

# Chapter 6

## Site Plan Review

# Key Problem Identified

- Recall from introductory presentation the following key problem that was identified:

**LSD Broken:** Commercial/Industrial site plan review provisions outdated, unclear, and onerous. One-size-fits-all not appropriate for many applicants. Also no provision for **temporary uses**.

# Chapter VI – Commercial and Industrial Site Plan Review

§6.1 – AUTHORITY

§6.2 – APPLICABILITY

§6.3 – SITE PLAN REVIEW THRESHOLDS

§6.4 – SITE PLAN REVIEW PROCEDURES

§6.5 – MODIFICATION, VARIANCE, OR WAIVER

§6.6 – ENFORCEMENT, VIOLATIONS, AND PENALTIES

§6.7 – REVIEW THRESHOLDS AND PERFORMANCE CRITERIA

§6.8 – PERMITTED USES AND REVIEW CRITERIA

§6.09 – PROJECT REVIEW CRITERIA

§6.10 – PARKING, LOADING, & CIRCULATION REQUIREMENTS

§6.11 – LANDSCAPING & BUFFER REQUIREMENTS FOR COMMERCIAL DEVELOPMENT

**Comments:** This chapter includes the biggest change in this draft, restructuring the commercial/industrial large scale development into a three tiered site plan review system intended to offer a simpler process for the smaller applicant with the modest project. This chapter also seeks to develop a better compatibility system to provide greater protections against nuisances and other impacts.

# Sections 6.2 and 6.3 are critical in defining exactly what type of project needs to be reviewed either administratively or by the Planning Board.

## §6.2 - APPLICABILITY

Site plan review shall be required for the following circumstances:

- a. Any new commercial/industrial or other land use as per the categories described in §54.3, Land Use.
- b. Any substantive external addition or modification to an existing commercial/industrial or other land use as per the categories described in §54.3, Land Use.
- c. Any conversion of a single-family residential or agricultural use to a commercial/industrial or other land as per the categories described in §54.3, Land Use.
- d. Any substantial change in a commercial/industrial or other use (as per §54.3) whereby the proposed use may involve additional customers or visitors to the site, additional deliveries or shipments to or from the site, or any other activity or characteristic that may create an additional nuisance or environmental impact to adjoining and nearby properties.

6-1

- e. ~~The resumption of a non-conforming use or structure after discontinuance for one (1) year or more.~~

**This section is a substantial clarification of the types of projects that must seek what was formerly referred to as a Large Scale Development or LSD and what we propose to refer to as site plan review. This insures that development that may not be strictly commercial (e.g. a Goodwill Industries Warehouse or a private school) be reviewed plus activities that were previously in a gray area such as minor additions, changes in use, or similar**

## §4.3 – LAND USE

Currently the planning regulations try to establish what is appropriate to come in for site plan review by providing an example list of the types of uses and a brief definition of “development”. This was a highly flawed system that left open for interpretation many uses and scales of development. By establishing the types of land use and noting that categories A and B are exempt and C and D are not, it makes things much more clear related to land use applicability.

The four (4) primary categories of land use in Benton County are:

- A. **Agricultural:** Agricultural land use and development as defined herein is exempt from the provisions of this Ordinance. Exceptions include commercial, farm-related developments including but not necessarily limited to livestock auctions, feedlots and holding pens, and compost facilities used for commercial sales.
- B. **Single-Family Residential:** Residential land in Benton County falls into two categories, platted and unplatted. Platted land is governed by the provisions of Chapter V of this Ordinance. Unplatted residential land is exempt from the provisions of this Ordinance if used for single-family residences except as otherwise provided in this Chapter.
- C. **Commercial/Industrial:** Commercial and industrial land use is governed by the provisions of Chapter VI of this Ordinance. This category encompasses land uses such as:
  - 1. Light or neighborhood commercial
  - 2. Small professional office
  - 3. General commercial and large office
  - 4. Agricultural commercial
  - 5. Regional commercial or light industrial
  - 6. Heavy commercial
  - 7. Heavy industrial
  - 6,8.
- D. **Other:** Land uses not otherwise falling into the previous three categories are generally governed by the provisions of Chapter VI of this Ordinance unless otherwise specified herein or superseded by another ordinance or law. This category encompasses land uses such as:
  - 1. Small institutional (ex. Neighborhood school, small park, small church, small cemetery)
  - 2. Large institutional (ex. Large church, high school, outdoor assembly)
  - 3. Regional institutional (ex. Military base, regional hospital, prison)
  - 4. Transportation, telecommunications, and utilities (ex. Airport, sewage plant, dish array)
  - 5. Multifamily residential (ex. Apartments, condominium/co-op, institutional living)

# EXEMPTIONS

## §6.3 - SITE PLAN REVIEW THRESHOLDS

The following thresholds have been established to determine what type of site plan review process a project must adhere to. Any threshold criteria not met requires the project to be reviewed as per the level of the unmet criteria:

**A. Exemptions.** Site Plan Review Exemptions are those uses or projects exempted from site plan review:

1. Single-family dwellings and accessory uses and structures thereof
2. Projects receiving an agricultural exemption
3. Subdivisions, tract or lot splits, lot line adjustments
4. Commercial uses in Planned Unit Developments (PUD)
5. In-home occupations as defined in Chapter III.
6. Modifications to the interior of an existing structure that does not change the use
7. Change in use of an existing structure, provided the change in use does not increase the number of required parking spaces
8. Normal maintenance and repair of existing improvements, facilities, and structures
9. Installation and replacement of underground utilities located in public right-of-way and approved utility easements or corridors.
10. Utility pump stations, utility boxes, and utility vaults.
11. De minimus addition of impervious surface (e.g. minor concrete work or sidewalk additions)
12. Removal of underground tanks when site is restored to the condition prior to removal
13. Removal of all buildings and structures on a site together with the discontinuance of use of the land and buildings
14. Temporary uses and structures which shall comply with the provisions of Chapter 7, §7.5.
15. Non- anchored structures of less than 120 sq. ft. or any other building or structure that does not require a building permit.

This section provides a list of clearly exempted uses and activities from the site plan review process such as temporary uses and non-substantial changes in use.

Sec. 6.3(A) lists the exemptions where improvements DO NOT have to come in for any review. This is important since currently many applicants are not sure where the threshold is...



# SITE PLAN THRESHOLDS

Currently...all commercial and industrial projects, big and small, impacting and hardly noticeable...must come in for a one-size-fits-all **LARGE SCALE DEVELOPMENT PERMIT**

What we are proposing is a three-tiered system of reviews that relates to the size and expected impact of the project. We believe that this will be much more fair to the applicant, saving most people a great deal of time, effort, and expense...

These thresholds are as follows:

1.Minor Site Plans

2.Standard Site Plans or Site Plans

3.Major Site Plans/Projects of Regional Significance (at least 2)

- a. Lot area greater than 50,000 s.f.
- b. New building area greater than 20,000 s.f.
- c. Required parking area of over 100 spaces
- d. Manufacture, bulk storage, or bulk distribution of hazardous chemicals

# MINOR SITE PLANS

B. **Level I- Minor Site Plan Review:** shall apply to low impact development that meet any of the following criteria:

1. Change in use of an existing ~~structure which~~structure that increases the number of required off-street parking spaces.
2. Modifications to the number of dedicated parking spaces, increase in the amount of impervious surface, and increase in the height of structures on an existing site or approved site plan, provided such modifications do not exceed a ten (10%) percent increase over the existing conditions
3. ~~Modifications to a parking lot layout, parking lot landscaping, or required buffer.~~
4. Modifications or expansions to the landscaping, exterior lighting, common area, or stormwater detention/retention areas, provided the modifications do not adversely affect the basic character and quality-effectiveness of such facilities or impact adjacent properties.
5. Modifications to the total amount of gross floor area on an existing site which do not exceed a ten (10%) percent increase over the original or 1000 square feet of increase, whichever is less
- ~~6. Modification or expansion of existing stormwater facilities~~
- ~~7.6. Modification to the conditions of approval of a minor site plan review decision.~~
- ~~8.7. Installation of site infrastructure or facilities that are expected to have a minor impact such as rapid charging stations, air hoses or water hoses, and micro-wind facilities.~~

A minor site plan is appropriate for developments or uses of a minor or incidental impact which require a lower and less formal threshold of technical review. Any development or use that exceeds these thresholds or involves environmental impact nuisances shall apply for Level II or III site plan review as applicable.

This is a new category of site plan review that provides a much lower threshold of application for smaller uses or development that previously had to either comply with all of our application requirements or request waivers from the requirements. Staff feels that this change will significantly improve the experience that applicants with smaller projects will have with the County. In addition, since it is now proposed to be administrative, the timeframe for the applicant should be reduced.

Minor site plan review will be sufficient for a wide range of project types such as:

- Changes in use with more parking
- Modifications not > 10% or 1000 sf
- Modifications to approved features
- Minor site infrastructure
- May be more determined.....

Minor site plans often not required to have fully-engineered site plans and other typical requirements of submittal

# STANDARD SITE PLANS

C. **Level II – Standard Site Plan Review:** shall apply to moderate impact development that meet all of the following criteria:

1. Exceeding any criteria for Level I Site Plan Review
2. Lot area less than or equal to 50,000 square feet
3. New building area less than or equal to 20,000 square feet
4. Required parking area less than or equal to 100 spaces

A medium impact standard site plan is the most common form of site plan review requiring a formal submittal of an engineered site plan but in most cases do not require special analysis or study such as a traffic impact analysis or water quality study.

This category is essentially what we have now for Large Scale Development applications. It will require a full submittal of plans and other application materials.

Standard site plan review will be sufficient for most of the rest of the projects that we see with some exceptions.

# Compatibility Component

Proposed Modification to Chapter 6,  
Site Plan Review

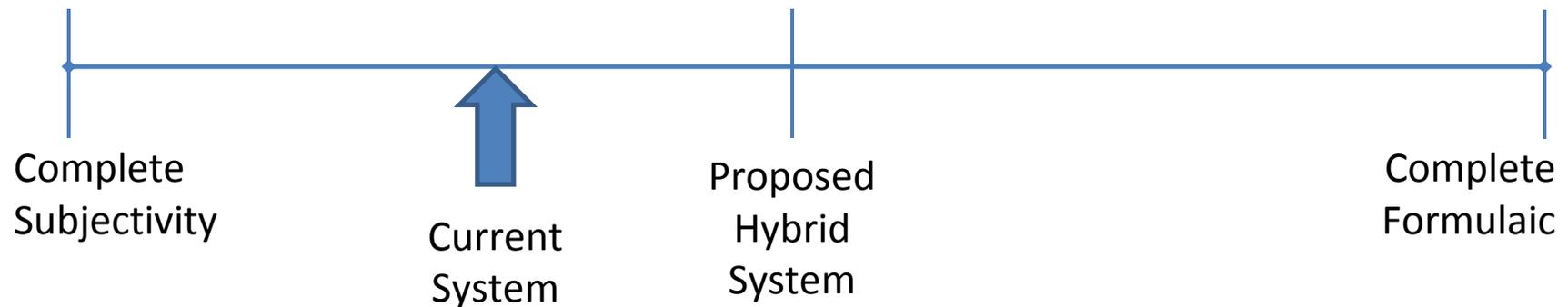
# What is Compatibility?

- Definition: *“A condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or Condition.”*

**Source:** State of Florida Administrative Code

# Compatibility Systems

- **Subjective** – Leaves near total discretion to the decision-making body. Involves only the common sense of the membership. Most vulnerable to litigation due to lack of objective, definable standards.
- **Formulaic** – Near total dependence on metrics or measurement. Requires significant cost and time investment by applicant. Eliminates the element of common sense discretion of the membership. Most vulnerable to litigation due to excessive application and data requirements.
- **Hybrid** – Combines the clarity of a degree of measurement, observable phenomena , and educated speculation with the membership common sense retained. Expected to be the most fair and legally defensible. Also includes commonly accepted land use incompatibility assessments built in to the process (and still permitting variances and appeals).



# Compatibility System Features

- **Subjective:**

- **Functionality** – Not very good since each decision is made on a case by case basis
- **Defensibility** – Not very good since any inconsistency of application could be a basis for litigation
- **Implementability** – Not optimal since for standardization and consistency, require significant amount of staff time dedicated to comparable research.

- **Formulaic:**

- **Functionality** – Fairly good since each decision and case analysis has a strong rational basis for it from the data. The weakness is the inability to use some informed discretion.
- **Defensibility** – Fairly good from a legal perspective since the law favors data over human discretion.
- **Implementability** – Extremely difficult since it would require the County to develop the precision measurements standards, many from expert consultants and it would require the applicant to provide the measureable data to ensure that each standard would be met. It may also require the County to hire expert consultants to interpret and verify the data.

- **Hybrid:**

- **Functionality** – The best within a non-zoning system of land use controls. Allows for some definable threshold standards and the discretion in which to apply them. Arguably leads to the fairest decisions.
- **Defensibility** – Again, probably the most defensible means of compatibility assessment and control.
- **Implementability** – Easiest to implement since some land uses are proffered and the remainder can be addressed through a rationally applied performance system with some participant discretion.

Table 2 - Compatibility Levels and Criteria

Compatibility Level	Setbacks	Buffer Requirements	Additional Mitigation
<p><b>Level 1 – Fully Compatible:</b> When a proposed use is identical to pre-existing land uses or totally compatible it is assumed to be fully compatible. Development should be designed consistent with good planning practice and to ensure the maintenance of compatibility.</p>	Standard	None	None
<p><b>Level 2 – Questionable Compatibility:</b> When a proposed use may have potential conflicts, either minor or significant, with existing adjacent uses, such conflicts may need to be remedied or minimized through project redesign. Traffic and other external effects should be directed away from lower-intensity uses. Landscaping, buffering, and screening should be employed to minimize negative effects. Other mitigation measures may be necessary to ensure basic compatibility. There are three degrees of questionable compatibility:</p> <p><b>A-Minor:</b> May require minimal setbacks, screening, or buffering plus other measures based on specific use such as restrictions on hours of operation.</p> <p><b>B-Moderate:</b> May require deeper setbacks and/or more concentrated screening and buffering plus other measures based on specific use such as restrictions on hours of operation.</p> <p><b>C-Significant:</b> May require substantial setbacks and/or may also require the most intensive screening and buffering plus other measures based on specific use such as restrictions on hours of operation.</p>	<p><b>A-Minor</b> Add 0'-10'</p> <p><b>B-Moderate</b> Add 10'-15'</p> <p><b>C-Significant</b> Add 15'-20'</p>	<p><b>A-Minor</b> 10'-15' Depth 2 tier plantings</p> <p><b>B-Moderate</b> 15'-25' Depth 2-3 tier plantings</p> <p><b>C-Significant</b> 25'-40' depth May require wall/fence and 3 tier plantings</p>	Based on specific use. See Table of Uses for specific examples and refer to performance criteria in §4.8
<p><b>Level 3 – Incompatible/Deleterious:</b> When a proposed use is incompatible with adjacent land uses, the project should not be supported unless extraordinary measures can be taken to offset the impacts. Incompatibility may trigger a fundamental shift in predominant land uses in a previously stable area.</p>	Greater than 20'	40' or greater; May require wall/fence and 3 tier plantings	Based on specific use. See Table of Uses for specific examples and refer to performance criteria in §4.8

# Performance Standards

- As recommended by the conservative, market-oriented Cascade Policy Institute, the institution of performance standards is a positive alternative to zoning. Staff suggests that a reasonable performance system tied to compatibility would adequately balance the needs of business to use their properties as they saw fit and the needs to adjoining and proximal property owners to the peaceful use and enjoyment of their properties and the protection of their property values (see report entitled Beyond Zoning: Land Use Controls in the Digital Economy, 1998). What staff is recommending for Benton County is a simplified (hybrid) performance regulatory system for commercial site plan review that does not include a zoning component. The system essentially functions as follows:
  1. Determine proposed land use and adjacent land uses for site in question using Table 6-3 and Table 3 below.
  2. Based on the compatibility level (1-3) described in Table 2 determined by the matrix in Table 3, determine what level of buffers and other mitigation will be required.
  3. Use Table 6-3 to determine if any special criteria apply to the use.
  4. Approve with conditions or deny application based on compatibility.

**Table 3 – Land Use Compatibility Matrix**



	Agricultural	Low Density Residential	Medium Density Residential	High Density Residential	Professional Office	Government/Educational/Institutional	Neighborhood Commercial	General Commercial	Regional Commercial/Light Industrial	Heavy Commercial	Utilities	Heavy Industrial
Agricultural (0)	☑											
Low Density Residential (1)	☑	☑										
Medium Density Residential (2)	☑	A	☑									
High Density Residential (3)	☑	B	B	☑								
Professional Office (4)	☑	A	A	A	☑							
Government/Educational/Institutional (5)	☑	B/C	B/C	A	☑	☑						
Neighborhood Commercial (6)	A	B	A/B	A	☑	☑	☑					
General Commercial (7)	B	B/C	B	B	A	☑	☑	☑				
Regional Commercial/Light Industrial (8)	B	C	C	B/C	A	A	A	☑	☑			
Heavy Commercial (9)	C	☒	☒	C	B	A/B	A	☑	☑	☑		
Utilities (10)	B/C	☒	☒	B	A	☑	☑	☑	☑	☑	☑	
Heavy Industrial (11)	☒	☒	☒	☒	C	C	C	☑	☑	☑	☑	☑

