

Door County Land Use Services

ZONING AMENDMENT – MAP

(See also Door County Comprehensive Zoning Ordinance section 11.08 and Wisconsin Statutes section 59.69(5).)

By state law, petitions to rezone property are heard at a public hearing before the Door County Resource Planning Committee, which makes a recommendation to the county board for final decision.

The town board of a town under comprehensive zoning does have, however, statutory authority to essentially "veto" rezonings approved at the county level that it (the town) does not support. *(Comprehensively zoned towns may not, however, force the county to rezone property through this authority – the town can only prevent a rezoning. Note that towns with shoreland zoning only do not have any "veto" authority.)*

WHO CAN SUBMIT A PETITION?

A petition to change the zoning district designation of a property may be submitted by:

- 1) the property owner(s) of all or some of the land in question,
- 2) the town board from the town where land is located (comprehensively zoned towns only),
- 3) the Door County Resource Planning Committee, or
- 4) any county board supervisor.

CONSIDERATIONS IN EVALUATING PETITIONS TO REZONE

- Was the existing district due to a mistake in the mapping process?
- Have circumstances changed for this property or surrounding properties since the original zoning district designation?
- How are the adjacent properties zoned and used?
- Is the land area in question large or small?
- Would the new district fit official plan guidelines for the property? Is the existing district a better fit?
- Is the request simply to economically benefit one property owner or a small group of property owners?
- Is there an overriding public good to be gained by rezoning the property? (If yes, rezoning might be justified even if other considerations point toward denying the petition.)

In general, a rezoning that 1) will economically benefit only one or a few property owners, 2) affects a small area of land, 3) is not a fit with official plans, 4) will allow for higher intensity or higher density uses than those allowed on surrounding properties, and 5) will not result in any overall public benefit may constitute "spot zoning," which may be deemed illegal.

Note that rezoning a property means that **any** use allowed in the new zoning district may be established on the property, now or in the future, not just the use being proposed by the current applicant. A property owner may volunteer to legally restrict the uses to which the property may be put, such as through a deed restriction naming the county as enforcement agency, but the planning committee may be reluctant to participate in such discussions or agreements for fear of inadvertently engaging in "contract rezoning," which is illegal.

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HEARING PROCESS & DECISION

1. Submit a completed application form with the non-refundable fee.
2. Provide copy of the deed(s), tax bill(s), or survey(s) (no larger than 11” x 17”).
3. Once the Door County Land Use Services Department deems the application complete, a copy of the application and a draft staff report will be sent to the town to ask for recommendations and comments. The applicant and neighboring property owners will receive a copy of the letter which forwards the application and staff report to the town. Please call the town to see if/when the town may be meeting to discuss this matter.
4. The Door County Land Use Services Department will publish a notice of the hearing in the Door County Peninsula Pulse and will notify the applicant and neighboring property owners in writing of the hearing date / time. It takes ~2 months from time of application submittal to hearing date.
5. The application packet (including staff report and letters) will be posted to the Planning Department website the Friday before the hearing date.
6. If the applicant/petitioner fails to appear at the hearing (in person, or by agent or counsel), s/he will be deemed to be in default and the petition for zoning amendment may, in the Resource Planning Committee’s sole discretion, be denied. The applicant/petitioner may, if s/he failed to appear (in person, or by agent or counsel) for good reason, request in writing that the Resource Planning Committee reopen the default denial. Any request to reopen must be made (i.e., written request received by the Land Use Services Department) within thirty (30) days of the default denial. The Resource Planning Committee may, in its sole discretion, reopen a default denial if good cause is shown, such as mistake, inadvertence, or excusable neglect. If a default denial is reopened, the applicant/petitioner must submit a new fee, unless the Resource Planning Committee determines otherwise.
7. Other people can also attend the hearing to testify for or against the petition request.
8. The Resource Planning Committee will consider the evidence presented and will most likely make a decision that same day at a business meeting after the hearing(s). If the case hearings are lengthy or if additional information is needed, it is possible that the decision could be tabled to a later date.
9. The Resource Planning Committee will recommend approval, denial or a modified version of the request. Within a few days after the hearing and meeting, the Door County Land Use Services Department will send the applicant a copy of the Resource Planning Committee’s recommendation along with information regarding the county board meeting date / time at which the final decision will be made.
10. The County Board will make a final decision and within a few days after county board, the Door County Land Use Services Department will send a letter notifying the applicant of the final decision and the effective date (immediate or 40-day delay).

RESUBMISSION

A petition for zoning amendment that has been heard and decided shall not be eligible to be resubmitted during the 6 months following final action by the Door County Board of Supervisors. The 6 month period may be waived by the Resource Planning Committee provided that the petitioner submits a written report identifying how the new zoning amendment petition differs substantially from the previous petition or identifying substantial new evidence that will be offered and provided that the Resource Planning Committee votes by simple majority that the changes or new evidence would be of such significance that the Door County Board of Supervisors might consider changing the previous decision.