

Throw Away the Cookie Cutter: Zoning for YOUR Community

Eric Christianson
Field Specialist

515-231-6513
ejchr@iastate.edu

Ask yourselves...

- When is the last time you updated your comprehensive plan/zoning code?
- Is your community granting zoning variances at a high rate?
- Do you feel like you are fighting against your own ordinance in promoting new development?
- How often are you granting LTOW permits?

You might need to update your zoning ordinance...

- Your zoning ordinance is a **local** law that should reflect the values, history, and desires of your community.

Agenda

- Planning and Zoning 101
- Adding Flexibility to your Code
- Promoting Workforce Housing

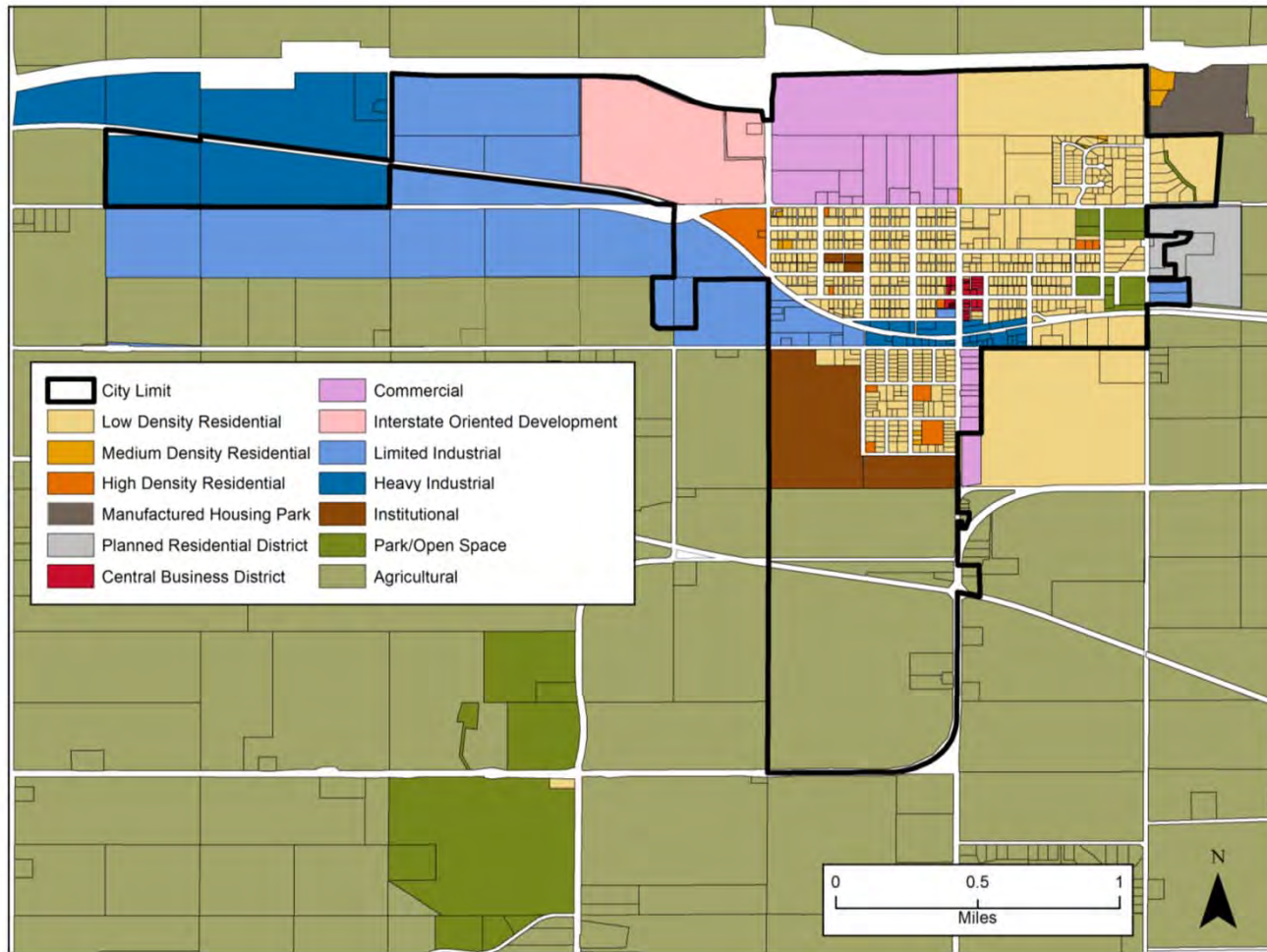
The Comprehensive Plan

- **A statement of policy...**
 - “developed” by the Planning Commission,
 - guided by citizen input,
 - adopted by the City Council.
- Guides physical development of the community
 - Usually with a 10 to 20 year horizon.
 - Consider review/update every 5 years to respond to changing conditions.

The Comprehensive Plan

- “ensures the [city] acts rationally in exercising zoning authority.”
 - Webb v. Giltner (1991)
- According to state law, the zoning ordinance and zoning decisions “shall be made in accordance with a comprehensive plan....”
 - *Iowa Code* § 414.3 (Cities)
 - *Iowa Code* § 335.5 (Counties)

Future Land Use Map



Future Land Use Map

The aging population of the city requires more diverse housing options to comfortably age in place. [...] The addition of more senior housing to the current community would benefit the aging population and increase the availability of existing housing for families.

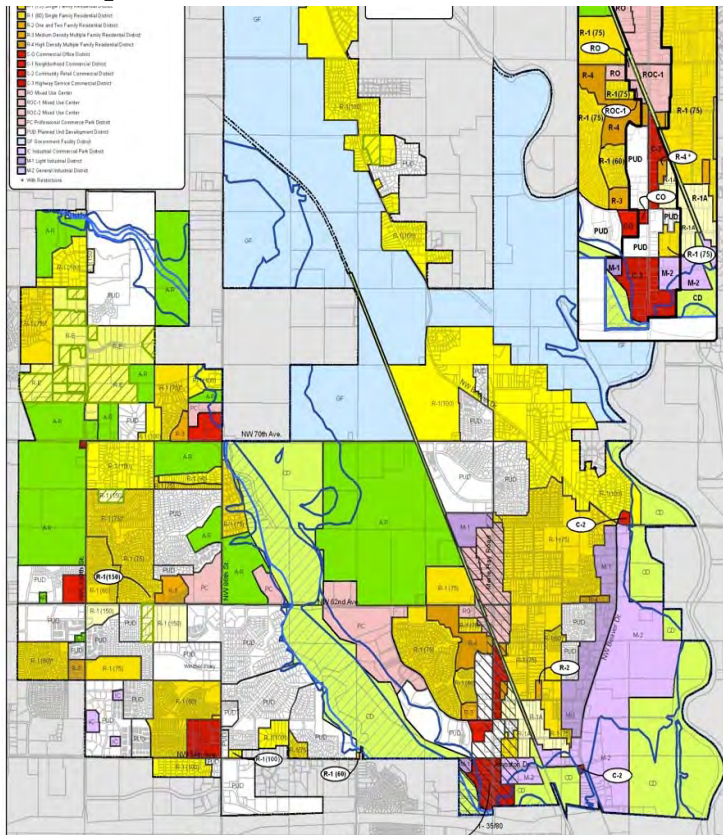
What is a zoning ordinance?

- A local law
- Divides community into zones or districts,
 - Regulates the land uses allowed
 - Regulates the sizes of lots
 - Regulates the height, area and setbacks
 - Regulates parking, landscaping, accessory structures
 - And other stuff...

Zoning Ordinance

Two parts

Map delineates zones



Text provides regulations

ARTICLE 5 USE CATEGORIES

Sec. 29.500. PURPOSE.

The purpose of this Section is to describe the different classifications of uses found in this Ordinance and to provide a systematic basis for assignment of present and future uses to zones.

Sec. 29.501. CLASSIFICATION OF USES.

(1) **Standards for Classification.** Uses shall be assigned to the category with the description and listing of uses most closely describing the nature of the Principal Use.

(2) **Developments with Multiple Principal Uses.** When all the Principal Uses of a development fall within one Use Category, then the development is assigned to that Use Category. When the Principal Uses of a development fall within different Use Categories, each Principal Use is classified in the applicable category and is subject to the regulations for that category.

(3) **Accessory Uses.** Unless otherwise stated in this Ordinance or otherwise indicated in the Use Tables for each zone:

- (a) Accessory Uses are allowed by right in conjunction with a Principal Use;
- (b) Accessory Uses are subject to the same regulations as the Principal Use except as otherwise indicated;
- (c) All uses include parking for residents, customers or employees as an Accessory Use;
- (d) Examples of common Accessory Uses are listed within the Use Categories;
- (e) Accessory Uses are incidental and customary to and commonly associated with the operation of the Principal Use;

i. Is clearly incidental and customary to and commonly associated with the operation of the Principal Use;

ii. Is operated and maintained under the same ownership or by lessees or concessionaires of the owner, and on the same zone lot as the Principal Use;

iii. Does not include structures or structural features inconsistent with the Principal Use;

iv. Does not include residential occupancy in conjunction with uses other than hotels, motels, tourist homes and similar transient housing accommodations, except by owners and employees employed on the premises and the immediate families of such owners and employees; and

v. Has a gross floor area that, in combination with all other uses accessory to Principal Uses located in the same structure or on the same lot, does not exceed 25% of the gross floor area utilized by all Principal Uses. This 25% floor area limitation, however, shall not apply to off-street parking.

(4) **Uses Included.** The names of uses on the following Tables are generic, and similar uses not listed in the "Uses Included" list may also be included in the Use Category if they are not included in another Use Category. Uses included are based on the common meaning of the terms and not on the name that an owner or operator might give to a use.

Table 29.501(4)-1
RESIDENTIAL USE CATEGORIES

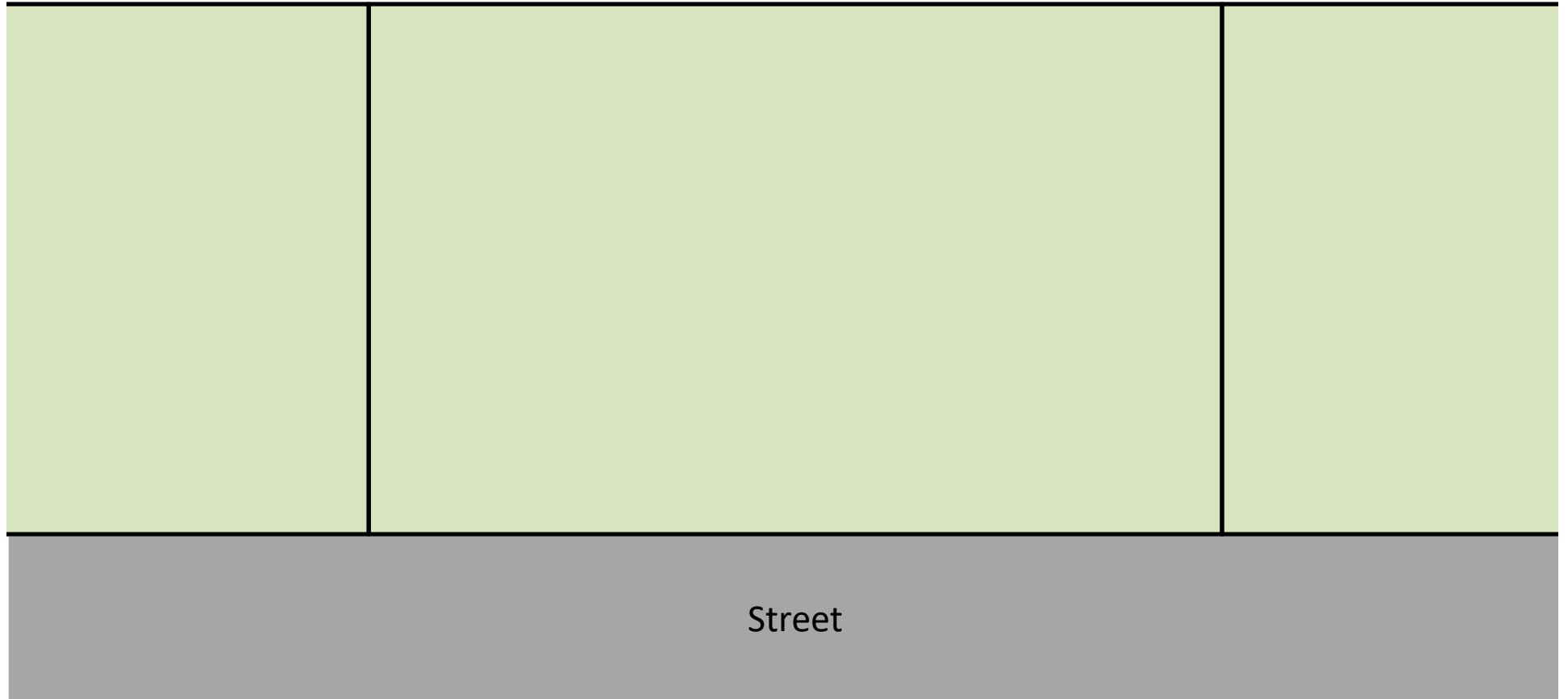
Group Living

Definition. Residential occupancy of a structure by a group of people who do not meet the Household Living definition. Size is larger than the average household size. Average length of stay is 60 days or longer. Structures generally have a common eating area for residents. Residents may receive any combination of care, training, or treatment, or none of these, as long as they also reside at the site.

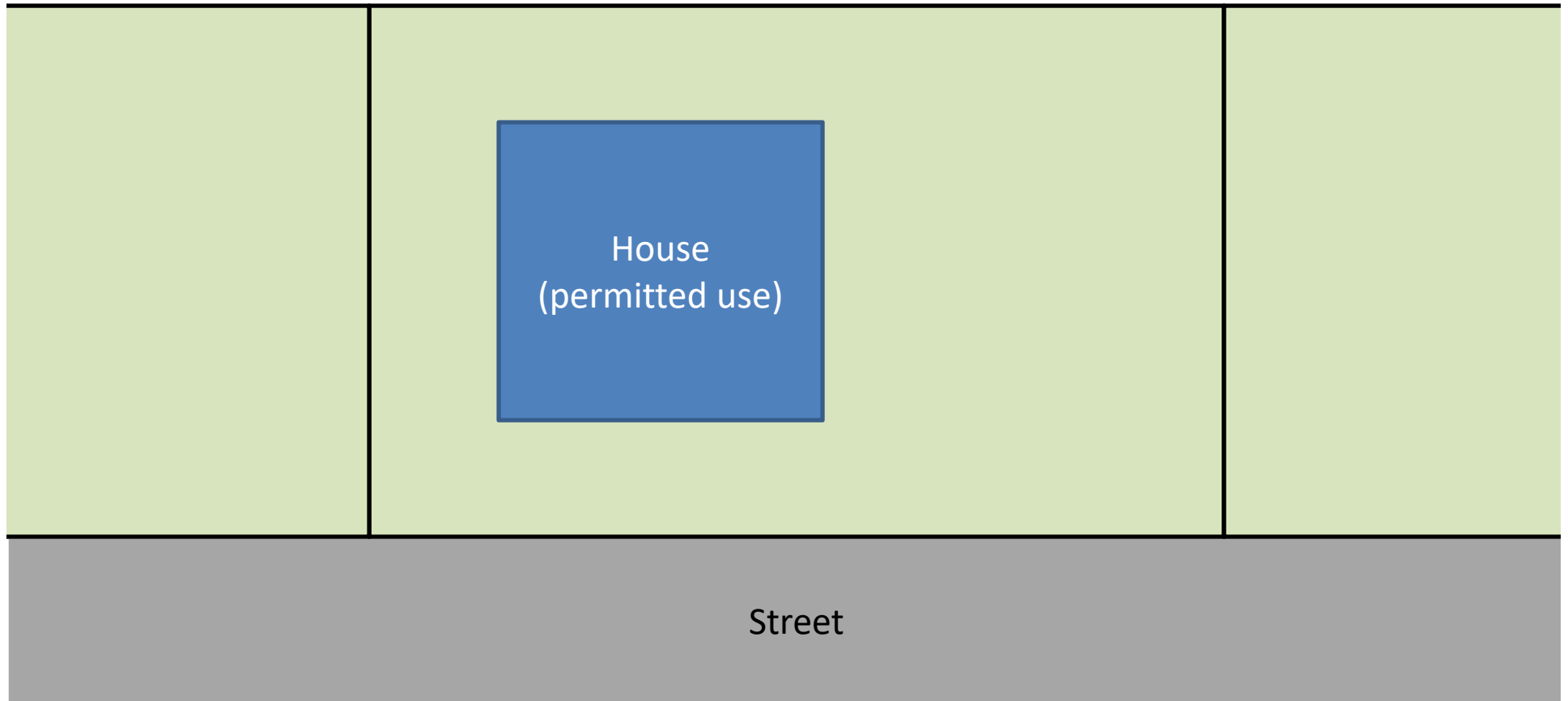
Uses Included

- Assistant Living Facilities
- Boarding, rooming or lodging houses and single room occupancy (SRO) hotels with more than 6 units
- Congregate housing

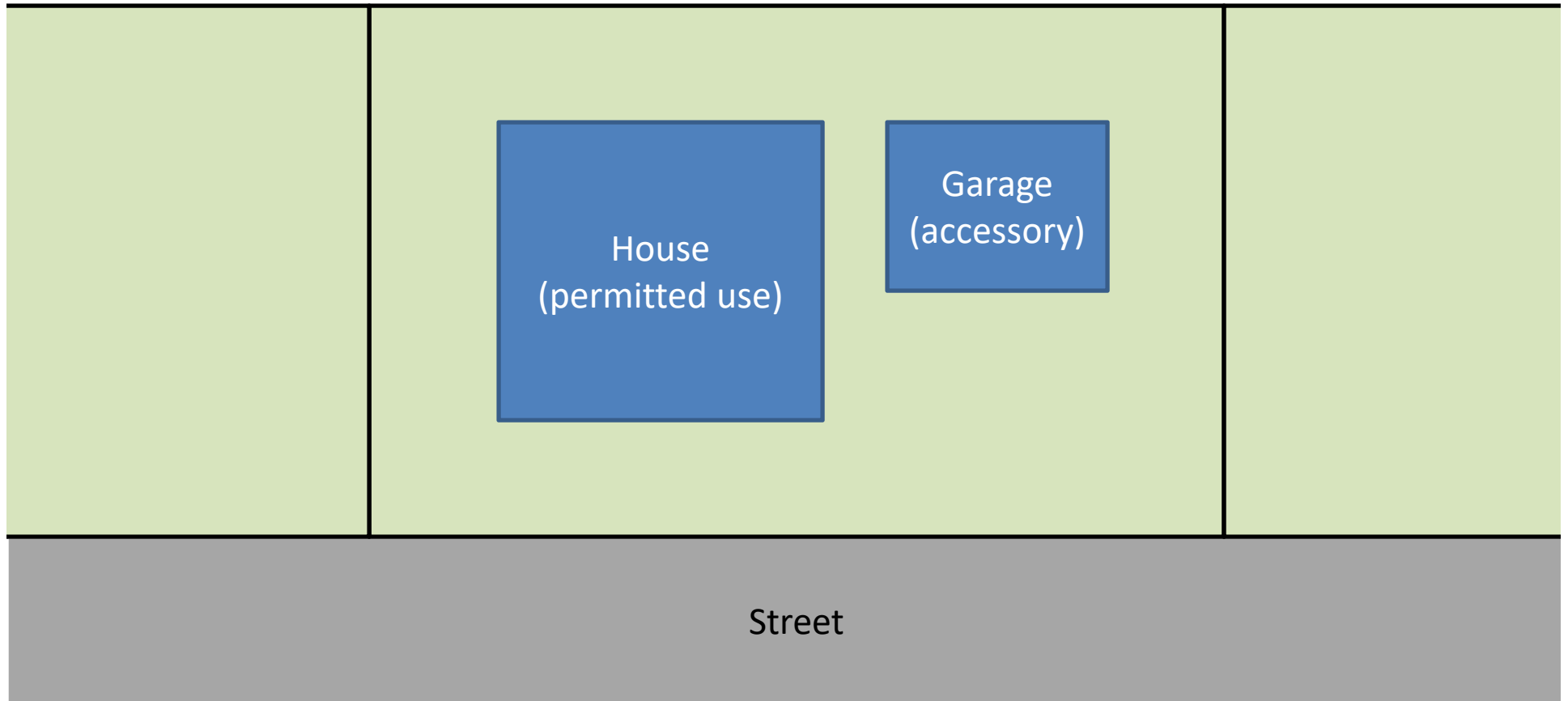
R-1 Single Family Lot



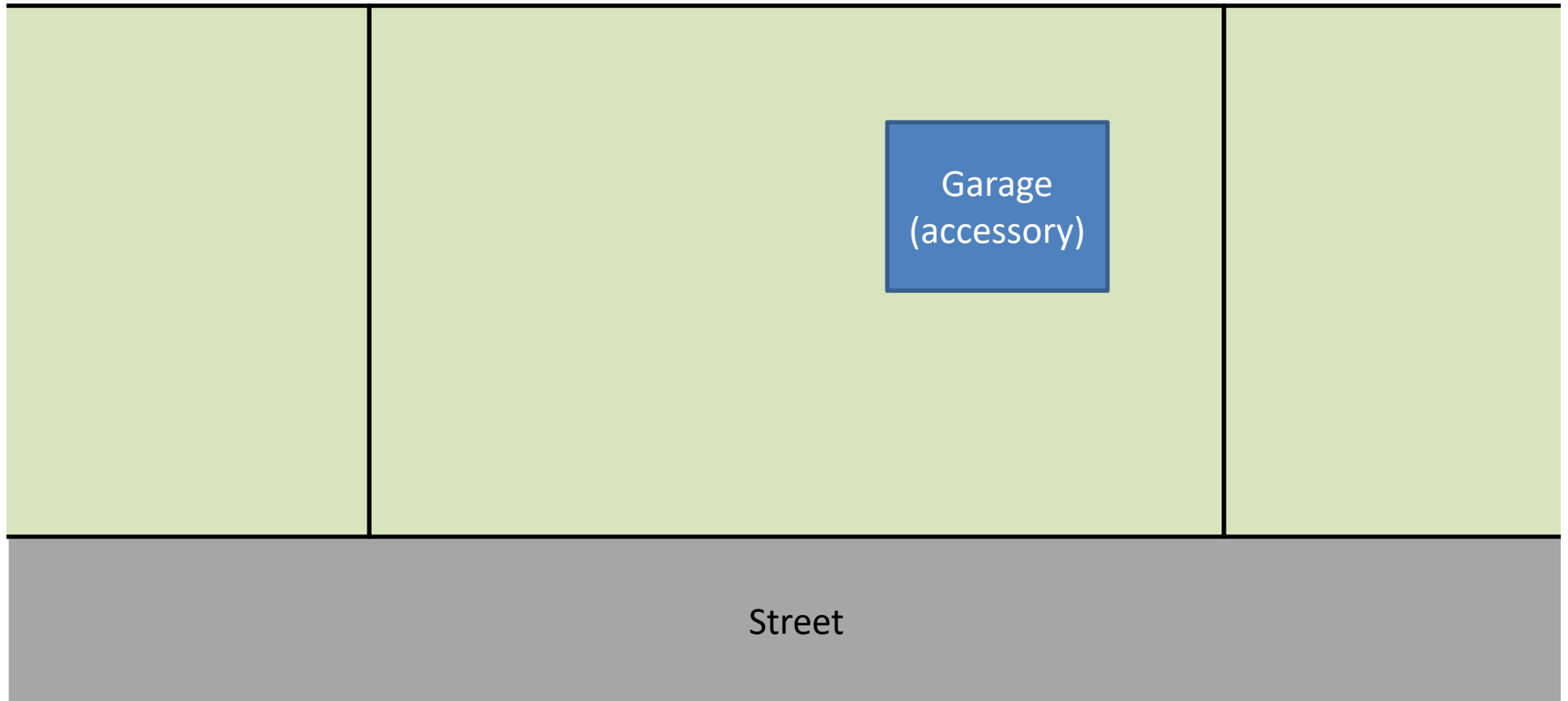
R-1 Single Family Lot



R-1 Single Family Lot



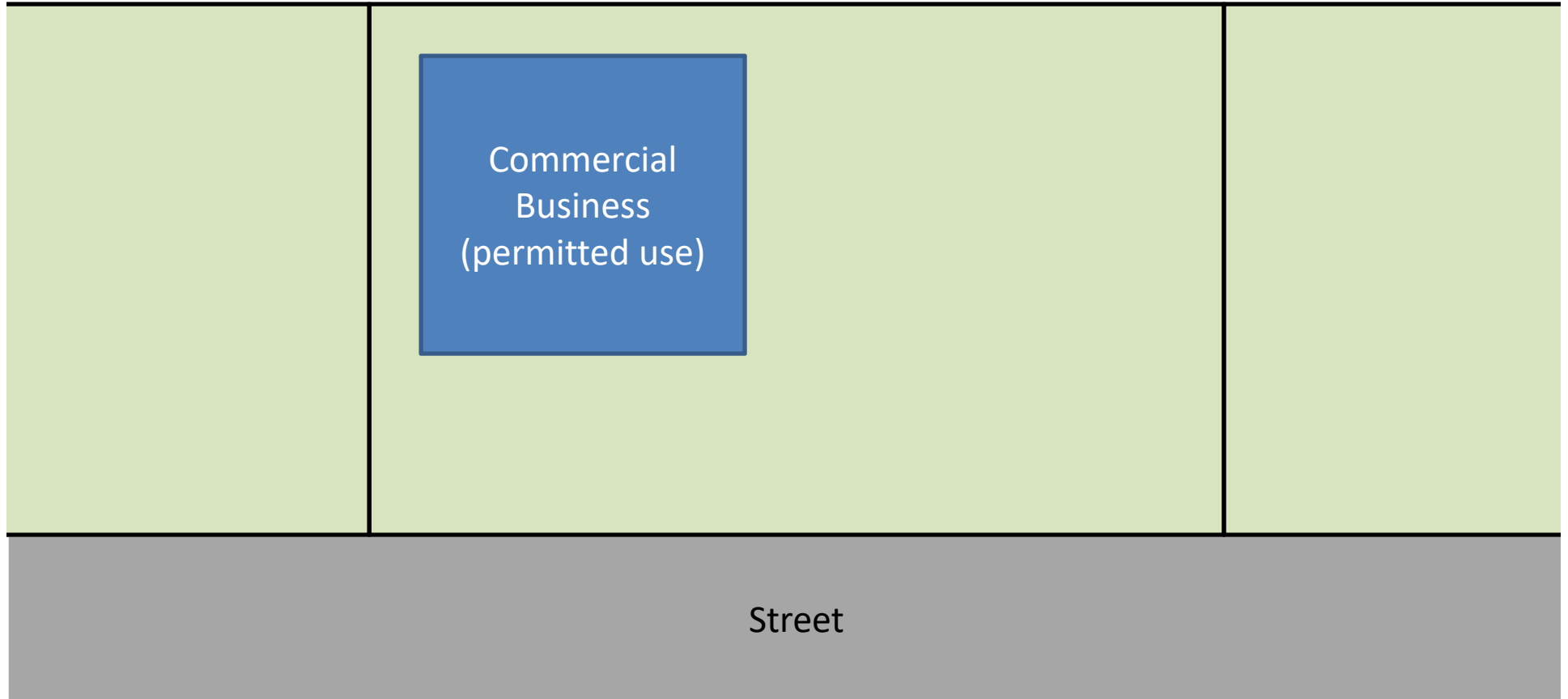
R-1 Single Family Lot



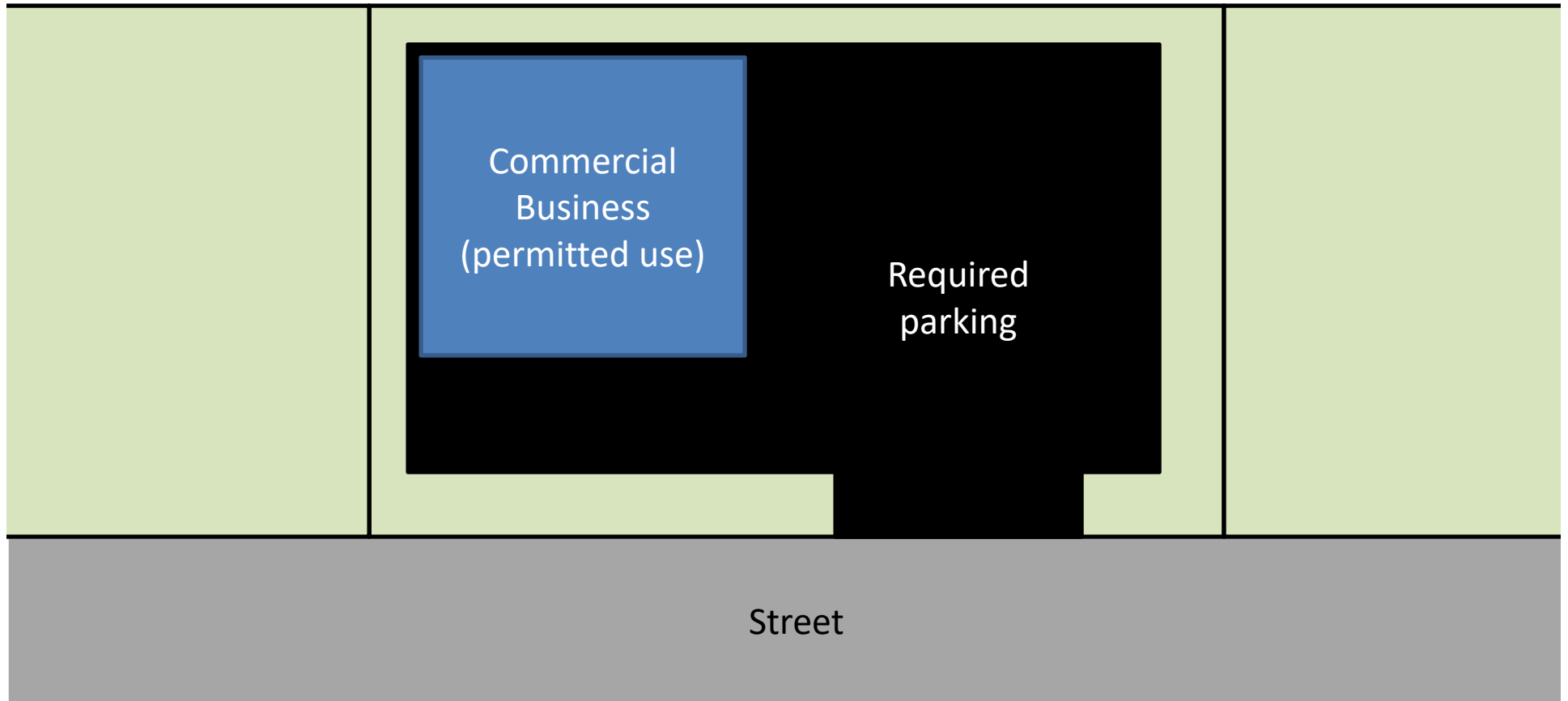
C-1 Commercial Lot



C-1 Commercial Lot



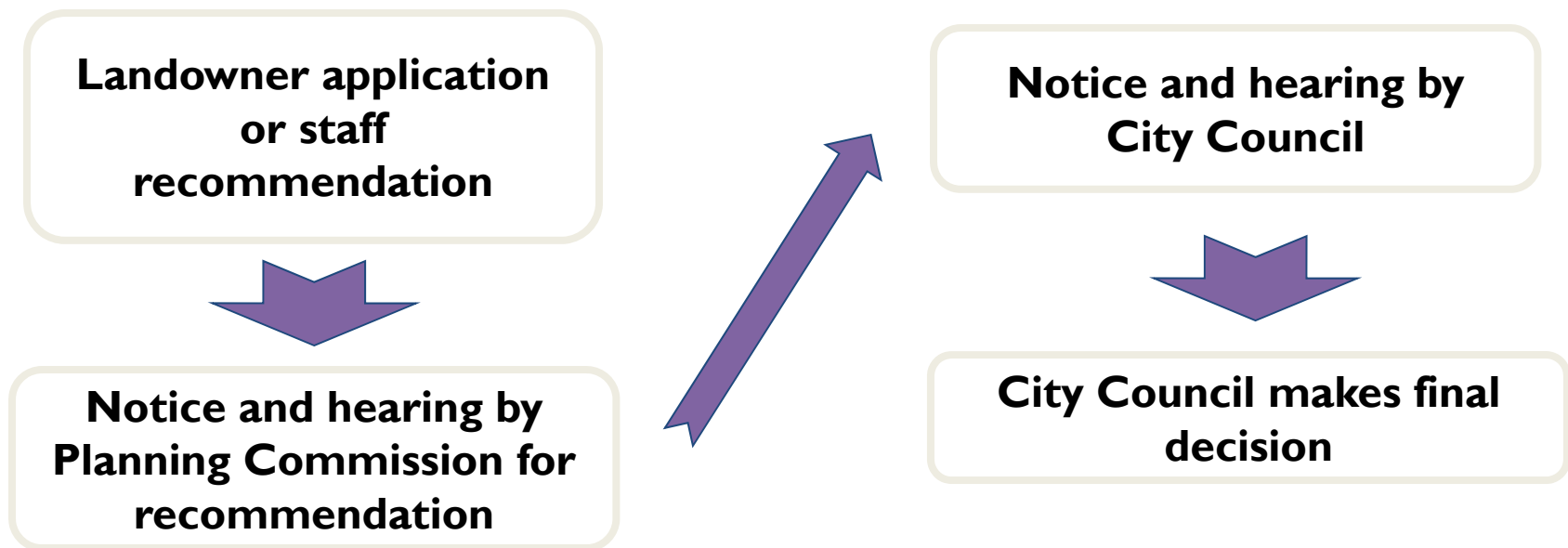
C-1 Commercial Lot



The Decision-Makers

- Board of Supervisors / City Council
- Planning & Zoning Commission
- Zoning Board of Adjustment
- Zoning Administrator / Staff

Code Change - Rezoning or Ordinance Amendment



Adding Flexibility

Flexibility in Zoning

- Planning and zoning decisions are some of the most consequential that a local official can make.
- A new structure or subdivision may be in a community 50, 100 years or more.
- It is important to be thoughtful in where you allow for flexibility

Variations

Variations

- A *variance* if approved by the Zoning Board of Adjustment, is an authorization to use property in a manner generally *forbidden* by the ordinance.
- A *variance* can only be granted if the landowner proves that an *unnecessary hardship* will result if the zoning regulations are enforced.

Variations

- The intent of the standard is to prevent the property from being *worthless as zoned*.
- A list of “acceptable variations” will not be found in a zoning ordinance.
- Overusing variations allows an unelected board to make important policy decisions.

What about setbacks?

- Required setbacks can be changed for all property owners by amending the zoning code.
- If you want to allow the relaxation of setbacks in some circumstances, consider allowing the reduction of a percentage of a setback through a conditional/special use permit.
- Also may be appropriate for wheelchair ramps and other accessibility requirements.

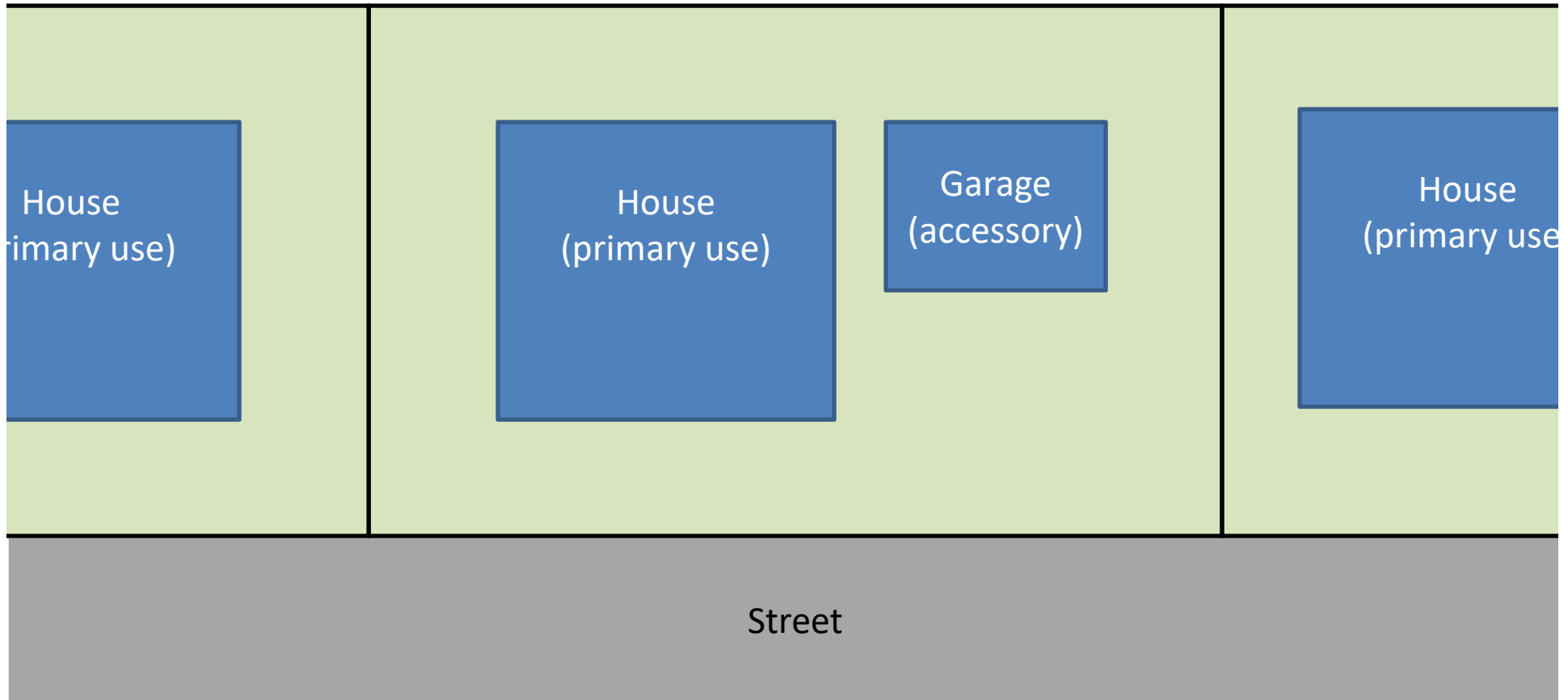
Conditional/Special uses

- Each zoning district has a list of permitted uses (“uses by right”). *Conditional uses, special uses, special exceptions* appear in the ordinance as a list of uses that must go through the ZBA for approval.
- The zoning ordinance will list criteria that the landowner must meet in order for the ZBA to grant the special exception.
 - Usually 4 or 5 criteria focused on compatibility of the proposed special exception with the neighborhood.

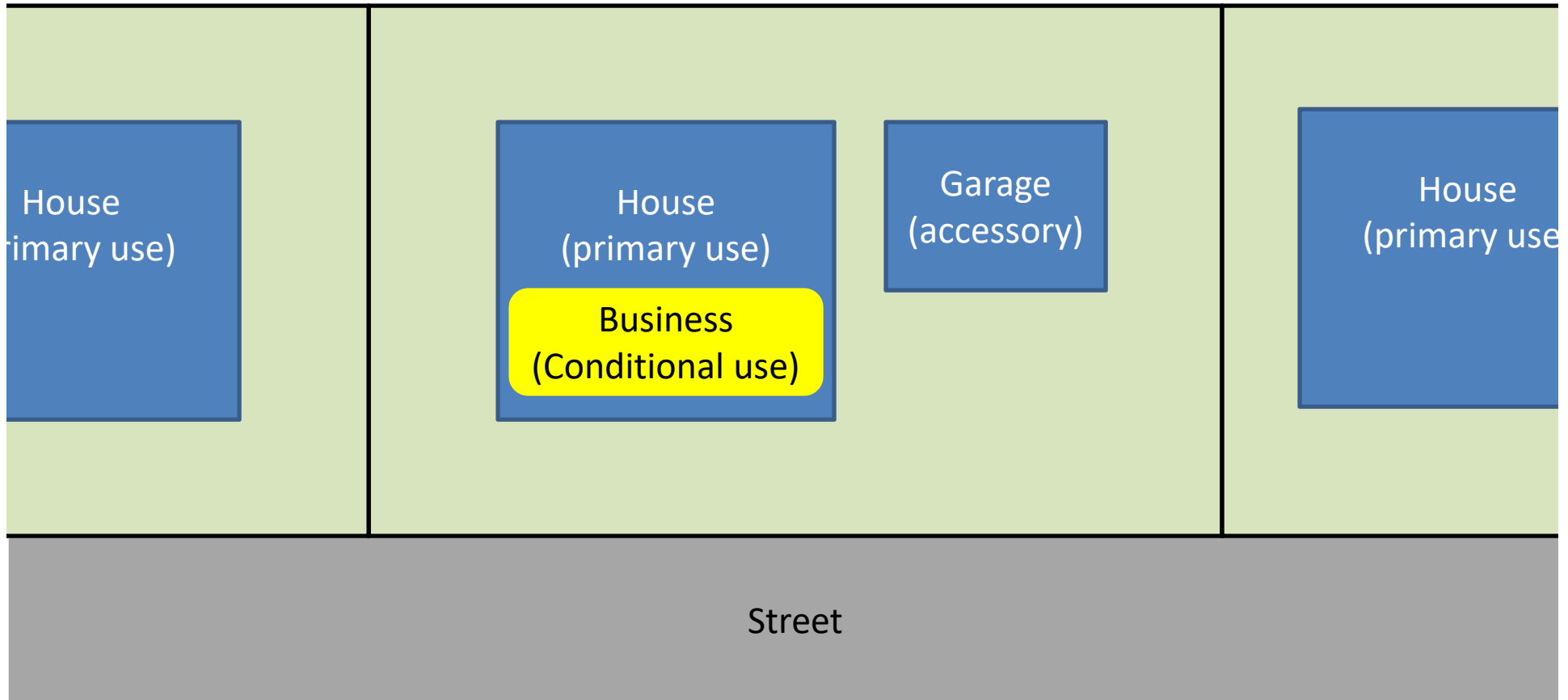
Conditional/Special uses

- **Purpose** is to make sure slightly-out-of-character uses can be made to “fit” with surroundings.
 - Home occupations
 - Cell towers
 - Duplexes
 - Drive-thru businesses
 - Special events
 - Relaxation of dimensional requirements

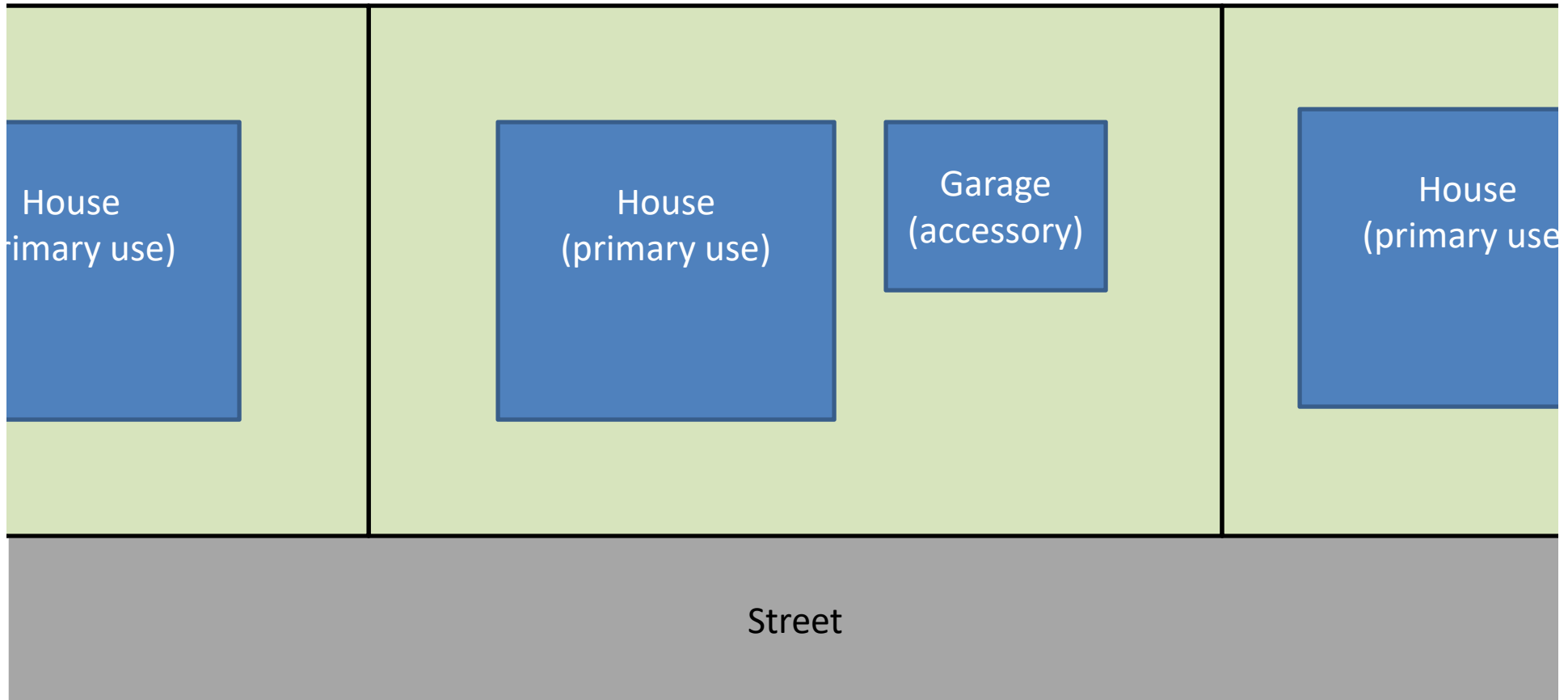
R-1 Single Family Lot



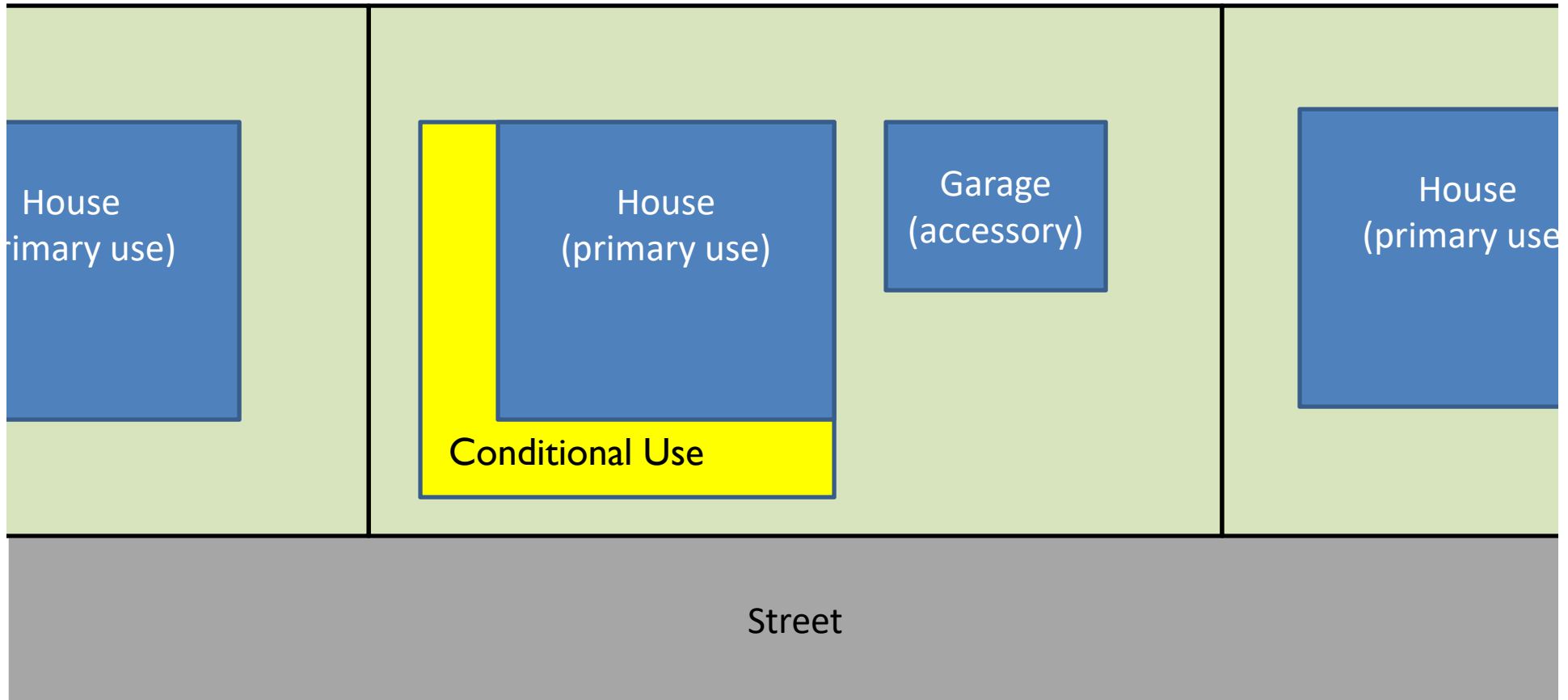
R-1 Single Family Lot



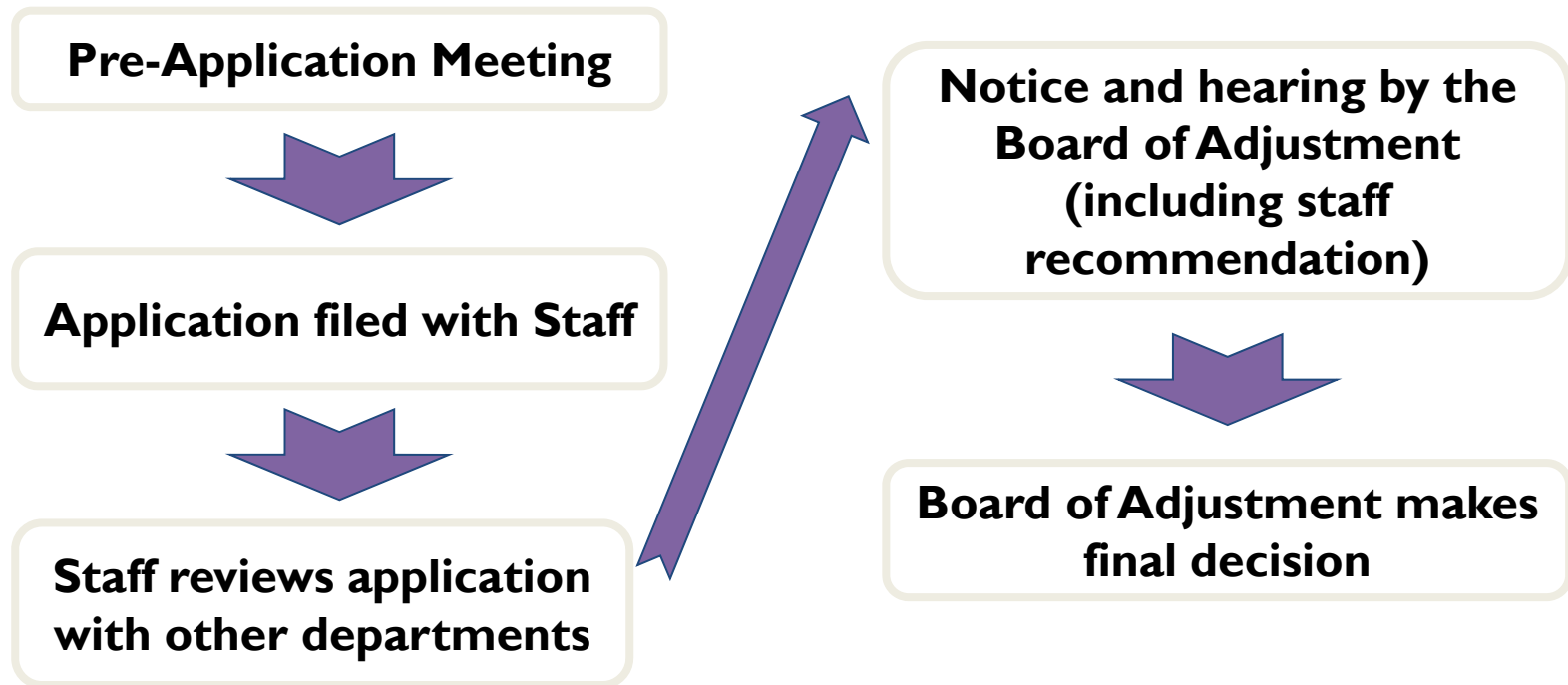
R-1 Single Family Lot



R-1 Single Family Lot



Special / Conditional Use Permit



Nonconforming uses

- “Uses” that were legal when established, but do not conform to regulations of the current zoning ordinance.
 - Nonconforming uses.
 - Nonconforming structures.
 - Nonconforming lots.
- Zoning ordinances must allow nonconforming uses to continue (cannot force closure, removal).

Nonconforming uses

- A nonconforming use may not be **enlarged** or **extended**.
 - The use at the time the ordinance became effective is the standard of comparison.
- Normal repairs and maintenance should be permitted.

Destruction rule

- Most ordinances have a 50% (or so) of assessed value destruction rule.
- It is possible to construct ordinances that allow new structures to be rebuilt
 - Sometimes this is restricted to the previous building footprint.

Promoting Workforce Housing

Zoning Cost Burdens

<i>Zoning District</i>	<i>Minimum Lot Size (SF)</i>	<i>Floor Area (SF)</i>	<i>Front Setback (Feet)</i>	<i>Lot Width (Feet)</i>	<i>Cost Burden</i>
Recommended	4,250	981	13	30	\$0.00
City 1	6,000	NA	30	60	\$6,357.50
City 2	5,300	NA	20	50	\$3,422.50
City 3	9,000	1150	30	70	\$27,139.64
City 4	8,000	NA	30	65	\$10,082.50
City 5	7,500	900	30	60	\$8,682.50

Accessory Dwelling Units

- A second, independent dwelling on the same parcel as a single-family house
 - May be attached or detached
 - An apartment over the garage, in the basement, in an outbuilding
 - Also called granny flats, in-law apartments, family apartments, or ADUs

Accessory Dwelling Units

- Allows flexibility in increasing a community's housing supply
 - Facilitates efficient use of existing housing stock & infrastructure
 - An affordable housing option for many low- and moderate-income residents
 - Improves homeowner cash flow
 - Helpful to elderly and/or disabled people who may want to live close to family members or caregivers, empty nesters, young adults, etc

Manufactured Housing

- A city shall not adopt or enforce zoning regulations or other ordinances which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home.

Iowa Code 414.28(2)

Manufactured Housing

Local governments may not “disallow or make infeasible the plans and specifications of land leased communities because the housing within the community will be manufactured housing.”

414.28A (cities) and 335.30A (counties)

Land-leased communities of manufactured housing must be allowed under the same terms and conditions imposed on site-built housing.

Bahl v. City of Asbury, 656 NW2d 336 (Iowa 2002).

Non-Conforming Mobile Home Parks

- Newly passed law allows mobile homes to be replaced in legal non-conforming mobile home parks.
- Adopting best practices and zoning for manufactured housing communities can improve quality of life for residents and the community as a whole.

Resources

- Your city attorney!
- Iowa League of Cities
- COGs & RC&Ds
- ISU Extension
- Private Consultants

The Midwest Planning BLUZ
(The Blog on Land Use and Zoning)
www.blogs.extension.iastate.edu/planningBLUZ

Summaries of recent court cases and legislation
relevant to planning and zoning decision-makers

Contact us:

Eric Christianson
Local Government Field Specialist
ejchr@iastate.edu
(515) 231-6513

Thank You