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MEMORANDUM

TO: Duane Cherek, Planning Director, City of Janesville
Brian Schweigl, Senior Planner
City of Janesville Plan Commission

FROM: Craig Huebner, AICP

DATE: October 9, 2025

SUBJECT: Summary of Zoning Rewrite Materials for the October 2025 Plan Commission meeting

The consultant team is continuing to draft various components of the City's new zoning code. Recognizing that the entire code is subject to change through multiple steps, each part of the code will be labeled as a "Discussion Draft" and dated for reference.

The drafts of Articles 4 (Specific Procedures) and Article 8 (Alternative Development Options) are ready for your consideration. To help with your review of Article 4, we have prepared a summary table showing the key components of the different review procedures.

Additional details about each one of these are described below.

Article 4: Specific Procedures – Article 4 describes each of the 24 development review procedures anticipated by the code. Almost half of these procedures are infrequent and related to unique circumstances.

The Plan Commission makes a recommendation to the City Council or a final decision as follows:

Recommendation: Code Amendment (text and map), Planned Development Districts, Historic Districts, and Involuntary Termination of Approval

Decision: Conditional Use, Wireless Telecommunications (Class 1 and new tower), Wind Energy System, Community Living Arrangements, Special Exception, Expansion of a Nonconforming Building, Registration of a Nonconforming Use, Conversion of Nonconforming Use, Voluntary Termination of Approval, and Reasonable Accommodations

The remainder of common review processes would be reviewed by the Zoning Administrator (Site Plan Review, Architectural Review) or the Zoning Board of Appeals (Variance, Administrative Appeals).

Note on Conditional Uses: Please note that, following Act 67 (2017), the Wisconsin State Legislature has preempted local zoning authority regarding conditional use processes. Many of the conditional use processes conventionally utilized by the City of Janesville are updated to reflect this legislative change, and new processes have been added to replace processes that previously relied on conditional use procedures (i.e. Planned Developments, etc.). It is important for decision makers in zoning administration to understand these limits on their authority regarding conditional uses to advance zoning regulations in a fair and objective manner.

Please note the following details regarding the proposed recommendations for conditional uses (CU):

- As drafted, the property owner/operator of a CU would need to provide documentation upon request by the City to help ensure on-going compliance of the CU approval.
- As drafted, the property owner/operator must sign the decision document (notice of Plan Commission action).
- As drafted, the executed decision document is recorded in the register of deeds office as a permanent record unless the owner voluntarily terminates the approval.
- As drafted, the code recognizes that the City may not include standards or conditions of approval that aren't already in the zoning code, unless supported by substantial evidence reviewed at the public hearing.
- The CU process can't be used to lessen other provisions of the code including development standards. There are other means in the proposed draft (i.e. exceptions, variances) to address such situations.

Table: Summary of Review Authority – The procedures specified in Article 4 are summarized in this table to provide an at-a-glance overview of the type, frequency, authority, and appeals process for each of the procedures in the code. The columns in this table refer to the following important aspects of procedures:

- Application – This specifies the type of review procedure that a petitioner/applicant would seek a permit for.
- Type of Decision – This specifies whether a decision is legislative, quasi-judicial, or administrative in nature. This is an essential aspect of understanding local authority in zoning administration procedures. They are defined as follows:
 - Legislative: The City Council has significant authority to adopt and amend legislation (zoning rules, Planned Development Districts). Every legislative decision will require a public hearing to ensure public awareness and input.
 - Quasi-Judicial: The decisionmaker (typically the Plan Commission, City Council, or Zoning Board of Appeals) is responsible for interpreting the zoning and subdivision codes when deciding to approve/deny a petitioner's request.
 - Administrative: Administrative procedures do not involve Plan Commission or City Council review (unless appealed). The decisionmaker is typically the zoning administrator or their designee (City staff). Administrative procedures involve decision making where most policies and standards are objective and measurable. There is little to no room for interpretation for administrative procedures, and it should always be clear whether an application is entitled to approval. This is why no public meetings are typically required for administrative decisions. If an application is denied during an administrative procedure, the appeal may go to the Plan Commission or Zoning Board of Appeals. Administrative procedures are effective at speeding up approval processes and reducing development timelines for types of development that are largely anticipated by the code.
- Frequency – This specifies how common a review procedure tends to be. Infrequent is the lowest anticipated frequency, while low, medium, and high are anticipated to be relatively more common. Most of the "infrequent" reviews are subject to special review procedures.
- Recommending Body – Some types of review procedures will involve a recommending body which would review the application before it is sent to the decision-making body. Recommending body

decisions are advisory and are considered by the decision-making body for their final decision. Sometimes there are multiple recommending bodies across multiple stages. This column also specifies whether a public hearing would be involved in the recommending body review.

- Decisionmaker – The decisionmaker is the final authority determining approval/denial of an application. This column also specifies whether or not a public hearing would be involved in the decisionmaker review.
- Appeal – The appeal column specifies what reviewing authority is responsible for examining an application denied by the decisionmaker. Note that some of the appeals reference another review procedure (e.g. a zoning permit appeal is reviewed by the Zoning Board of Appeals via and Administrative Appeal, as specified in application type #20.)

There are six new review processes recommended to add to the code for the purposes of conforming to State statutes and adhering to best practices. They are as follows:

- Community Living Arrangements Review
- Special Exception
- Expansion of Nonconforming Building
- Registration of a Nonconforming Use
- Termination of Approval – Voluntary/Involuntary
- Reasonable Accommodations

Article 8: Alternative Development Options – Article 8 specifies review procedures and approval standards for a number of alternatives to standard zoning requirements. These options provide an approval process for developments that cannot be developed under typical review procedures due to various reasons. There are seven types of alternative development options. Additional options can potentially be added in the future as novel development types emerge. Every Alternative Development Option is a legislative decision type, meaning the City of Janesville retains total discretion over whether to approve the development. (See “Type of Decision – Legislative” in the prior section of this memo).

Most of the alternative development options (6 of 7) follow a Planned Development District (PDD) review process with specific standards to limit the variations on development that a PDD typically allows for. This means each would submit a General Development Plan then a Final Development Plan. Once a General Development Plan is approved, the petitioner is entitled to construct their project if they submit a Final Development Plan that conforms to the General Development Plan and all other zoning and land division policies and standards. However, unlike a PDD, the other Alternative Development Options only allow for flexibility within the specific review criteria as specified within that option. A development that cannot conform to the specific review criteria should be denied, or it would need to be developed under a typical PDD to allow for any type of variance.

The Mixed Residential Housing (MRH) option would not follow a typical PDD process, but rather a rezoning process. This process is also legislative in nature (meaning the City can deny it for any reason), but it more closely resembles any application to rezone and subdivide a property. Once rezoned, meeting all the specific review criteria for the subdivision plat, the project may advance within the guidelines set forth in the overall development plan. The criteria for an MRH project require:

- Multiple housing types, based on project size
- Limitations on residential density, based on number of housing types
- Dimensional standards on a lot-by-lot basis

- Criteria for transitioning to adjoining development

Once established, an MRH project can continue to develop by-right under the constraints of the specific review criteria. Deviation from these criteria requires an amendment, following a zoning text amendment process.

With regard to MRH projects, the consultant team is looking to incorporate standards to control the minimum number of housing units in each housing type category and potential maximums for single-family units. We hope to have a specific proposal to review at your upcoming meeting.

State Legislative Proposals Current Under Review

Several legislative proposals currently under consideration in Wisconsin's 2025–2026 legislative session could significantly affect local zoning regulations and comprehensive plans. These proposals have been drafted and are awaiting committee reviews and recommendations.

Below is a short list of the ones we are tracking along with a brief description.

- **Assembly Bill 449:** Mandates municipalities with zoning to permit accessory dwelling units (ADUs) on properties with existing single-family homes, potentially increasing housing density and affordability.
- **Assembly Bill 453:** Aims to reduce inconsistencies between a city's comprehensive plan and its residential zoning ordinances, potentially streamlining development processes and reducing delays.
- **Senate Bill 472:** Requires political subdivisions to grant requests for rezoning related to residential development, mandates that local ordinances align with comprehensive plans, and extends affordable housing Tax Incremental Financing (TIF) flexibility.
- **Assembly Bill 449:** Mandates municipalities with zoning to permit accessory dwelling units (ADUs) on properties with existing single-family homes, potentially increasing housing density and affordability.
- **LRB-2355:** Proposes aligning zoning with comprehensive plans to eliminate costly, time-consuming disconnects and establishes "by-right" housing when projects comply with approved plans and requirements.

We will continue to monitor these and other relevant proposals, particularly those that may influence our ongoing work on the City's zoning code update.