

# Planning, Zoning, and Property Tax Assessment: How Are They Related?

What is the value of my parcel of land? Will zoning for a specific use affect the assessed value? What about the comprehensive plan? How do the plan and zone relate in assessing land value?

These questions arise when discussing property tax appraisal and how it is affected by planning and zoning. It is possible to draw some inferences on the relationship between planning and zoning and land values. Oregon law and various court cases have helped to clarify this relationship.

## The Language

- **Real Property:** The land and all things permanently attached to it.
- **Market Value:** The highest price in terms of money that a property likely will bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably.

• **Real Property Appraisal:** An estimate of the value of real property by a party having knowledge of real estate prices and the market for real estate.

• **Real Property Assessment:** Valuation of real property estimated by a public body for purposes of property taxation.

## Appraisal Guidelines

The Department of Revenue has suggested guidelines in considering real property tax appraisal and its relationship to planning and zoning in its Department of Revenue Supplement 5-100.10, "Guidelines on Real Property Tax Appraisal as Affected by Land-Use Planning and Zoning." These guidelines take into consideration the effects of recently enacted state laws and tax court decisions.

For instance, in *Martindale v. Department of Revenue*, (1972), the Oregon Tax Court held that:

"Appraisers cannot properly evaluate property in disregard of current zoning restrictions unless they know as a fact, and the "market" knows, that a change has been lawfully made and recorded or recording is imminent."

The landmark case of *Baker v. City of Milwaukie* has assisted in defining the role of comprehensive planning in Oregon. Of primary importance in that case was the establishment of the comprehensive plan as the *guiding planning document* for local governments. This dominance also is found in state laws concerning the role of planning and zoning, and as the examples will demonstrate in real estate appraisal determinations.

The following examples are used to show some valuation—comprehensive planning—zoning relationships. Each example will indicate which document (the comprehensive plan or zoning ordinance) should be used in determining the land value, and thus the real property assessment. Most examples center on treatment of the vacant land as to its assessment for property tax purposes.



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## Example 1

In this first instance, the *plan* and *zone* are consistent. The plan designates the land area as single family residential. Also, it is zoned single family residential. Landowner A owns the total parcel and has some question as to how the vacant land will be assessed and how the multi-family units will be treated. In this example, landowner A would have the following situation: The

vacant land normally would be appraised on single family use. The pre-existing multi-family development is non-conforming since it conflicts with the plan and zone. The multi-family use is presumed permitted so long as the buildings are used on the land. That section developed and used as multi-family use normally would be classified as multi-family and be assessed at that use.

ACTUAL USE		PLAN DESIGNATION	ZONE DESIGNATION
SINGLE FAMILY UNITS (EXISTING)	VACANT	SINGLE FAMILY	SINGLE FAMILY
	MULTI-FAMILY UNITS (NON-CONFORMING)	RESIDENTIAL	RESIDENTIAL

## Example 2

Again, this situation finds that the zone and plan are consistent. The plan designates the total land area as commercial and the zone also designates the area as commercial. Part of the parcel is improved with single family residences, however, while the remainder remains vacant.

Landowner B is unclear as to how the property

might be assessed. The following illustration demonstrates the situation that presently exists.

That area improved with single residences is a lower density use than designated in the plan. The use is permissible, therefore.

The land (both vacant and improved) should be classified as commercial, with the house being valued recognizing economic obsolescence.

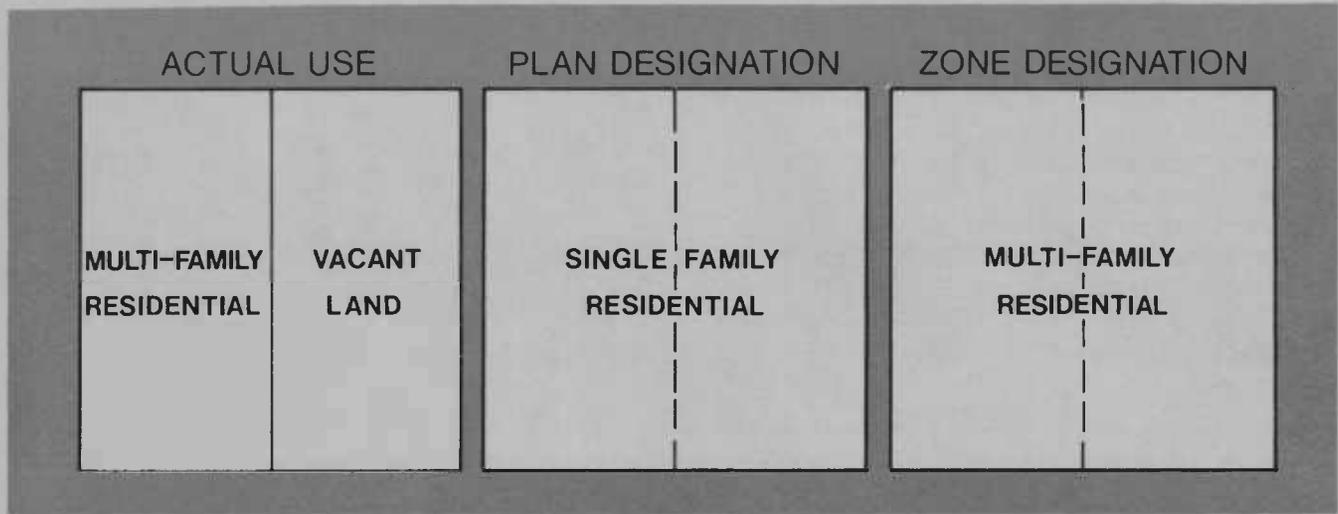
ACTUAL USE	PLAN DESIGNATION	ZONE DESIGNATION
IMPROVED, WITH SINGLE FAMILY RESIDENCE	COMMERCIAL	COMMERCIAL
VACANT LAND		

### Example 3

In this example the plan and zone differ in that the plan designates the land area as single family residential and the zone designates it as multi-family residential. Since the plan and zone do conflict, landowner C is in a quandry as to how the parcel might be assessed.

This example shows the plan permitting a single family use only. The vacant land is, therefore,

available for single family use, and valued at that use. Multi-family uses would not be permitted on the vacant land. Landowner C has a situation where the multi-family development is non-conforming. The use normally would be permitted as long as the present buildings are used on the land in question. That parcel already developed (see "actual use") to multi-family use would be assessed according to the multi-family use.

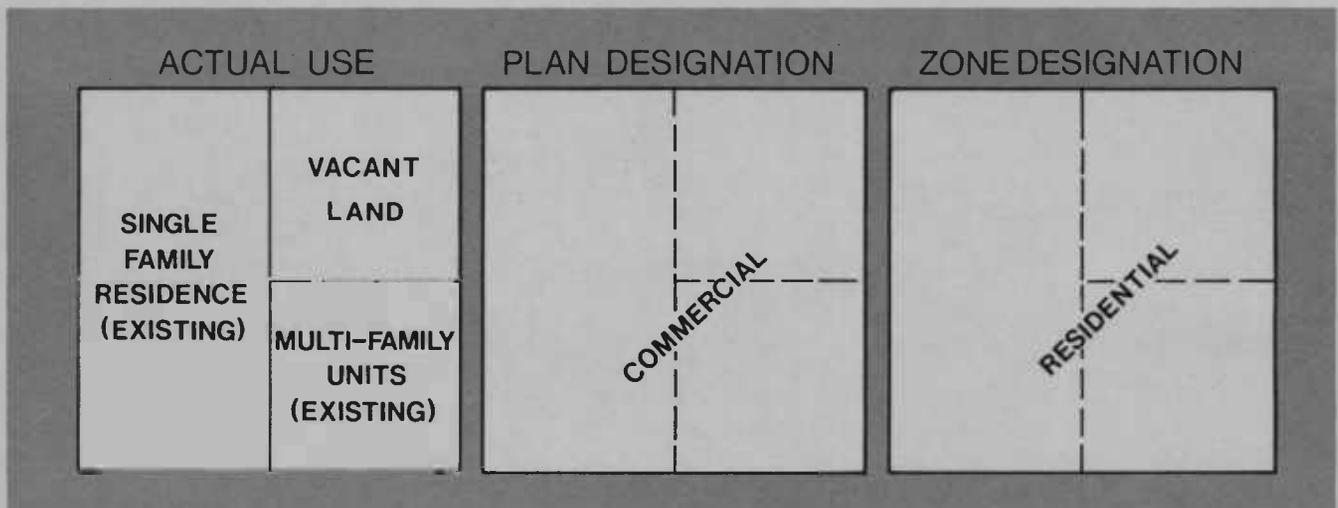


### Example 4

This case also demonstrates a situation where the plan and zone are in conflict. The land area under consideration is zoned for single family residential use, but the plan designates the same area as commercial. Landowner D owns the parcel that has a portion of it developed to single family residences, another part to multi-family units, and still another section that remains vacant.

Landowner D would find in this situation that the plan has set the highest possible use as commercial. Due to the difference in plan designation and zone designation, however, a "higher" and "lower" use concept will affect not only the use, but also the assessment of this particular real estate.

For instance, in this case, a lower use zone is permissible since it is of less intensity than is stated



in the plan (commercial). Some planning documents may account for this by specifying the use and permitting no "lower uses." Since this was not done in this example, landowner D would find that all vacant land (see "actual use" in the chart) normally would be classified as single family residential, and assessed at that use unless it is rezoned.

The multi-family units (pre-existing, but a non-conforming use) are presumed to continue so long as the present units are used on the land. That parcel (see illustration) developed to multi-family units would be assessed based on that use. Again, although the multi-family use is non-conforming to the zone, it may be a permissible lower-density use under the plan. If the plan would permit *only* a commercial use, landowner D's land would be appraised as commercial, recognizing economic obsolescence of the building.

This example demonstrates the importance of how the various uses in the plan designation are stated. Such statements may, at times, play a significant role in determining the assessment of a particular parcel of land.

## Conclusion

These four examples were developed in an effort to illustrate the interrelationships of comprehensive land use plans, land use zoning ordinances, and appraisal value for (property) tax purpose. They are not all inclusive, and are not meant to be. They do, however, relate to day to day situations that may exist in any area in the State of Oregon. The examples, although based primarily on urban situations, can be related to similar circumstances that appear in rural areas.

No longer are assessment, zoning, and comprehensive planning treated as separate issues. They are tied together in property valuation and tax appraisal process.

If the reader would like more detailed information on court cases and legislation, see Department of Revenue Supplement cited, available from the Department of Revenue, Salem.

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