main forms of planning at the local government level.

- Long-Range Planning **20-30 yrs**
- Short-Range Planning **5-10 yrs**
- Current Planning **Ongoing**

Long-range planning includes comprehensive plans, transportation plans, special geographic area plans, and neighborhood plans that set the stage for twenty to thirty years in the future. Some cities create long-term plans for more specific issues such as housing, parks and open space, and fiscal sustainability.

Short-range plans include planning documents with a timeline of 10 years or less. These plans guide policy and funding and are often created to organize priorities for projects that utilize federal funds. Popular short-range plans are transportation improvement plans and housing strategic plans.

Current planning initiatives implement the short-range and long-range plans. Current planning includes drafting and adopting land use regulations, reviewing new development proposals, and enacting programs to achieve the goals laid out in the plans.

### WHAT ARE COMPREHENSIVE PLANS?

Comprehensive plans are overarching planning documents to which other more specific plans and regulations should adhere. Comprehensive plans lay out the overall vision and plan for growth, development, and preservation of land for the planning area. Cities cannot adopt land use regulations such as a zoning ordinance without the adoption of a comprehensive plan.

#### Long-range plans and studies serving Bowling Green, KY:

- Focus 2030 Comprehensive Plan
- 2045 Metropolitan Transportation Plan
- Scottsville Road Corridor Study
- Plano Focal Point Plan

#### Short-range plans serving Bowling Green, KY:

- Transportation Improvement Program



## WHAT PLANNING CANNOT DO

While a planning effort and a comprehensive plan can produce benefits, it's a mistake to believe that planning has all the answers and is a "cure-all" for whatever ails the community. Planning can produce positive results if it is understood and supported by the Planning Commission, the governing bodies, and local residents. The following limitations, however, should be noted:

- Planning cannot produce miracles and cannot be expected to suddenly cure all of a community's ills. It is not a short-term proposition, but a medium to long-term undertaking.
- Planning cannot be used to exclude newcomers to the community nor can it be used to prevent change or to keep everything in the community just the way it is.
- Planning cannot be a device for problem-solving or a means of avoiding mistakes unless it has credibility among residents and is supported by elected and appointed public officials.
- Planning cannot succeed without implementing the policies contained in the planning document. Planning needs some sort of action program to carry out its objectives.
- Planning is more difficult if it fails to balance competing points of view in the community. A successful planning effort brings all perspectives to the table.
- Planning cannot work to the benefit of your community unless you want it to.

## KEY PLAYERS IN BOWLING GREEN PLANNING

### City-County Planning Commission

Bowling Green is served by a joint planning unit called the City-County Planning Commission (CCPC). The CCPC serves all of Warren County including the incorporated cities within the county. The CCPC is both an appointed board of 12 people and an organization. The Mayor of Bowling Green appoints 4 citizens to the CCPC for four-year terms. The rest are appointed by the county, Smiths Grove, Woodburn, Plum Springs, and Oakland.

### Metropolitan Planning Organization

The Metropolitan Planning Organization (MPO) is within the CCPC. The appointed members of the CCPC oversee the staff and budget of the organization including that of the MPO. The MPO is a federal requirement and one of its main functions is to facilitate federal funding for transportation projects and programs. The MPO focuses on roads and transportation planning.

### Bowling Green City Commission

The City Commissioners are your elected officials, and they are the legislative arm of the city. Although the CCPC makes recommendations to them in various planning scenarios, the City Commission ultimately makes the decisions. There are some exceptions where the Planning Commission or the Board of Adjustments make final decisions.

### Board of Adjustments

The Board of Adjustments is a joint city-county board that addresses special and unique situations related to the Zoning Ordinance. This board handles appeals from any order, requirement, decision, or action of any zoning official regarding the provisions of the Zoning Ordinance.

# Warren County

The Warren County Judge-Executive appoints 4 commissioners, the Mayor of Bowling Green appoints 4 commissioners, and then the Mayor of each of the other incorporated cities appoints 1 commissioner.

Bowling Green  
Plum Springs

Oakland  
Smiths Grove

Woodburn



City-County Planning Commission Board

## SECTION 2: WHAT IS ZONING?

Zoning is used to implement the comprehensive plan and is the separation of land into categories such as residential, commercial, industrial, etc. Each zone has different regulations that dictate things like the size of building and types of activity allowed. Development projects must meet all the regulations for the zone in which they are located. These regulations are often called zoning ordinances, zoning codes, or land development codes. For Bowling Green, KY, these regulations can be found in the Zoning Ordinance.

To find out the zoning of a property in Bowling Green, you can go online to <https://warrenpc.org/webmaps/> and click on planning and zoning. This website includes various maps as well as videos on how to use them. Some of the basics about the planning and zoning map are below.

At the top right corner of the screen you will see a toolbar and the second option on the toolbar will bring up the layers where you can select what you want to show up on the map.



In the planning and zoning layers, there are three layers that seem similar, but their distinction is important. Those are zoning, existing land use, and future land use. To the right you'll see an example of each for the intersection of 31W and Broadway.

### ZONING



The zoning map shows you the current zoning of the land. In other words, the type of development currently allowed in that area.

### EXISTING LAND USE



Existing land use shows you the current use of a property and this does not always match the zoning.

### FUTURE LAND USE



The future land use map, commonly referred to as FLUM, shows the vision for the future of development and is derived from the comprehensive plan.

When a property's existing land use does not match the zoning, it is called a non-conforming use. This happens when the current use existed prior to the adoption of the current zoning regulation. If redevelopment were to occur, the new development would be required to abide by current zoning and the existing use would be retired. If the developer wanted to rezone the property and the requested rezoning matched the future land use map, they would likely be granted the rezoning since it fits with the future vision of the city.

The zoning map legend uses abbreviations for the zoning districts. You can use this table to understand those abbreviations. You can find out what is allowed in each district and the specifics of those regulations in Article 4 of the Zoning Ordinance.

Legend Symbol	Zoning Districts
AG AG BE*	Agriculture
CB CB BE	Central Business District
F	General Flood District
GB GB BE	General Business District
HB HB BE	Highway Business District
LI LI BE	Light Industrial District
MHP MHP BE	Mobile Home Park
NB NB BE	Neighborhood Business District
OP-C OP-C BE	Office and Professional - Commercial
OP-R OP-R BE	Office and Professional - Residential
P P BE	Public District

Legend Symbol	Zoning Districts
PUD PUD BE	Planned Unit Development
R-E R-E BE RS-1A RS-1A BE RS-1B RS-1B BE RS-1C RS-1C BE RS-1D RS-1D BE	Single Family Residential
RM-2 RM-2 BE	Two-Family Residential
RM-3 RM-3 BE	Townhouse/Multi-Family Residential
RM-4 RM-4 BE	Multi-Family Residential
ROW	Right of Way
RR RR BE	Rural Residential

\*BE stands for binding elements. These are now called development plan conditions by the Planning Commission. The BE designation refers to additional conditions on the property that were placed when the development was approved. These can be more restrictive than the zoning regulations.

## FLEXIBILITY OF ZONING

Zoning in itself is pretty straightforward. It tells you what can be built and where. However, zoning can be flexible. The following are some common zoning scenarios that can cause the use or design of the property to differ from that of the standard zoning regulations.

**Conditional Uses** - Some land uses are permitted on a conditional basis. Article 5 of the Zoning Ordinance lists out the uses allowed in each zone district. There are some that are permitted and those uses are allowed by right. Others are conditional uses and require further approval based on a variety of criteria and oftentimes a public hearing.

**Nonconforming Rights** - Any uses, structures, or lots that were approved prior to the existing Zoning Ordinance adoption are considered nonconforming. If additions or renovations are made to a nonconforming use or structure, they must comply with existing zoning requirements.

Example: if there is a property in a commercial zone that is currently used as residential and has been used that way since prior to the adoption of current zoning regulations, it is allowed to continue being used as residential but cannot be expanded. In that same scenario, if the owner wanted to raze the house and build a store or a restaurant in its place, that would be allowed.

**Overlay Districts** - overlays are an additional layer of zoning regulation that supplements or supersedes the standard zoning regulations for the area. For example, Bowling Green has several overlay districts including the University District Overlay and the Airport Overlay. Overlay regulations can be found in Article 4 of the Zoning Ordinance.

**Planned Unit Developments (PUDs)** - PUDs are development plans for specific projects that are often large in scope and contain multiple types of uses. The development plan for a PUD is approved by the Planning Commission and will outline specific zoning regulations for that project which can differ from the standard zoning regulations. This process involves a public hearing.

**Rezoning** - Property owners can apply for a zone change of their property. This process requires a public hearing and approval from the City Commission.

**Variations** - Variations are minor exceptions to the zoning code and only pertain to the dimensional requirements of a property. Example: If someone wanted to build closer to the street or larger than the Zoning Ordinance allows, they could apply for a variance to potentially be granted permission to do so.

Variations are most often approved by the Board of Adjustments with some exceptions when combined with a rezoning application. When combined with a rezoning application, the Planning Commission can approve variations.

## SECTION 3: THE LAW OF PLANNING

### PLANNING POWER

Power in planning is found in the police power (the authority of the state and local governments to enact regulations), federal laws, eminent domain, the enabling authority, and the power to raise revenues.

### FEDERAL LEVEL

#### Federal Enabling Legislation (police power)

**SZEA (1926): Standard State Zoning Enabling Act** that granted power to the legislative body to divide a city into districts, establish a zoning commission, and adopt procedures for establishing and amending zoning regulations.

**SCPEA (1928): Standard City Planning Enabling Act** distinguished the making of the comprehensive plan and the organization of powers of the city planning commission, the control of subdivisions, the control of buildings in mapped streets, and regional plans.

**Village of Euclid v. Amber Realty co. (272 U.S. 365 [1926])** - Upholds zoning as constitutional use of police power.

**Nectow v. City of Cambridge (277 U.S. 183 [1928])** - Zoning is invalid if not related to public, health, safety, and welfare.

**City of Los Angeles v. Gage (274 P.2d 34 [Cal. Ct. App. 1954])** - The police power includes the regulation of the use of property to the end that the public health, morals, safety, and general welfare may not be impaired or endangered.

**First Amendment:** "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridge the freedom of speech."

**RLUIPA (2000):** The Religious Land Use and Institutionalized Persons Act protects individuals, houses of worship, and other religious institutions from discrimination in zoning and landmarking laws.

**Fifth Amendment (1):** "no person shall be...deprived of life, liberty, or property, without **due process** of law."

Procedural Due Process:

1. The right of individuals to be adequately notified of proceedings that may have a significant impact on them (e.g., a rezoning of property next door);
2. An opportunity to be heard before being deprived of a right (e.g., a chance to object to a rezoning that reduces the density on an owner's land);
3. Clear regulatory standards so that a person is not required to guess what is being required of them (e.g. by giving some explanation of a standard beyond just "new development must be compatible with surrounding property"); and
4. An unbiased and objective decision maker.

**Fifth Amendment (2):** "private property shall not be taken for public use without just compensation"

Eminent Domain: the power of the state and its local governments to purchase private property for public use or public purpose with compensation but without the consent of the owner.

The Taking Issue: Courts have a way of assessing whether a taking of property has occurred. They will explore the following questions. What is the character of the government action? Is there a valid public purpose? What is the economic impact of the regulation?

**Berman v. Parker (384 U.S. 26 [1954])** - Upholds the use of eminent domain for Urban Renewal and the validity of aesthetics as part of public welfare.

**County of Wayne v. Hathcock (684 N. W.2d 765 [MI 2004])** - Using eminent domain for private economic development may be unconstitutional under some state constitutions.

**Kelo v. City of New London (545 U.S. 469 [2005])** - Using eminent domain for private economic development does not violate the U.S. Constitution.

**Penn Central Transportation Co. v. New York City (438 U.S. 104 [1978])** - the leading case on what is an unconstitutional "taking" of property rights

**Lucas v. South Carolina Coastal Commission (502 U.S. 1003 [1992])** - Zoning that prohibits all reasonable use of a property is a "taking" (with a few narrow exceptions).

**City of Monterey v. Del Monte Dunes at Monterey, Lt. (526 U.S. 687 [1999])** - Bad faith dealings by the government can result in a successful "takings" claim.

**Palazzolo v. Rhode Island (533 U.S. 606 [2001])** - Government interference with reasonable investment backed expectations can create a "taking" of property rights.

## STATE & LOCAL LEVEL

### The Enabling Authority (Kentucky Statutes)

KRS Chapter 100 establishes the requirements for land use control by local governments. Some basics from this chapter are included here.

- KRS 100.137 - counties of at least 300,000 people must establish a countywide planning unit.
- KRS 100.133 - three types of planning units are permitted: independent, joint city-county, and groups of counties. A planning commission must be established if a planning unit is established.
- KRS 100.183 - The planning commission must prepare a comprehensive plan and local government cannot exercise land use control until adoption of the plan. The plan must contain, at the least, a statement of goals and objectives, a land use plan, a transportation plan, and a community facilities plan.
- KRS 100.187 - Comprehensive plans may also include such elements as community renewal, regional impact, historic preservation, housing, flood control, pollution, conservation, and natural resources.
- KRS 100.191 - the preparation of the comprehensive plan must be based on research and analysis of population, economic conditions, community needs
- KRS 100.193 - the plan or its elements may be adopted only after a public hearing.

- KRS 100.197 - the elements of the plan are reviewed at least every 5 years.
- KRS 100.201 - after all elements of the comprehensive plan have been properly adopted, member legislative bodies may enact permanent land use regulations that divide the jurisdiction into zones to promote public health, safety, morals, and general welfare of the planning unit; to facilitate orderly and harmonious development and preserve the visual or historical character of the unit; and to regulate the density of population and intensity of land use to provide for adequate light and air.
- KRS 100.207 - A majority of the entire legislative body is required for passage of the ordinance adopting zoning regulations.
- KRS 100.211 - Amendments to the zoning map or text may be proposed by the commission, any legislative body or fiscal court in the unit, or the owner of the property in question. At least one public hearing must be held after proper public notification is made. The commission gives the legislative bodies involved a recommendation and findings of fact and the recommendation becomes final and effective unless a majority of an entire legislative body votes to override it. Amendments to zoning maps may be approved only if in conformity with the comprehensive plan or if it is found that:
  1. The existing zoning classification was inappropriate and the proposed classification is appropriate; or
  2. There have been unanticipated major changes in the nature of the area that have substantially altered its basic character.
- KRS 100.217 & KRS 100.237 - the legislative body must establish one or more boards of adjustment for the purpose of granting relief from the literal enforcement of the zoning ordinance
- KRS 100.182 - a court shall not invalidate in its entirety any comprehensive plan, zoning ordinance, subdivision regulation, public improvements program, or official map regulation for failure to strictly comply with any procedural provision or publication requirement, unless the court finds that the failure "results in material prejudice to the substantive rights of an adversely affected person and such rights cannot be adequately secured by any remedy other than" invalidation.

Note: where the state requires a public meeting, they only require one. The city is not required by law to have more than one public hearing per official zoning decision.

## The Power to Tax, Raise Revenues, & Spend

Without significant investment in the comprehensive plan goals and objectives, the plan will fail. Utilizing the power local governments have to tax, raise revenues, and spend is essential in implementing plans.

### Cases Regarding Equity Issues:

**Southern Burlington County NAACP v. Township of Mount Laurel (I) (423 U.S. 808 [1975])** - Municipalities cannot have blatantly exclusionary zoning.

**Southern Burlington County NAACP v. Township of Mount Laurel (II) (456 A.2d 390 [N.J. 1983])** - Remedies to exclusionary zoning.

**Larkin v. State of Michigan Department of Social Services (89 F.3d 285 [6th Cir. 1996])** - Michigan statutes contradicted both the Fair Housing Act and the Equal Protection Clause by regulating the number of Adult Foster Care facilities allowed in an area. The statutes were facially discriminatory because they only applied to Adult Foster Care facilities.

**Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc. (135 S. Ct. 2507 [2015])** - disparate impact claims can be considered as violations of the Fair Housing Act. The court upheld the idea that the effects of a policy can be ruled as discriminatory - even if the policy was not overtly so.

### Additional Land Use Cases:

**U.S v. Gettysburg Electric Ry. Co. (160 U.S. 688 [1896])** - Protecting historic places is a valid "public purpose."

**Bove v. Donner-Hanna Coke Co. (258 N.Y.S. 229 [App.Div.1932])** - property owners are not entitled to recover damages caused by nuisances that were public knowledge and approved by zoning upon purchase of the property.

**Kuehne v. Town of East Hartford (136 Conn. 452, 72 A.2d 474 [1950])** - Spot zoning is not in accordance with a comprehensive plan and therefore cannot be sustained.

**Krause v. City of Royal Oak (160 N.W.2d 769 [Mich. Ct. App. 1968])** - Property owners cannot challenge zoning ordinances on the grounds that those ordinances would deprive them of an appreciation in property value.

**Village of Belle Terre v. Boraas (416 U.S. 1 [1974])** - If the validity of the legislative classification for zoning purposes be fairly debatable, the legislative judgment must be allowed to control unless the ordinance violates Due Process or the Equal Protection Clause.

**Western Land Equities, Inc. v. City of Logan 619 P.2d 388 [Utah 1980])** - this case represents a minority view that rights can vest even though no building permit had been issued. This court holds instead that an applicant is entitled to favorable action if the application conforms to the zoning ordinance in effect at the time of application, with some exceptions.

**Collard v. Incorporated Village of Flower Hill (421 N.E.2d 818 [N.Y.1981])** - Zoning authorities may put conditions on rezonings and the standard of review for conditional zoning is the same for traditional rezoning applications.

**Board of Supervisors of Fairfax County v. Southland Corp (297 S.E.2d 718 [Va. 1982])** - Zoning ordinances are always presumed valid. The challenger must prove that the ordinance is unreasonably related to government interest. Ultimately, the government has to show very little for the ordinance to be upheld.

**Stone v. City of Wilton (331 N.W.2d 398 [Iowa 1983])** - Even when real property interests are at stake, land use restrictions that are reasonably related to the promotion of health, safety, morals, or general welfare are often upheld in court. Standard for determining if a property owner has vested rights in a zoning classification is dependent on the type of project, the location, the ultimate cost, and primarily, the amount of money expended while the use was in conformity. The City's comprehensive plan is always subject to reasonable revisions.

**City of Cleburne v. Cleburne Living Center (473 U.S. 432 [1985])** - Municipalities cannot require a special use permit for a home for the mentally disabled. The Supreme Court did not declare the mentally disabled to be quasi-suspect class. Ruled that city failed to show it had a rational basis for requiring the permit for a home for the mentally disabled.

**First English Evangelical Lutheran Church v. County of Los Angeles (482 U.S. 204 [1987])** - If regulation is found unconstitutional, money damages will generally be available.

**Nollan v. California Coastal Commission (423 U.S. 825 [1987])** - Conditions attached to approvals must substantially further a legitimate governmental purpose in order to be valid.

**Ben Lomond, Inc. v. Anchorage (761 P.2d 119 [Alaska 1988])** - Cities cannot be sued over permit decisions related to ordinances or statutes if the party suing the city has not exhausted all other avenues such as seeking a variance.

**Gardner v. NJ Pinelands Commission (593 A.2d 251 [N.J. 1991])** - the application of state regulations that limit the use of land in an environmentally-sensitive area do not constitute an unconstitutional taking of private property when the property owner can gainfully use all of their property and when many other property owners nearby are under the same regulations.

**Anderson v. Issaquah (851 P.2d 744 [Wash. App. 1993])** - Design regulations must be fairly specific and predictable to be constitutional.

**Board of County Commissioners of Brevard County v. Snyder (627 So. 2d 469 [Fla. 1993])** - Rezoning actions are viewed as quasi-judicial, rather than legislative. Property owner has the burden in proving that their application is uniform with the comprehensive plan and complies with all procedural requirements of the zoning ordinance. Burden will shift to the governmental board to demonstrate that maintaining the existing zoning classification accomplishes a legitimate public purpose.

**Dolan v. City of Tigard (512 U.S. 374 [1994])** - Conditions that a land owner dedicate land or money must be roughly proportional to the impact of the proposed development.

**Loreto Development Co. v. Village of Chardon (695 N.E.2d 1151 [Ohio Ct. App. 1996])** - Zoning prohibiting bix box stores was constitutional because the zoning did not deprive the owner of all uses of property or make the use highly unlikely or practically impossible and the zoning was considered to advance a legitimate government interest to prevent noise, congestion, and preserve the small town atmosphere.

**Conforti v. City of Manchester (677A.2d 147 [N.H. 1996])** - Zoning ordinances do not apply to uses or structures that existed at the time an ordinance was enacted. Renovations of an existing nonconforming building cannot change the existing nonconforming use unless the change is to something permitted by the current zoning regulations.

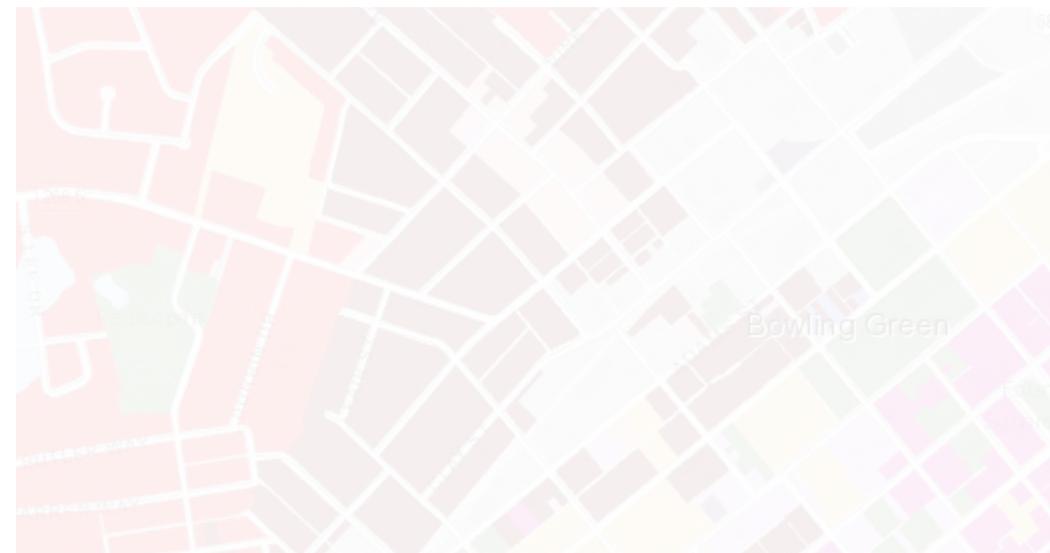
**Johnson v. Town of Edgartown (680 N.E.2d 37 [Mass. 1997])** - It is up to the municipality that has zoning authority to determine what would cause harm to the public interest. The Judiciary will leave that up to the local government.

**Ziervogel v. Washington County Board of Adjustment (676 N.W.2D 401 [Wis. 2004])** - No reasonable use zoning rule that restricts any zoning variances may cause unnecessary hardship and this case shows criteria for determining unnecessary hardship as a result of a no reasonable use rule.

**Ecogen, LLC v. Town of Italy (438 F. Supp. 2d 149 [W.D.N.Y. 2006])** - Moratoriums must bear a rational relationship to a legitimate government purpose but should not last for an unreasonable amount of time.

**Center Bay Gardens v. Tempe (153 P.3d 374 [Ariz. Ct. App. 2007])** - While states typically require a particularized injury beyond general economic or aesthetic losses and greater than any injury suffered by the rest of the community to have standing, Arizona allows a person "aggrieved" by a zoning decision to appeal that decision if they can allege "particularized harm" that can include economic injury.

**Hernandez v. City of Hanford (159 P.3d 33 [Cal. 2007])** - Zoning prohibited certain uses from a planned commercial district in order to limit competition with local businesses downtown. The discrimination between big and small stores in the planned commercial district was valid because it is related to a legitimate government interest of protecting downtown.



## SECTION 4: THE FORMAL PLANNING PROCESS

The long-range and short-range planning processes include the creation and maintenance of the comprehensive plan as well as other plans and studies done by either the Planning Commission or the Metropolitan Planning Organization. In Bowling Green, the two main long-term plans are the Comprehensive plan and the Metropolitan Transportation plan.

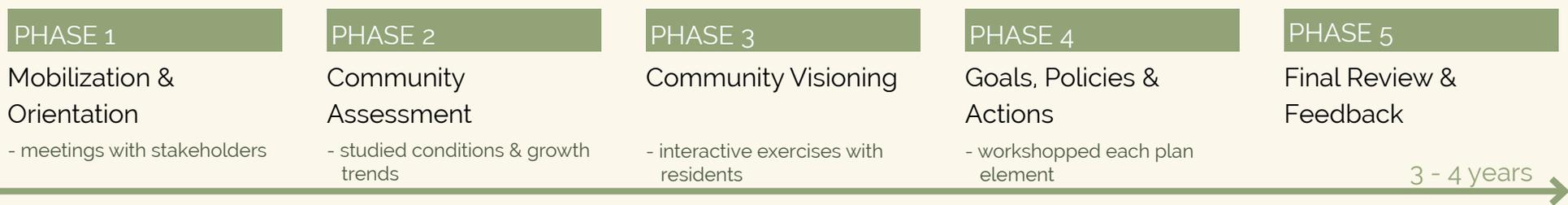
The Comprehensive plan is updated every 5 years per KRS 100.197. An update typically includes minor changes. The current Comprehensive plan that serves Bowling Green plans out for the year 2030. When it gets closer or past 2030, the Planning Commission might do a full update of the existing plan with a public engagement process and then re-adopt the plan for a set amount of years, or they might do a completely new plan. The type and extent of the plan update past the 2030 mark may depend on city-county capacity and legislative priority. A completely new comprehensive plan requires an extensive process for each chapter and element of the plan and typically involves a more extensive public engagement process.

The next update is set to start in 2022 for minor changes. The update process takes around 6-9 months. Planning Commission staff will make drafts and suggested changes and have a work session with the Planning Commission Board. Staff will also ask the six legislative bodies within the county if there are any desired changes to the goals and objectives in the plan. The legislative bodies are the only entities allowed to make changes to goals and objectives. There will be one round of meetings with stakeholder groups and at least one public meeting. The document will be refined into a final draft based on those meetings and there will be at least one public hearing. Changes will be adopted by the Planning Commission. Any changes to goals, objectives, or action items are to be adopted by the City Commission.

The exact process for a completely new comprehensive plan can vary depending on who is leading the effort. Oftentimes, consultants are hired to help the planning entity complete the comprehensive planning process and each firm can have a different method. Most consultants and planning entities have a pretty extensive public engagement process for a new comprehensive plan, but the only legal requirement from Kentucky Statutes is at least one public hearing before any adoptions are made.

### Planning Process for Focus 2030 Comprehensive Plan

This process was lead by the Planning Commission Board and Staff, a Consultant (WRT), and an appointed Citizens' Task Force



## DEVELOPMENT REVIEW & REZONING PROCESSES

The city has a process for approving development projects as a way to ensure compliance with the zoning regulations, subdivision regulations and any approved development plan conditions which are used as tools for achieving the goals in the comprehensive plan. Projects that abide by all zoning regulations and do not require any type of zoning change are considered staff-approvable projects and go through the comprehensive development review process.

### COMPREHENSIVE DEVELOPMENT REVIEW PROCESS

Projects are confidential until Step 4 of the development review process when approved site plans are uploaded to the City-County Planning Commission website. You can visit the office to look at the plans for a development in person or get digital copies. Notices of new site plan approvals are provided via the City-County Planning Commission website. You can always call the planning commission and ask them if there are any new projects under review in your neighborhood and they will be able to tell you who the applicant or developer is for a project as well.

Staff-approvable projects that meet all regulations are going to be approved. Staff are legally limited and often cannot deny a project that meets all appropriate zoning and building regulations which illustrates the importance of the comprehensive planning process. There is no public hearing for site development plans being approved at the staff level. The public review period for staff-approvable development plans is for residents to view what was approved. Plan approvals may be appealed to the Planning Commission within 30 days of the notification of the approved plan.

- 1** Pre-Comprehensive Development Review Meeting  
Idea stage and dialogue with public and private agencies involved in the development process
- 2** Site Development Plan Application  
Applicant will submit Site Development Plan Application for review by the CDR Committee
- 3** Comprehensive Development Review Committee Meeting  
The CDR Committee will review application to insure that all regulations and requirements are satisfied
- 4** Site Development Plan Approval  
Final review/verification of requirements by the CDR Committee
- 5** Public Review Period  
The site development plan is made available for public review at the Planning Commission office and on their website once it is approved. Anyone that wishes to challenge a plan approval may appeal the approval to the Planning Commission within 30 days of the notification.
- 6** Issuance of Site Work Permit  
A Site Work Permit will be issued by the appropriate City or County permitting agency
- 7** Compliance Inspection  
Once construction has been completed a final compliance inspection shall be scheduled with Planning Commission Staff
- 8** Certificate of Completion  
A certificate of Completion will be issued to certify that the site adheres to the approved Site Development Plan

## REZONING PROCESS

If a project requires a change in zoning, the applicant must get the zoning approved prior to going through the comprehensive development review process. Rezoning applications require approval from the legislative body and must go through the Planning Commission. The Planning Commission makes a recommendation to the legislative body after reviewing the rezoning application. Here is a summary of the typical rezoning process:



The applicant contacts the planning commission, which schedules a pre-application meeting. The applicant explains the proposed project, including the proposed use, density/intensity, general layout and other related items such as proposed number of units/lots or proposed square footage for non-residential projects. The final application submission may look different or have different uses than what is initially discussed at the pre-application level due to ongoing discussions and input about the proposed project.



The applicant submits a formal application to the planning commission. Once the application is filed, the application and associated items become public record. Any application must include a general development plan or concept plan and development plan conditions that reflect the desired development along with a written detailed explanation addressing items as to how the proposed rezoning would adhere to the comprehensive plan.



The planning commission staff review the application to determine that it is a complete application and contains all items that are required. Staff also draft a report to be presented to the planning commission that contains information including comments from sister agencies, such as transportation agencies, utilities, and fire departments, that are affected by the proposed development. Staff publishes a preliminary agenda for the public hearing to the CCPC website with a notice on social media.



Public notice is posted in the newspaper, mailed to adjacent property owners, and posted on the property 14 days prior to the public hearing. Staff also mails letters to all residents within 200 feet of the proposed rezoning boundary.



Planning staff compiles any comments regarding the proposed zoning change and emails them to the applicants who have one week to make any revisions prior to the meeting materials being sent to commissioners.



Planning commission staff send planning commissioners the meeting materials for their review one week before the public hearing. The staff report is also posted on the planning commission website.



Public hearing is held about 30 days after the application is filed. During the public hearing, staff presents a report to the planning commission board explaining the location of the proposed amendment, proposed use of the property, any Development Plan Conditions the applicants have submitted, and other general information. Planning Commissioners consider the information contained in the staff report, the application and testimony provided by the applicant, and testimony by any member of the public including neighboring property owners.



The planning commissioners forward their recommendation of approval or recommendation of denial to the appropriate legislative body, along with the minutes, staff report, and any other evidence submitted.



Final approval is with the legislative body, City Commission, in the form of an ordinance which takes two readings. The City Commission considers the public record generated at the Planning Commission, along with the recommendation, and can either agree or disagree with the Planning Commission's recommendation. The City Commission may not allow new testimony, nor allow any party to speak that was not present at the Planning Commission hearing unless a whole new hearing is scheduled. The City Commission typically affirms the Planning Commission recommendation the majority of the time.



If any person feels aggrieved by the process or decision made by the legislative body, that decision may be appealed to the Warren Circuit Court within 30 days from the final action (2nd reading) by the City Commission.



## SECTION 5: IMPLEMENTATION OF PLANS

There are three broad methods for implementing plans.



**Development Regulations** are controls, like zoning, that are guided by the comprehensive plan and placed on the use of land. Development review processes are in place to enforce development regulations.

Examples of development regulations other than zoning:

- **Adequate Public Facilities Regulations:** these regulations work to locate development where there are enough existing public services to support the development or dictate what the developer will provide in the way of public services like water and sewer infrastructure. Bowling Green's adequate public facilities standards are in Section 6.3 in the Subdivision Regulations on the City-County Planning Commission website.
- **Development Impact Fees:** these are fees imposed on developers to cover the cost of their impact on public services and the community. The fees can be for things like roads, pipes, and wires, but sometimes cities will require them for other impacts. One example is a housing linkage fee, which is a fee that pays for new affordable housing resulting from new commercial development. The idea is that if you are bringing 50 minimum wage jobs to an area, you need to pay for the impact on the increasing demand of affordable housing.

Note: Development Impact Fees are currently illegal in the state of Kentucky.

Zoning reform can help make progress towards comprehensive plan goals.



Minneapolis ended single family zoning and allowed at least three-unit homes in all residential zones to help address the following elements from the Minneapolis 2040 Plan.

- Housing Affordability
- Economic and Racial Segregation
- Climate Change



**Capital Improvements** are often infrastructure projects of high priority such as streets, utilities, parks, and public buildings. The capital improvement program (CIP) is under the purview of the city of Bowling Green, not the Planning Commission. Planning Commission receives a copy of the approved CIP but is not involved in its creation or implementation.

You can view reports on Bowling Green's capital improvement expenditures here:

<https://www.bgky.org/reports/capital-improvements-program>



**Programs** can be official city or county programs such as policies that incentivize developers to provide a number of affordable units in their projects. Programs can include additional plans and studies, like neighborhood planning programs. Operational changes within the city and volunteer and community programs like conservation groups and farmers markets can also help meet comprehensive planning goals.

## AN IMPLEMENTATION STRATEGY USED IN BOWLING GREEN

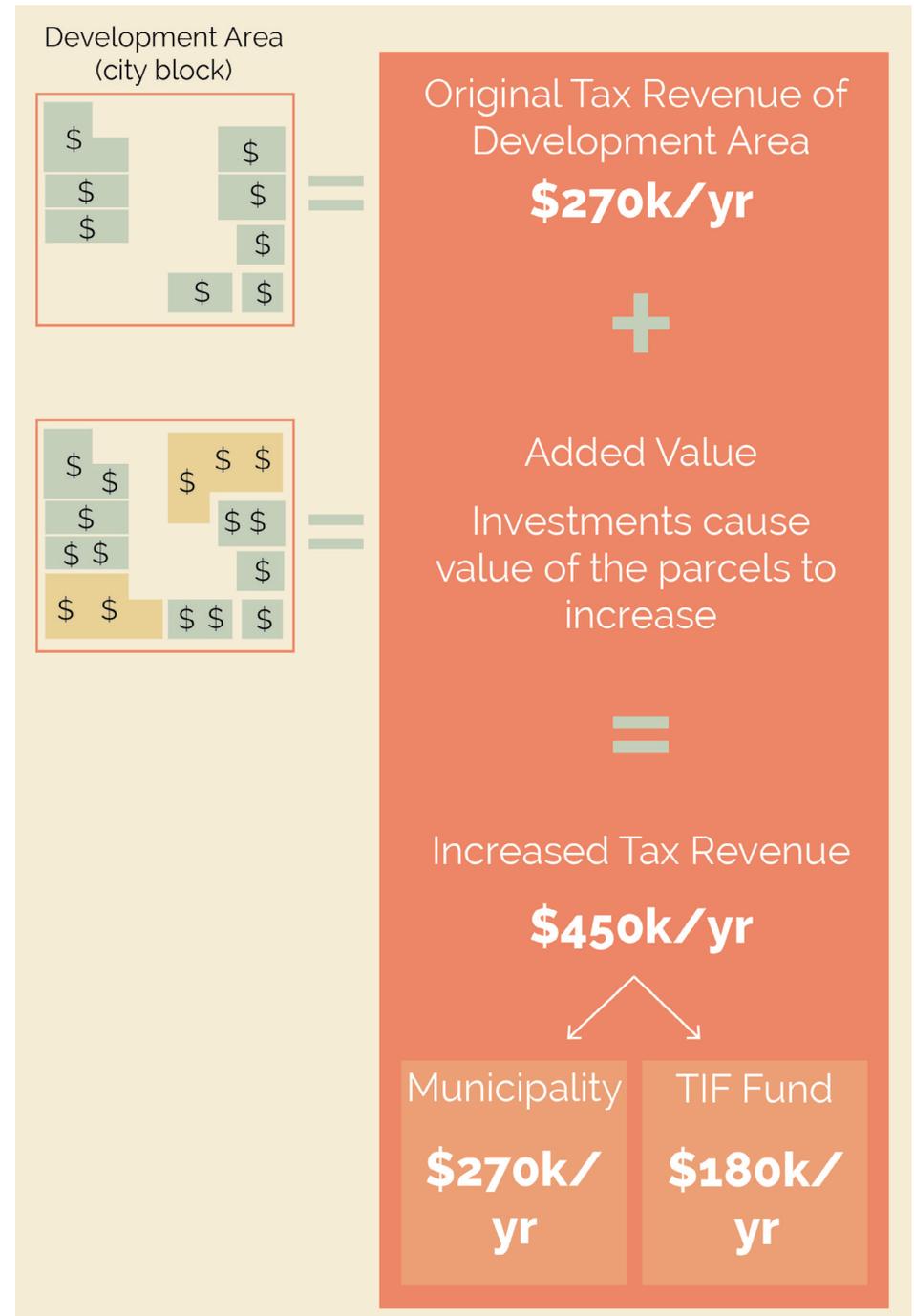
### Tax Increment Financing (TIF) Districts

TIF is a financing method that involves increasing property values. In simplest terms, a municipality determines a development area and invests a certain amount of money into that area for development projects. This investment often involves the municipality securing bonds, which have to be paid back. This investment sparks additional private investment in the development area. The development projects are considered to be improvements and result in an increase in property values in the area. Since property taxes are calculated based on property values, an increase in property values results in an increase in property taxes. The increase in property taxes is called a tax increment.

$$\begin{aligned} & \text{property taxes after improvements} \\ & - \text{property taxes before improvements} \\ & = \text{tax increment} \end{aligned}$$

The municipality receives the original property tax amount before improvements and the extra taxes (the tax increment) go toward paying off the original investment/bonds. Once all debt from the TIF district is paid off, the TIF district ceases and all additional tax dollars go to the municipality.

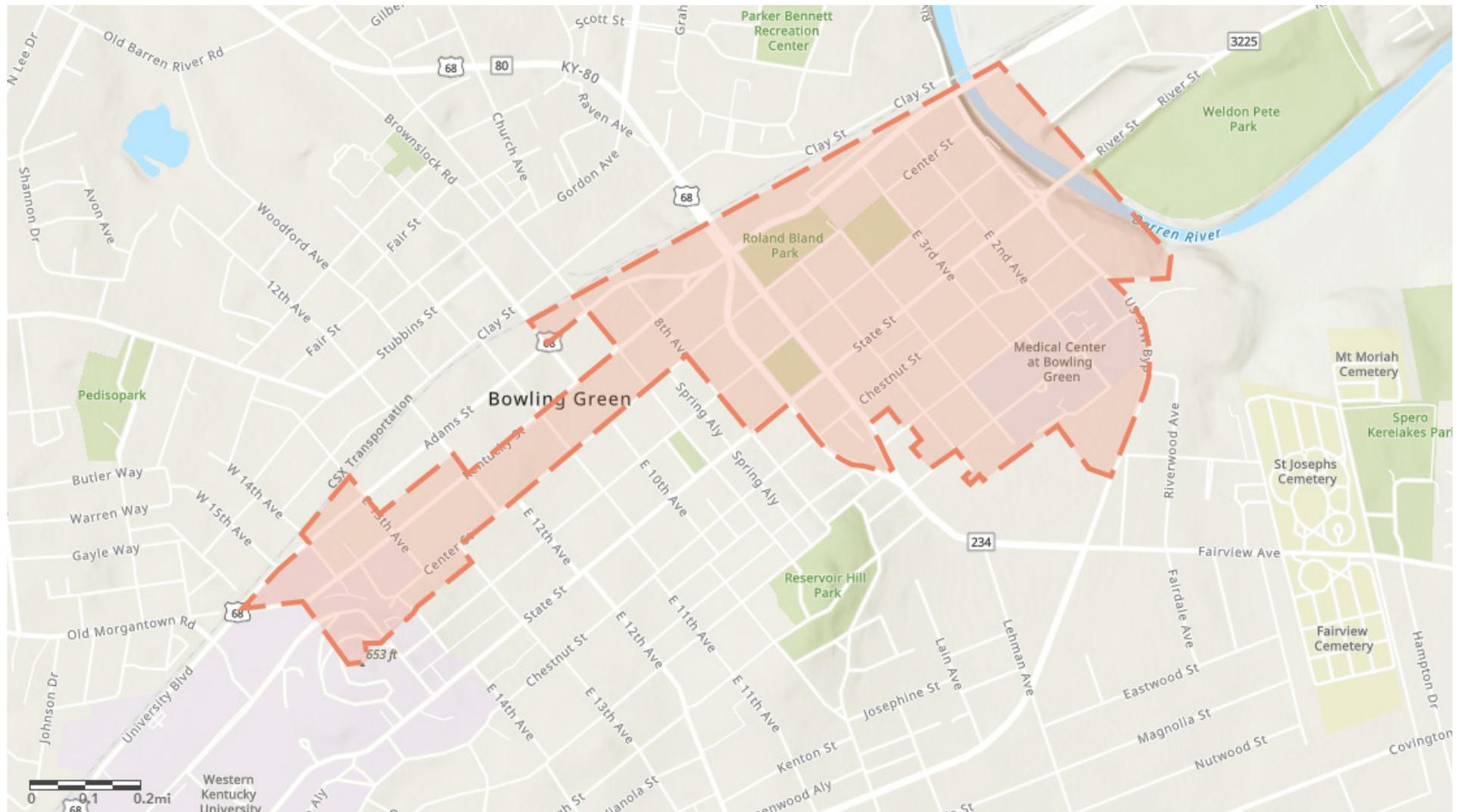
### How TIF Works: A Simplified Example



## Bowling Green TIF District: WKU Gateway

Bowling Green has one of the state's largest TIF districts. Its boundaries can be seen below. Kentucky has two different TIF programs that involve state participation. One of those is the Signature Program, which is the program used for the WKU Gateway. State participation means that state taxes can be collected and returned to pay for the projects within the TIF district.

Bowling Green took out \$25 million in General Obligation bonds for the Hot Rods ballpark and used a hotel tax to fund SKyPAC to reach the investment threshold needed to be eligible for the Signature TIF program. Taxes being recovered and put towards the payment of the bonds are individual income tax, property tax, sales tax, and withholding tax. The Warren County Downtown Economic Development Authority is the governing body for the district, not Planning Commission.



## ADDITIONAL ONLINE RESOURCES

### Planning

[tinyurl.com/whatisurbanplanning](https://tinyurl.com/whatisurbanplanning)

[tinyurl.com/historyofplanning](https://tinyurl.com/historyofplanning)

### Zoning

[tinyurl.com/Zoning-Codes](https://tinyurl.com/Zoning-Codes)

[tinyurl.com/Zoning101Regina](https://tinyurl.com/Zoning101Regina)

[tinyurl.com/Zoning101Phoenix](https://tinyurl.com/Zoning101Phoenix)

### Navigating the City-County Planning Commission Maps

[tinyurl.com/usingthemap1](https://tinyurl.com/usingthemap1)

[tinyurl.com/usingthemap2](https://tinyurl.com/usingthemap2)



# People's Guide to Planning in Bowling Green Summary Sheet

The planning entity serving Bowling Green is the City County Planning Commission (CCPC).



<https://warrenpc.org/>



270-842-1953



City County Planning Commission or @BGWCplanning

**Comprehensive Planning** is planning for the long-term. It sets the vision, goals, and actions for a 20 to 30 year timeline. Local land use regulations are based on the comprehensive plan vision and goals. Comprehensive plans are guiding policy documents.

**Implementation** Implementation of the comprehensive plan includes things like development regulations, capital projects, and programming.

- Development regulations involve things like zoning and building design guidelines that are guided by the comprehensive plan
- Capital improvements involve creating, improving, replacing, or repairing city assets such as land, parks, streets, buildings, utilities, etc.
- Programming can be a wide range of things like a neighborhood planning program, a city or county program that offers incentives

to developers to provide some number of affordable units in their projects, or volunteer programs.

**Zoning** organizes uses on the land to promote the general welfare of the planning area. It determines where different types of development can be built. The comprehensive plan informs the Future Land Use Map (FLUM) which is the mapped plan for future development. Zoning says where residential, commercial, industrial uses, and other uses will be located on the land.

## Development Review

The city has a process for approving development projects as a way to enforce zoning regulations and therefore enforce the comprehensive plan. Projects that abide by all zoning regulations and do not require any type of zoning change are considered staff-approvable projects. Projects that do include a change in zoning are considered Planning Commission-level projects.

Planning Commission Staff are legally limited and often cannot deny a project that meets all appropriate zoning and building regulations which illustrates the importance of the comprehensive planning process.

## How to find out about new development projects in your neighborhood:

- Check the City County Planning Commission website and social media
- Look for posted signage in your neighborhood regarding rezonings or public hearings for new development. Signs are posted on development sites 14 days prior to public hearings
- Call City County Planning Commission and ask

## What to do if you have concerns or questions about a development project:

- For staff-approvable projects (projects that meet all zoning regulations that do not require a public hearing), call CCPC to ask questions and voice your concerns.
- For Planning Commission level projects (rezonings or other projects that require a public hearing): attend or have proper representation at the planning commission public hearing to get your concerns on record.

## When to act:

If you want to participate, you will need to act immediately after you see a notice of a public hearing. For staff-approvable projects, the site development plans are posted after approval on the CCPC website for public viewing. Those approvals are final and there is no public hearing. For rezonings or Planning Commission-level projects, the public hearing is the most important time to get your comments and demands on record. Acting as soon as you see a notice about a project will be helpful if you want to organize neighbors and have a large turnout at the public hearing.

## Local and State laws require:

- projects to adhere to the adopted comprehensive plan and current zoning or future land use map
- proper notice to be given for changes to zoning text or map
  - Types of notices: published, posted, mailed
  - Timeline: published notices of public hearings are to be up no later than 7 days and no earlier than 21 days prior to the hearing. Most notices are required to be published, posted, or mailed 14 days prior to a public hearing. Mailings go to adjoining property owners, and in some cases, adjoining addresses/ residents.
- More information on required notice is in Article 3 of the Zoning Ordinance



This summary is part of a full guide that can be found here: [\\*insert link\\*](#)