

2003 DRAFTING REQUEST

Bill

Received: **02/14/2003**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Fitzgerald (608) 266-5660**

By/Representing: **Judy**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Counties - zoning
Munis - zoning**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Fitzgerald@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Conditional use zoning permits

Instructions:

No political subdivision may withhold a conditional use zoning permit due to an "unrelated issue."

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							S&L
/1	mshovers 03/25/2003	kgilfoy 04/01/2003	pgreensl 04/02/2003		amentkow 04/02/2003		S&L
/2	mshovers 05/12/2003	kgilfoy 05/12/2003	chaskett 05/13/2003		sbasford 05/13/2003	mbarman 05/14/2003	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

At intro.

<END>

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12 MES 5/12-5/13
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1/	mshovers	1-4/1	4/1	4/1			
11 ME S	3/24/03	King	ps	seb			

FE Sent For:

<END>



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2059/1
MES...
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

✓

1 AN ACT ...; relating to: limiting the reasons for which a local government may
2 withhold approval of a conditional use permit.

Analysis by the Legislative Reference Bureau

Under current law, a city, village, town that is authorized to exercise village powers (municipality), or county is authorized to enact zoning ordinances that regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lot that may be occupied; the size of yards and other open spaces; the density of population; and the location and use of buildings, structures, and land for various purposes.

Also under current law a municipality or county, or a body that handles zoning issues such as a city plan commission, board of appeals, or county zoning agency (zoning entity), may a issue conditional use permit. Such a permit authorizes a property owner to put the property to a use that is expressly permitted by a zoning ordinance as long as certain conditions are met.

Under this bill, no zoning entity may withhold approval of a conditional use permit for a reason that is unrelated to the conditional use permit. requested

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 59.69 (2) (bm) of the statutes is amended to read:

59.69 (2) (bm) The head of the county zoning agency appointed under sub. (10) (b) 2. shall have the administrative powers and duties specified for the county zoning agency under this section, and the county zoning agency shall be only a policy-making body determining the broad outlines and principles governing such administrative powers and duties and shall be a quasi-judicial body with decision-making power that includes but is not limited to conditional use, planned unit development, and rezoning. The county zoning agency may not withhold approval of a conditional use permit under this section based on a reason that is unrelated to the requested conditional use permit. The building inspector shall enforce all laws, ordinances, rules and regulations under this section.

History: 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105.

SECTION 2. 62.23 (7) (gm) of the statutes is created to read:

62.23 (7) (gm) *Conditional use permits.* None of the following may withhold approval of a conditional use permit under this subsection based on a reason that is unrelated to the requested conditional use permit:

- 1. The city council.
2. The city plan commission.
3. The city plan committee of the city council.
4. The board of appeals.

SECTION 3. Initial applicability.

(1) This act first applies to an application for a conditional use permit that is filed on the effective date of this subsection.

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2059/7dn

MES...
king

Senator Fitzgerald:

(bm)
I did not amend s. 60.63 (8), which deals with a town community living arrangement, such as a foster home, a treatment foster home, or an adult family home (see s. 60.63), although such establishments are covered in cities, villages, and ~~towns~~ *counties* because of the amendment of s. 59.69 (2) and the creation of s. 62.23 (7) (gm). Is this consistent with your intent? Based on the instructions I received, it did not seem to me that affecting community living arrangements was what the drafting request was meant to address. Please let me know if you would like s. 60.63 (8) amended also. *I*

Hut
Marc E. Shovers

Senior Legislative Attorney

Phone: (608) 266-0129

E-mail: marc.shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2059/1dn
MES:kmg:pg

April 2, 2003

Senator Fitzgerald:

I did not amend s. 60.63 (8), which deals with a town community living arrangement, such as a foster home, a treatment foster home, or an adult family home (*see* s. 60.63), although such establishments are covered in cities, villages, and counties because of the amendment of s. 59.69 (2) (bm) and the creation of s. 62.23 (7) (gm). Is this consistent with your intent? Based on the instructions that I received, it did not seem to me that affecting community living arrangements was what the drafting request was meant to address. Please let me know if you would like s. 60.63 (8) amended also.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

Mark,

Can we incorporate these
changes for a 12 version?

Thanks!

Judd Rhodes



SCOTT FITZGERALD

State Senator • 13th District

I HOPE YOU FIND THE ENCLOSED MATERIAL USEFUL.

State Capitol • P.O. Box 7882, Madison, WI 53707-7882
608-266-5660 • Legislative Hotline: 1-800-362-9472

Section 1. 59.69(2)(bm) of the statutes is amended to read:

59.69(2)(bm) The head of the county zoning agency appointed under sub. (10) (b) 2. Shall have the administrative powers and duties specified for the county zoning agency under this section, and the county zoning agency shall be only a policy-making body determining the broad outlines and principles governing such administrative powers and duties and shall be a quasi-judicial body with decision-making power that includes but is not limited to conditional use, planned unit development and rezoning. The county zoning agency may not:

1. Withhold approval of a conditional use permit under this Section based on a reason that is ~~not directly related~~ to the requested conditional use permit; nor
2. ~~Make as a condition to such approval the taking of some action or the refraining from some action with respect to an existing use of the property or any structures, appliances or fixtures thereon, not directly related to the requested conditional use permit.~~

The building inspector shall enforce all laws, ordinances, rules and regulations under this section.

Section 2. 62.23(7) (gm) of the Statues is created to read:

62.23(7)(gm) *Conditional Use Permits.* None of the following may A. withhold approval of a conditional use permit under this sub-section based on a reason that is ~~not directly related~~ to the requested conditional use permit; nor B. make as a condition to such approval the taking of some action or the refraining from some action with respect to an existing use of the property or any structures, appliances or fixtures thereon, not directly related to the requested conditional use permit.

1. The city council.
2. The city plan commission.
3. The city plan committee of the city council.

4. The board of appeals.

Section 3. Initial Applicability.

(1) This act first applies to an application for a conditional use permit that is filed on the effective date of this subsection.

(End)



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2059/2
MES:kmg:pa

✓
2
PMP

2003 BILL

1 AN ACT to amend 59.69 (2) (bm); and to create 62.23 (7) (gm) of the statutes;
2 relating to: limiting the reasons for which a local government may withhold
3 approval of a conditional use permit.

egen

Analysis by the Legislative Reference Bureau

Under current law, a city, village, town that is authorized to exercise village powers (municipality), or county is authorized to enact zoning ordinances that regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lot that may be occupied; the size of yards and other open spaces; the density of population; and the location and use of buildings, structures, and land for various purposes.

Also under current law a municipality or county, or a body that handles zoning issues such as a city plan commission, board of appeals, or county zoning agency (zoning entity), may issue a conditional use permit. Such a permit authorizes a property owner to put the property to a use that is expressly permitted by a zoning ordinance as long as certain conditions are met.

Under this bill, no zoning entity may withhold approval of a conditional use permit for a reason that is ~~unrelated~~ ^{not directly related} to the requested conditional use permit.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

→ related

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

nor condition approval of such a permit on the property owner taking, or not taking, some action with respect to an existing use of the property, that is not directly related to the permit

BILL

nor may the county zoning agency
RA; ; 59.69(2) (bm) (intro.)

1 SECTION 1. 59.69 (2) (bm) of the statutes is amended to read:

2 59.69 (2) (bm) The head of the county zoning agency appointed under sub. (10)

3 (b) 2. shall have the administrative powers and duties specified for the county zoning
4 agency under this section, and the county zoning agency shall be only a
5 policy-making body determining the broad outlines and principles governing such
6 administrative powers and duties and shall be a quasi-judicial body with
7 decision-making power that includes but is not limited to conditional use, planned
8 unit development, and rezoning.

~~The county zoning agency may not withhold approval of a conditional use permit under this section based on a reason that is unrelated to the requested conditional use permit.~~

not directly related
The building inspector shall enforce all laws, ordinances, rules, and regulations under this section.

12 SECTION 2. 62.23 (7) (gm) of the statutes is created to read:

13 62.23 (7) (gm) Conditional use permits. *Neither the* ~~None of the following may withhold approval of a conditional use permit under this subsection based on a reason that is unrelated to the requested conditional use permit:~~

The county zoning agency may not do any of the following:

- 16 ~~(A) A city council, nor~~
- 17 ~~(B) The city plan commission, nor~~
- 18 ~~(C) The city plan committee of the city council, nor~~
- 19 ~~(D) The board of appeals,~~

may do any of the following:

20 SECTION 3. Initial applicability.

(1) This act first applies to an application for a conditional use permit that is filed on the effective date of this subsection.

INS 2/22

INS 2/22

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2059/2ins
MES:kmg:pg

Insert 2-12 ✓

SECTION 1. 59.69 (2) (bm) 1. of the statutes is created to read:

59.69 (2) (bm) 1. Withhold approval of a conditional use permit under this section based on a reason that is not directly related to the requested conditional use permit.

SECTION 2. 59.69 (2) (bm) 2. of the statutes is created to read:

59.69 (2) (bm) 2. Condition the approval of a conditional use permit under this section on the property owner taking some action or refraining from some action with respect to an existing use of the property, or any improvements to the property, that are not directly related to the requested conditional use permit.

Insert 2-10 ✓

1. Withhold approval of a conditional use permit under this subsection based on a reason that is not directly related to the requested conditional use permit.

2. Condition the approval of a conditional use permit under this subsection on the property owner taking some action or refraining from some action with respect to an existing use of the property, or any improvements to the property, that are not directly related to the requested conditional use permit.

Basford, Sarah

From: Rhodes-Engels, Judi
Sent: Wednesday, May 14, 2003 8:23 AM
To: LRB.Legal
Subject: Draft review: LRB 03-2059/2 Topic: Conditional use zoning permits

It has been requested by <Rhodes-Engels, Judi> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-2059/2 Topic: Conditional use zoning permits