

DRAFT

**BENZIE COUNTY
PLANNING, ZONING & BUILDING CODE
ADMINISTRATION ANALYSIS:
Halting the Crisis of Confidence**

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Purposes of the Study

The principal purposes of this study are to:

- Identify apparent and real problems facing land use decision-making in Benzie County government at this time.
- Identify cost effective options that would improve the quality and timeliness of County Planning, Zoning and Building Code Administration services in Benzie County.
- Provide direction so the County Board of Commissioners, the County Planning Commission and key County staff are all on the same page, working to achieve the same vision and according to the same set of goals and objectives. This must be accomplished with the same common understanding of not only the vision and goals, but also of the respective roles and responsibilities of each of the entities involved.
- Provide recommendations to solve identified problems and prevent future ones.
- Provide the opportunity for township officials, stakeholders and the general public to regain confidence in their County elected and appointed officials.

Appendix A includes the original proposal for this project. It opens with two pages of observations about conditions and circumstances that led up to the project as the authors understood them in April, 2007.

Key Problems Identified

Table 1 lists the key apparent problems that were articulated in interviews and based on the authors' judgment. It also lists what the authors think are the real problems that appear to underlie the apparent problems. These and related problems are described, discussed and analyzed in this report. Where pertinent, options are presented along with the pros and cons of each option and recommendations are offered to correct each of the real problems identified.

Table 1: Principal Problems – Apparent and Real

Apparent Problem	Real Problems
A number of recent costly lawsuits on zoning matters.	County Board and County Zoning Board of Appeals (ZBA) are unclear as to respective roles and responsibilities.
	County Zoning Ordinance update is incomplete.
	Inadequate staffing in the County Planning & Zoning Departments leading to bad decisions.
	Inadequate training of new staff, County Board, new County Planning Commissioners, and the need for refresher training of the County ZBA, and of County Building staff on how to best relate to the County Planning and Zoning programs.
Hiring of County Building Inspector and County Zoning Administrator, and appointment of County Planning Commissioners using procedures that are perceived as favoritism.	Poor system for establishing job descriptions, posting and hiring of positions, supervision, staff evaluation, continuing education, and maintenance of state and professional certifications.
	Poor communication with townships, contractors, builders and other stakeholders.
Zoning Ordinance that is not up-to-date and hard to use.	Inaction on recommended changes to the Zoning Ordinance.
	Poor priority setting, division of tasks, and adherence to a schedule.
Growing distrust of County Board and County staff on land use matters.	Poor effort to engage townships in provision of County Zoning services.
	Inadequate geographic and stakeholder representation on the County Planning Commission and inadequate input from affected townships in the appointment of Planning Commissioners.
	Poor communication with townships and constituents on planning, zoning and building code matters.

A growing crisis of confidence has arisen in response to a series of events where the present or immediate past County Board made at least one decision that led to a zoning lawsuit, made at least two personnel decisions that to some appear to have involved favoritism, and have made several decisions to appoint persons to the County Planning Commission that appear to provide greater representation to people in and around Crystal Lake as opposed to the County as a whole. These decisions appear to be based on the best of intentions, but have had unintended consequences. As a result, attempts by the County Board to resolve problems have led to new and in some cases larger problems than the original ones. This has led to a growing perception that the County Board does not care about the interests of everyone in the County, or in some cases, cares more about issues on the west side of the County as compared to the east side. It is important that a series of decisions be made soon to unravel the tangled web. It is important that new procedures, training, communications, and relationships be quickly established. If not done soon, the likelihood that existing problems will grow worse is quite high.

Qualifiers

While it is possible that these perceptions are not true, or are only partially true, they appear to be widely held by people both within and outside County government. In such a situation, it matters little whether they are actually true since people perceive them to be true and talk about them to one another as if they are. We have therefore accepted them as true for the purposes of this study—without attempting to validate their actual veracity.¹ The principal reason is because in every case if they are true, they violate basic practices of good administration, management and public decision making, and thus need to be addressed soon or other serious problems both inside and outside the land use arena will begin to develop.

This study was done quickly in order to meet a pressing need of the County. It could have been done more thoroughly, but the authors do not believe that more time or more detail would substantially change either the findings or the recommendations. While it was based on an interpretation of many persons impressions, as well as of the authors' over 60 years of combined professional experience in Michigan, a formal "audit" with many more interviews and examination of many more documents would have revealed more nuances, perhaps more problems, and possibly more solutions. However, the recommendations in this report include analysis of enough options to cover most of those other nuances. Of course, should other nuances become important as part of the review of these recommendations and implementation of them, they should be seriously considered and addressed.

Whether this analysis is 100% correct or not, is not as important as acting on the recommendations with deliberate speed and after proper consultation with all the affected and interested parties. This is because the recommendations are based on best practices which should be followed regardless.

It is also important that these recommendations be considered as a complete set and addressed as a set, and not viewed as a menu where some are selected for action and others are ignored. Picking and choosing, or ignoring some is almost certain to exacerbate (as opposed to resolve) the identified problems. There are some recommendations which involve selection of certain options, and not others. For the most part these relationships are viewed as quite obvious, and if they aren't, don't hesitate to consult with the authors for further direction.

This report is presented as a draft in the event that there are factual errors. Please bring any errors to each author's attention within a month. Then the factual errors may be corrected and a final report issued. It may also be that some of the analysis or recommendations are not as complete as desired. If so, again please let each author know so that they may add material to the final report.

¹ Attempting to validate the actual veracity of the identified problems would take considerable time, require the ability to administer oaths, and cost a lot of money with little apparent benefit. Such tasks were clearly outside the scope of our proposal or authorization.

The Process Followed By the Authors

The basic steps in the process followed by the authors are listed below:

1. Following submittal of the proposal in mid-April, the authors immediately requested and began to review background information such as job descriptions, recent meeting minutes, zoning and building code forms, and related information as relevant. See list of documents reviewed in Appendix B.
2. Between May 10th and May 23rd the authors interviewed 18 persons including the following:
 - The County Administrator
 - A couple of members of the County Board of Commissioners
 - A couple of members of the County Planning Commission
 - A member of the County Zoning Board of Appeals
 - The County Planning Director
 - The County Zoning Administrator
 - The County Building Code Director
 - Several Township elected officials
 - A couple of interested citizens representing key stakeholder groups.A full list of the persons interviewed is presented in Appendix C along with the interview questions. In many cases the follow-up questions were not asked. Each interview lasted between 30 and 45 minutes.
3. The authors met with the County Planning Commission on May 10th to review the project scope, ask some interview questions in public and take questions from the public. The responses are reflected in the meeting minutes of the Planning Commission.
4. The authors met to discuss findings from the interviews and analysis of documents and to prepare an outline of key elements to address in the report.
5. The authors prepared a draft written report and sent it to the County Board and County Planning Commission for review prior to a joint meeting of both bodies on June 14th. We are sorry that the limited project time precluded more than a few days opportunity for review of this draft report prior to June 14, 2007.
6. The authors will facilitated a joint meeting of the County Board and County Planning Commission on June 14, 2007 to present a summary of the report, answer questions and assist with reaching consensus on the next steps.
7. After the completion of the above tasks the authors will assist with scheduling and conducting training programs for staff and commissioners, consistent with the recommendations of this report.

Structure of the Current Planning, Zoning and Building Departments

Table 2 lists the basic characteristics of the current Planning, Zoning and Building Departments in Benzie County.

Table 2: Basic Characteristics of the Planning, Zoning and Building Departments

Characteristic	Planning	Zoning	Building
Basic Responsibilities	<ul style="list-style-type: none"> • Prepare and maintain County Plan • Prepare amendments to County Zoning Ordinance • Provide support to the County Planning Commission, including on discretionary zoning permits like special land uses and site plans, and on amendments • Prepare and maintain County Solid Waste Management Plan • Liaison on County Economic Development Committee 	<ul style="list-style-type: none"> • Administer and enforce the County Zoning Ordinance • Provide support to the County Planning Commission on discretionary zoning permits like special land uses, site plans and amendments • Administer County soil erosion and sedimentation control • Administer regulations related to land division applications 	<ul style="list-style-type: none"> • Administer and enforce the State Construction Codes in Benzie County: building, electrical, plumbing, and mechanical.
Recent Changes	<p>The planning and zoning functions were in a single department until recently. Planner had to handle Zoning Administrator duties from Oct. 2006 – February 23, 2007 while former Zoning Administrator was sick (and died). Formerly, 911 addressing, and recycling were services started in the County Planning and Zoning Department (when there were only 4 townships under County Zoning compared to the present 8 townships) and then spun off to others.</p>	<p>Newly spun off as a separate department with a separate department head; formerly was a part time position.</p>	<p>Relatively new department head, who was a former County Commissioner.</p>
Staff	<p>1 full time professional Planner (uncertified) and ½ of a full time clerical staff person.</p>	<p>1 full time professional Zoning Administrator (no formal zoning administrator training, but has a bachelors degree in civil</p>	<p>1 full time director (licensed builder & mechanical by the state), and 3 full time plan reviewers/inspectors</p>

Characteristic	Planning	Zoning	Building
		engineering) and ½ of a full time clerical staff person.	licensed by the state (1 – mechanical, 1 – electrical, 1 – plumbing, 1- building) and 1 clerical staff
Budget (prior to change)	\$98,128 (revenue \$4,750)	\$11,757 (revenue \$31,800)	\$484,120 (revenue \$484,120)
Budget (after change)	\$98,128 (revenue-unknown)	\$11,757+\$56,500 (new director salary) (revenue of \$31,800 + \$16,000 soil erosion & sedimentation revenues)	\$484,120 (revenue \$484,120)
Permit Activity	None under new structure.	In 2006, before the new Zoning Administrator, it was 315 zoning permits, 143 SESSC permits, 19 land division permits. Special use permits have risen from 1-2 per year 15 years ago, to 45 in 2006.	597 (includes all types of building permits) in 2006; 139 were for new single family homes. A total of 6,392 inspections were performed in 2006.
Staffing, budget and revenues compared to other similar departments	See Tables 7-10 in Appendix D	See Tables 7-10 in Appendix D	See Tables 7-10 in Appendix D

There has been substantial mission creep in the Planning Department over time which is common in small rural planning departments where many issues have land use dimensions and planning staff often have a broad range of skills. The County Board has responded to this creep by spinning off responsibilities to others over time, such as the recycling and 911 addressing responsibilities and more recently upgrading the Zoning Administrator position from a part time to a full time position. This should allow the County Planner to devote more time to County Planning and more importantly initially, to complete amendments to the County Zoning Ordinance in a timely manner.

The responsibilities of the County Zoning Department and County Building Department are much more discrete and not as likely to be subject to mission creep, unless unrelated responsibilities in other departments were to be assigned to them, or unless the state were to mandate certain new responsibilities or services.

Key Findings

Following is a list of our key findings that together with our experience, have contributed to the recommendations that appear at the end of this report. These findings relate to the key problems identified in Table 1.

- There is a lot of support for the vision of the County Plan. This support is broad. It includes County Board members and the County Planning Commission, County staff, townships subject to County Zoning, stakeholder groups like the local

Chamber of Commerce and many individual citizens. This is a reflection of the broad coalition of stakeholders that was involved in creating the Plan and supporting its implementation. It is somewhat surprising in that the Plan is now six seven years old (adopted 2000) and in need of updating. The strong support for the County Plan is a valuable asset. Furtherance of the Plan should be the focus of future actions by all parties.

- Among those interviewed there is almost unanimous support for controlled growth in the County. While there are those in the County that desire no growth, there is among most of those interviewed a belief that growth is both inevitable and necessary in the County, and that it should be managed so that the natural beauty and resources of the County are not irreparably harmed. The relationship between these resources and the economic development potential of the County is understood and supported. What varies is the degree to which growth and access to natural resources should be restricted so as to protect these unique natural resources while still allowing people to enjoy them. There is a contingent in the County which is worried that regulations will unfairly restrict their ability to retire as they are land rich but cash poor. Yet for the most part, this group's concerns are more centered on property value and equity, than any kind of opposition to protecting the quality of the resources that currently sustain the residents of the County. Thus, it is not necessarily an opposing view. It is another facet of the view of the mainstream.
- The character of the County from east to west is different geographically and economically. The west side is home to inland lakes, the Lake Michigan shoreline, and Sleeping Bear National Park. The people who reside there tend to have higher incomes; they are often retirees and often live in seasonal residences. In contrast, the east side lands are closer to Traverse City and to a lesser extent Cadillac and the jobs, economy in those locations. Use of land on the east side of the County reflects the blue and pink collar bedroom community character of their geographic location. On many issues there is a split between the "have's" and the "have nots" which is often split between the west and the east. Issues like the Crystal Lake Boat launch are viewed as attempts by the "have's" to keep out the "have nots" and are often perceived as being wrapped in "green" language to draw attention away from more basic social issues. Efforts by the County Board to replace Planning Commissioners with people who live on or near Crystal Lake, at the exclusion of people on the East (and to a lesser degree the south side of the County), are perceived as exacerbating the geographic split and disenfranchise those living on the East side of the County. This has contributed to the growing crisis of confidence in the County Board and actions by some townships to explore doing zoning locally (or in small groups of townships) rather than by the County.
- There is a concern by some that Planning Commission is too "green" in their approach to development, taking too long, or applying too many standards to protect the environment. However, it is the nature of their job to be this way and the standards they apply are adopted by the County Board of Commissioners or imposed by state law. If this were a legitimate concern, which we skeptical about, it could be partially remedied by changing the Zoning Ordinance.

- There is a widely held belief that the County Planner and County Planning Commission have taken too long to complete an update to the County Zoning Ordinance. Despite the unusual series of events described below and the extenuating circumstances surrounding them, this is a legitimate concern. The remaining tasks should be broken down into parts and immediately pursued with the goal of getting most of the non-controversial changes in place by October. More time will be necessary to complete the remainder of the changes. Specific recommendations are offered at the end of this report. The tasks to complete amending a zoning ordinance include (1) staff (County Planner and County Attorney) refining an initial proposal, and then (2) review, critique, editing, and revision by those that establishes public policy (the Planning Commission and County Board). The bulk of the time it takes to update the Zoning Ordinance will be taken up by the review, critique, editing, and revision.
- The ill health of the former County Zoning Administrator greatly contributed to the delay in completing the County Zoning Ordinance amendments. The County Planner had to serve double duty, and whenever that happens, processing zoning requests always supersedes all other work. However, with the hiring of a new County Zoning Administrator, work on completing the County Zoning Ordinance should proceed rapidly.
- One of the recent lawsuits involved a decision supported by the County Board to overturn a decision by the County Zoning Administrator after a permit had been acted upon by an applicant. This is generally outside the scope of the County Board or County Administrator. See for example: *Land Use Series - "Elected Officials: Dealing with Constituent Complaints on Planning and Zoning Issues"* <http://web1.msue.msu.edu/wexford/pamphlet/pamphlet%20Elected%20Body%20Intervention.pdf>. An appeal to the Zoning Board of Appeals further confounded the process. Questions have arisen over the scope of authority of the County Zoning Administrator versus the County Planner. These actions and recent questions reflect confusion over who does what and what do they do. This is the most basic issue involving boards, commissions and staff and there must be clarity and common understanding by everyone on the issue. Training of all groups and the staff are necessary.
- The process used to hire the Building Inspector and the Zoning Administrator suggests favoritism. The Director of the County Building Department is a former member of the County Board of Commissioners and resigned his seat to take the Department head position. The County Zoning Administrator was hired without any prior direct experience in zoning administration. While he has a degree in civil engineering and has worked in development and no one doubts his ability to learn to do the job well, it is unusual, if not highly unusual, for a County Zoning Administrator to be hired in Michigan with no prior experience. This has helped undermine the integrity of the position and trust in the judgment of the County Board of Commissioners. The whole process of position creation, posting, advertising, and filling should be done very openly, especially for department head positions. See for example: *"From Hiring to Firing: Advice for Townships"*, *Michigan Township News*, June 2007, pp. 16-23. In addition, there should be clear lines of responsibility, reporting, evaluation and either reward or remedial

feedback given to all employees, but especially to department heads. This does not appear to have been the case recently with regard to Planning, Building and Zoning Department head positions.

- Late, incomplete, and generally inadequate communication between the County and local units of governments, as well as with builders and citizens has led to growing distrust of land use and other related decisions by the County Board and County staff. Partly this is due to the way in which townships subject to County Zoning have found out about changes. For the most part they were neither uniformly consulted, nor separately informed of the decisions until after the decisions were made. Often the news came by word or mouth or newspaper. As a result, those most directly affected by County Zoning have begun to feel taken for granted. When coupled with a request to help finance County Zoning, at a time they were not being consulted about issues that affected them, some immediately said “no” and others began to explore other options for local zoning—including creation of a joint planning commission. This type of activity by townships appears to just be starting with more actions along these lines coming.
- Trust in County Planning and Zoning staff has diminished with the long delays in delivering needed changes to the County Zoning Ordinance, in processing some zoning requests during the period of the former County Zoning Administrator’s illness and in hiring a new County Zoning Administrator with no prior experience with zoning administration. Similarly, local contractors and builders have largely found out about changes in policy in the Building Department at the counter when seeking a permit, rather than by some advance communication. While an effort to gather them together was apparently initiated by the Director of the County Building Department, it was poorly attended and needs to be tried again, along with other more expansive and regular means of communication. Part of the issue may be the lack of a common attitude among staff that folks at the counter are customers and usually also taxpayers, who deserve more than just courtesy and timely disposition of their requests. They are one of the main reasons beyond public health, safety and general welfare that the zoning and building services are provided by the County.
- Trust in the County Administrator has diminished upon the public finding out about correspondence between the new County Zoning Administrator and the County Administrator, prior to hiring, that included considerations in changes to managing the County Planning & Zoning program.
- The appointment of new members to the County Planning Commission is viewed by many as giving preferential treatment to issues on the West side of the County generally and to Crystal Lake issues specifically. In the recent past townships (mainly in the east half of the County) have sought more representation on the County Planning Commission. Through inaction, the County Board has not responded to the request. The County Planning Act can be read to mean there is a need to have a broad cross-section of representation on the Planning Commission which represents various segments of the County. Adherence to this has been weak.
- There has been inadequate training of some County staff, new Planning Commissioners, the Zoning Board of Appeals, and County Board of

Commissioners in recent years on the basics of County Planning and Zoning. There have been several high-profile “retirements” of long standing members of the County Planning Commission in the last year. A body formerly with a lot of collective and institutional knowledge now has a lot of new members. To their credit, several are independently taking MSUE Citizen Planner training on-line, but most have had no formal training on their duties or responsibilities. Fortunately the chairperson is a seasoned Planning Commissioner who has recently imposed greater discipline on the Commission through the establishment of a work program, priorities, subcommittees and an effort to reach out to the townships in the County by attendance at township meetings. Meetings are conducted in an effective manner with a clear agenda and in a business-like fashion. There is much here to build upon, but the whole Planning Commission, County Board, Zoning Board of Appeals and new zoning staff needs to be trained together so that everyone gets the key basic information at the same time and in the same way. Follow-up training on special topics will likely also be necessary.

- Now there are three separate department heads serving the County Planning, Zoning and Building Code services when formerly there were only two. Alternative administrative options for organizing the Planning, Zoning and Building Departments should be seriously considered and when the opportunity presents itself, and if the benefits are sufficient, a change should be made. If not, the status quo should be preserved.

Organizational Options, Pros & Cons

Table 3 lists the pros and cons of organizational options for each of the following:

- County Planning & Zoning Function
- County Building Code Administration Function
- Organization of Management of County Planning, Zoning & Building Code Administration
- Organization of the County Planning Commission.

Table 3: Pros & Cons of Organizational Options

Organizational Option/Description	Pros	Cons	Other Considerations
County Planning & Zoning Function			
Retain a County Planning Function and County Zoning Function.	Compared to townships offering the services separately, there are significant economies of scale, level of service improvements (a full time office), opportunities to hire qualified staff and likely reductions in the number and severity of lawsuits under a well run County	It costs a lot of money. It is not a mandated service—so why provide it and instead save the County money? Cities, villages and townships are permitted to do planning and zoning on their own. (Consider the following intangible costs, among others: poor local land use decisions,	In the unlikely event the Legislature was to eliminate townships or certain township services, these may be forced upon counties. It could be a lot harder to

Organizational Option/Description	Pros	Cons	Other Considerations
	Zoning program compared to one run in a standard township. Perhaps most important is the opportunity to have a comprehensive county wide view in place, rather than a fragmented individual jurisdictional view. Requires major technical assistance program to townships which have their own zoning to make much progress.	fragmented growth, inadequate infrastructure, greater impact on County roads, poor coordination, possible loss of open space and natural areas, aka unmanaged growth, many different separate ordinances for the development community to comply with, no more “one-stop shopping” for permits).	reinstitute planning and zoning services in the future, than to retain them now.
Reshape a County Planning Function without County Zoning	Saves the cost of staff associated with County Zoning; imposes the burden on townships; County Planning Commission would still prepare a plan with a county-wide vision and would need to work cooperatively with townships to get that plan implemented.	Much harder to implement a county-wide plan without County Zoning. Requires major technical assistance program to townships to make much progress. Until townships adopted a local plan and zoning ordinance, there would be no zoning and property owners could do whatever they wanted. However, even with County Zoning with some townships not under County Zoning, major technical assistance is still a necessary service for the County Planning Department to provide.	Have to let one person go.
Retain a County Zoning Function without County Planning (either by a single County Zoning Ordinance, or the County administering under contract many separate local zoning ordinances)	Theoretically saves the cost of County Planning staff. But, zoning has to be based on a plan, so each zoned township would have to have an adopted plan that the County would have to accept as the basis for the County Zoning ordinance.	Imposes the burden on townships with little ability for the County to shape each plan. No county-wide view of future growth and development; much harder to achieve managed growth.	Have to let one person go. We are not aware of anywhere this model is in use. Poses unusual legal risks and few benefits.
Bring Townships Back in Under County Zoning/Retain the Remaining Townships Under County Zoning	The more townships under County Zoning the more cost effective the service, the more revenues from permits and the greater likelihood of being able to implement the County Plan.	High initial transaction costs and increased communication necessary for a lengthy period to restore trust. May not be possible to bring some townships back. The initial steps to accomplish this may seem counter-intuitive: Have County Planning	The more urbanized the township, the more likely the ability and perceived need to manage local zoning itself. The statutory system in Michigan

Organizational Option/Description	Pros	Cons	Other Considerations
		Dept. provide technical assistance to help a township plan and have township zoning. The overriding issue here is to foster adherence to the County Plan first and foremost over the issue of who administers the zoning ordinance.	always sets up the township as the government unit with the final say and power of decision on this issue. The County has no power to “win” on this issue. It can only be done through trust and cooperation.
Drop both the County Planning and the County Zoning Functions	Saves the cost of planning and zoning staff.	Imposes the burden on townships with no ability for the County to shape each plan and no county-wide view. Until townships pick up the slack, there would be no planning and zoning and property owners could do whatever they wanted.	Have to let three people go. Unlikely to be well received by citizens who support County Planning and Zoning.
County Building Code Administration Function			
Retain a County Building Code Function	With County Zoning, Building and Soil Erosion Code Administration in one location, the County is able to offer a “one stop shopping” service for contractors, builders and “do it yourselves.” This is a huge positive service to them, and a “one stop shopping” is a significant economic development service strategy.	Not a mandated service. Cost of staff, especially in periods of low permit activity as it requires retaining experienced staff so that when building activity picks up, the County doesn’t have to hire anew and train (e.g., build a reserve within the Building Department fund). However Soil Erosion Code Administration will have to be retained and performed by the County – it is a statutorily mandated service.	
Drop the County Building Function: Let the State take over County Building Code Administration	None we are aware of. There is even no cost saving of not having to pay building code staff because 100% of revenues have to be used for operations of the Building Dept. Unless the County Board chooses to subsidize the	No more “one stop shopping,” passes costs of convenience onto contractors, builders and “do it yourselfer” and often results in major project delays and longer travel distances to obtain permits and delays in permit	State of Michigan building code enforcement is remote, slow, and causes many construction delays.

Organizational Option/Description	Pros	Cons	Other Considerations
	department, revenues should equal or exceed expenses. Many counties build a reserve, so they can retain service during years when permit activity is down without a cost to the County General Fund..	inspections.	
Organization of Management of County Planning, Zoning & Building Code Administration			
Keep Planning, Zoning & Building under Separate Dept. heads	Current situation. Clear accountability once job descriptions and line of command are completed.	May not be as much coordination between planning and zoning as if they were under the same department head. Probably costs more due to higher wages for department heads.	
Organize Planning & Zoning under a Single Dept. Head and keep Building Separate	Former structure. Planning and zoning are usually better coordinated this way.	More costly to have two department heads than one.	Since zoning implements the plan, zoning is subservient to planning. We are unaware of anywhere in Michigan where the zoning administrator supervises the planning director, but many places where the reverse is true.
Organize Zoning and Building under a Single Dept. Head and keep Planning Separate	All regulatory code enforcement activities are together permitting cross training of staff in building and zoning code administration, provided they receive necessary state certifications. This can be more cost effective and can result in more professional operations. It still permits "one stop shopping," a significant economic development service strategy	Planning and zoning are separated. This can lead to zoning taking on a "life of its own" instead of serving to implement the Plan, which can result in undesired legal issues.	This is a common model, especially in cities and large townships.

Organizational Option/Description	Pros	Cons	Other Considerations
Organize Planning, Zoning & Building under a Single Dept. Head	Generally the lowest cost for staffing as there is only one department head. Theoretically accountability should be better with a single department head, but sometimes it is easier to find excuses.	Sometimes hard to find a qualified person as it requires the department head to be well-trained in all three activities, as well as in administration and there must still be properly certified building inspectors in the office, including one that is the "lead" for that program if the department head is not a building inspector.	Since no building permit should ever be issued contrary to zoning, and zoning is there to implement the Plan, where consolidation under a single department is achieved, building is usually subservient to a certified director of planning or co-equal. Where co-equal, it is usually because the state building code requires administrators with state certification, while planners have voluntary certification and as yet zoning administrators have no required or voluntary certification.
Replace department heads by voluntary or involuntary termination and then reorganize based on the option selected above	The status quo may need to be continued for a variety of reasons. However, any opening in a department head position should be viewed as an opportunity to seriously consider consolidation of departments. It may need to be a two step process over a longer period of time.	Any involuntary termination of a department head may come with its own set of unanticipated costs and other consequences, including further loss of trust and confidence in decision makers.	Personnel cost savings that do not produce a higher quality of service or higher level of service may be false savings.
Organization of the County Planning Commission			
Ask for voluntary resignations of members of the County Planning	Create a situation where all stakeholders and communities feel equally represented. Rebuild trust	Planning Commissioners may not want to resign. May only be able to do by selecting the next option or	Existing commissioners may be very well qualified and may

Organizational Option/Description	Pros	Cons	Other Considerations
Commission and replace with a more representative body soon, or only after enactment of new codified Planning Enabling Act	with townships and citizens.	phasing in as openings occur. May push back restoring trust.	be able to make decisions that embrace the best interests of everyone in the County, but if a significant part of population believes that they won't, then reality matters little. Also "representation" is a major part of "well qualified" and if not representative, then maybe one is not "well qualified" regardless of one's personal skills.
Repeal the County Planning Commission Ordinance and terminate existing members and readopt a new ordinance with new appointments soon, or after enactment of new codified Planning Enabling Act	This would clear the air quickly and permit appointment of new members that better represent the geography and stakeholder interests in the County (some of the existing longtime members should be reappointed for continuity).	This could be politically problematic for the County Board. Plus, if the ordinance were replaced by a new ordinance, that may need to be readopted soon (or at least be amended) depending on action by the legislature on a new codified Planning Enabling Act	Same observation as above.

Recommendations

Following are the authors' recommendations to address the principal problems and opportunities presented by this study.

1. The County Board of Commissioners should commit to building the best rural Michigan County Planning, Zoning and Building Code program.

The natural environment and visual splendor in Benzie County is nearly unparalleled in Michigan. Growth is inevitable, and if done right, desirable. But it needs to be well managed, and having a dozen separate local governmental efforts is much less likely to result in a smooth and synergistic effort, than a

single County coordinated and led effort could be. It is time for the County Board of Commissioners with the support of the citizens and local units of government in the County to take the Benzie County Planning, Zoning and Building programs to the next level—and not merely to address the immediate problems.

Staffing and budget decisions on local planning and zoning for the last decade have been reactive rather than proactive, and lack a clear vision for what the County Board is trying to achieve. Without a clear vision, township customers, builders, contractors, interested stakeholders and citizens will remain unsure of the County's commitment and be less willing to place their confidence in the services offered. Townships will be more likely to strike off and set up their own planning and zoning program, which will reduce the efficacy and cost-effectiveness of the County program.

The only real solution is for the County to prove its commitment by launching a clear and consistent initiative to provide the best rural Michigan County Planning, Zoning and Building Code program. That does not mean the most expensive, nor necessarily the one with the most services, but it does mean a program that the County can afford (in light of competing responsibilities and in consideration of the fact that it is not a state mandated activity). It means providing an inter-governmentally cooperative program with the following characteristics:

- High confidence and trust by the customers using the service;
- High level of timely, quality service;
- Efficient and cost-effective operation of each service;
- Reasonable personnel costs;
- Quality staff with long term commitment to the County;
- Quality Planning Commissioners;
- Engaged stakeholders;
- Efficient and effective meetings and decisions;
- Proper enforcement and follow-through on suspected and actual violations;
- Clear and consistent communication;
- Recommendations that come from advisory bodies (like the Planning Commission) are consistently supported by the County Board, because both bodies are on the same page;
- Good planning, zoning and building code administration, as well as good issue planning so there are “no surprises”;
- Proper training of staff, elected officials and commissions involved in planning and zoning;
- Regular opportunities for staff training, mentoring, evaluation and advancement.

2. The County should dramatically improve intergovernmental cooperation and communication with local governments, contractors, builders, other stakeholders and citizens.

The principal day-to-day customers of County Planning and Zoning services are local units of government in the County, with townships being the most direct recipients since eight are voluntarily subject to County Zoning. Contractors, builders and citizens in general are also customers of these services, as well as of the services of the County Building Department. In the face of growing distrust of the County, it is imperative to quickly rebuild the trust of the local units of government first, and then of the contractors, builders, other stakeholders and citizens.

The two best ways are (1) to involve these customers in more direct and meaningful ways in the decisions that will affect them, prior to decisions being made and (2) through improved regular communication with them. This will result in greater transparency in decision making and will slowly help rebuild trust in decisions of the County Board, County Planning Commission, County Zoning Administrator, and County Building staff.

The County Planning Commission has already started down the path to improved intergovernmental relations by having Commissioners attend local township board meetings. However, without a broader initiative with a clear purpose and goals, the current effort is perceived more as interference than consultation or improved intergovernmental relations.

As has already been proposed, a County Intergovernmental Summit is a good idea for improved intergovernmental coordination. This is because a successful County Planning, Zoning and Building Program requires a partnership with townships subject to County Zoning. The elected boards of townships or councils in a city or village are no less elected than their County Board equivalents. Understanding the significance of this fact, and the attitude-adjustment that goes with it, is important to successful intergovernmental relations in a County.

A joint meeting with the elected bodies of all the townships, cities and villages in the County, with the full County Board of Commissioners, the County Planning Commissioners, and the Planning, Zoning and Building Department heads may be an important first step to getting everyone on the same page again. This needs careful planning and involvement of all those involved, but should happen soon—certainly by the end of September.

It may not be possible to bring some townships back under township zoning or to stop others that decide to move away from County Zoning. However there is strong support for the County Plan. The Planning Commission should place adherence to the County Plan as its first priority. Making the Plan the first priority will, or may, mean some townships leave County Zoning. The County has no real authority to change that decision. That authority rests exclusively with the respective township. Trying to resist or organize opposition to a township pulling out of County Zoning will only serve to set the township's heels deeper into the ground. The result will be (1) loss of the zoning under County jurisdiction, and (2)

loss of the township following the County Plan. While this may seem counter-intuitive, the most effective stance for the County to take is for the Planning Commission to direct planning staff to help a township set up its own zoning and planning when it becomes known that it wants to. When the County is seen as first, helping a township, even when it may mean the County loses zoning jurisdiction. The County's goal in this situation is (1) to maintain strong lines of communication, (2) convey respect to township official's decisions even when it may not be the County's first choice, (3) allows the County to remain a significant player in the township's planning process, and (4) starts to rebuild trust. The result is far more likely the township will closely follow the County Plan –rather than adopt some other plan. The County can also be seen as helping with some cost saving suggestions for the township to consider: such as adopting the County Plan in whole, rather than paying a consultant to write another plan; or using the County Plan as a template from which they compose their own plan (which would then be very similar to the County Plan). The over-riding issue here is to foster adherence to a strongly supported County Plan first and foremost over the issue of who administers the Zoning Ordinance. It is useful to recognize the asset the County Plan is, and make that the priority which one uses to build upon.

Other suggestions for consideration to improve communication with citizens, local governments, builders and other stakeholders include:

- Complete preparation of the County website where all meeting agendas, minutes and draft documents of the County Board of Commissioners and County Planning Commission are promptly posted.
- County department heads attend every monthly Benzie County Chapter Michigan Townships Association (MTA) meeting.
- Notify townships within X distance of a pending zoning case with a formal notice (as would be done for a neighboring property owner). See sample zoning amendment language to comply with the Michigan Zoning Enabling Act: *Land Use Series - "Sample Approach to Update a Zoning Ordinance to Comply With Michigan Zoning Enabling Act of 2006."* (<http://web1.msue.msu.edu/wexford/pamphlet/pamphlet7SampleZoneAmdMiZoneEnabAct.pdf>).
- Create and distribute a quarterly newsletter to all citizens in the County.
- Hold periodic hearings on planning and zoning matters in affected township halls.
- Notify contractors and builders (in writing (e.g., a newsletter or letter) and at an open forum) of upcoming changes in policy, interpretation, fees, time with processing, etc.

3. Establish and consistently apply new procedures for hiring, supervising, training, and evaluating County employees (or at least Department heads).

One of the most easily prevented problems is remedied by a simple set of consistently followed personnel policies that address the following for all County employees (or at least Department heads):

- Up-to-date job descriptions: which should remain substantially the same for a long time, unless there is a major reorganization with broad input before a change is made.
- Clear line of supervision: must specify who employees report to, when and in what form.
- Open hiring process: the process of developing a job description, posting it, considering applicants and hiring should be a public process with considerable transparency when it comes to department head positions.
- Appropriate staff training, development and certifications: Staff training needs should be identified on an ongoing basis and training should be initiated as soon as needs are identified. Training should also be offered to develop latent skills and prepare employees for future opportunities, especially for administrative ones. If employees are not certified in positions that typically are certified, or licensed, then employment should be conditioned on receipt and subsequent maintenance of such certification or licensing.
- Periodic employee evaluations: new employees should be evaluated at short intervals (usually 30, 90, and 180 days) and then annually thereafter, unless a need is identified for more frequent evaluation. Progressive discipline should be considered for adoption as a County policy if employees do not make progress with identified deficiencies.

4. Require basic and continuing education of all staff, elected and appointed persons involved in land use decision making in the County beginning with a clear understanding of the roles and responsibilities of each party involved in each of the common types of planning, zoning and building decisions.

Planning, zoning, soil erosion and sedimentation and building code administration are areas requiring special knowledge; and the relevant federal, state and local policies associated with these activities change over time. It is critical that staff, elected and appointed officials be regularly updated on key aspects of statutory and case law, state administrative rules and the potential impact of proposed legislation. Training on effective decision making, open meeting act requirements, and other similar training is also valuable in helping local land use groups make decisions that are in the best interest of the whole community. Some of the most obvious, immediate training needs in Benzie County are listed below:

- Training of staff, elected and appointed officials on roles and relationships, so it is clear who does what, when, and why (and who doesn't).
- Training of the new Zoning Administrator on how to professionally administer a County Zoning Ordinance, including proper use of forms and enforcement methods, so as to be efficient and minimize County and personal liability.
- Training of County Building Code enforcement staff on their role in supporting zoning administration and enforcement, and of the County Planning Director and County Zoning Administrator on their role in supporting County Building Code Administration.

- Training of the County Zoning Board of Appeals, and the County Planning Commission on the relationship of planning to zoning in a rural Michigan county under Michigan's unique planning and zoning legislation. This training would also include the basics of implementing a zoning ordinance under the new Michigan Zoning Act, PA 110 of 2006. It would also address roles and responsibilities, limitations and preparing good minutes.
- Training of the County Planning Commission on some of the unique functions of a County Planning Commission (e.g. bigger picture issues, promoting inter-jurisdictional cooperation and coordination, technical assistance to local governments, etc.).
- Training of the County Board of Commissioners on the same issues as above, but especially on roles and responsibilities as related to planning, zoning, and building code administration, including limitations of their authority.
- Training of representatives of townships subject to County Zoning on all of the above issues and on techniques by which they may be most effective to influence administrative and legislative decisions on County Zoning.
- Training for all of the above parties in how to prevent (wherever possible) and minimize (where necessary) the legal risks associated with adverse zoning lawsuits.
- Training on the basic elements of good Ordinance enforcement.
 - a. Adopt laws you intend to enforce.
 - b. Uniformly apply them to everyone equally.
 - c. Always enforce the Ordinance when it is being violated.
 - d. Enforcement is easiest to accomplish when:
 - done in concert with good planning,
 - there is a proper relationship between planning and zoning,
 - local leaders and citizens are well educated about the benefits of good enforcement and support the regulations,
 - there is good cooperation between elected and appointed officials and with staff,
 - there is a constructive "can do" attitude by enforcement staff,
 - there is adequate dependable staff at all times who make predictable decisions,
 - there are effective office procedures that adequately track cases from beginning to end.
 - e. Good enforcement is most effective when it is an outcome of doing other things right, rather than simply an end itself.

5. Move deliberately to completion of the comprehensive update of the County Zoning Ordinance.

Zoning is the principal tool for implementing the County Comprehensive Plan. Two-thirds of the update to the County Zoning Ordinance has been adopted and draft text for the remaining one-third has been prepared. It will be a very important test of commitment to developing a top notch rural County Planning

and Zoning program to adopt most of the remaining zoning changes within the next six months. The County Planning Commission has already committed to this and the County Board took an important step by returning staffing levels back to having two people perform the function of the County Planner and County Zoning Administrator, and even more important with increasing full time-equivalents personnel for these two functions. This should provide ample time for the County Planner to complete this task with assistance from the County Attorney hired to support this effort.

The basic elements of this effort can be phased, but generally should be completed in the following order:

- Finish refining contents of the final third of the Zoning Ordinance (largely the individual district and special land use provisions).
- Adopt and index the Zoning Ordinance.
- Zoning Administrator should prepare a land use table by district to facilitate administration.
- Planning Commission should begin work on Town Neo-traditional Development (TND) and Transfer of Development Rights (TDR) provisions, and refinements to other overlay zoning provisions after all the above tasks are completed (these tasks alone may take a year to complete).

Thereafter the Zoning Administrator should maintain an up-to-date copy of the Zoning Ordinance and Zoning Map. Both should be posted on the County website. Also the Zoning Administrator should maintain an annotated copy of the updated Zoning Ordinance (or a separate document of annotations) for Zoning and Planning Department use.

6. Evaluate organizational options and staffing levels in the Planning, Zoning and Building Programs and make changes as appropriate after proper consultation and when the right opportunity presents itself.

Table 3 presents a series of organizational options for the Planning, Zoning and Building programs. The County Board should complete an initial assessment and selection of a preferred alternative over the next 3-4 months, and then decide the circumstances or opportunities under which it wishes to act on its preferred choice. Since each of the three departments has a separate department head now, there is no immediate need to take action. However, should that change (retirement, resignation, step down), the County Board should revisit the issue and decide whether to make a change.

The immediate need is the issue of support staffing levels. The planning and zoning function has had a single support staff for many years. Many have observed for a long time that the responsibility is greater than one person can be expected to do. Now with that person split half time serving two department heads, the odds of serious overload are great. The County Board should seriously consider providing an additional half time support staff for a transition

period through completing the Zoning Ordinance amendments. This is to ensure quality work and to prevent overload during this period. An assessment can be made during this period as to whether this arrangement or another arrangement should be put in place on a permanent basis.

7. Move to a more representative Planning Commission.

Since one of the major concerns with the County Board and County Planning Commission has to do with the perceived overrepresentation of various interests and geographic parts of the County, the County Board should consider the various options outlined on Table 3 to make the Planning Commission more representative. Whether the decision to do so is made as a result of Planning Commission resignation, or reconstitution by the County Board, it is a decision that should be made in the next couple months, unless the option to tie reconstitution to the a new Michigan Planning Enabling Act is made, in which case the timing should correspond with the adoption of that act. Balanced geographic and interest area representation should be given to future appointments to the Zoning Board of Appeals, but there is no immediate need to do anything more drastic there, given the infrequency with which it meets.

8. Initiate update to County Comprehensive Plan.

As soon as the amendments to the County Zoning Ordinance are complete, the County Planner and County Planning Commission should evaluate the current County Plan and determine if the Plan is (1) still current, (2) needs amendments, or (3) needs to be re-written. If numbers 2 or 3 are chosen, then, design and implement a broad based process for public and stakeholder participation in updating the County Comprehensive Plan.

Consequences of Not Acting in a Timely Manner

While the County did not get to current situation overnight, and can't solve/change path overnight, it is important to move quickly to resolve identified problems. Following is a list of potential consequences of not acting on these options and recommendations in a timely manner.

- Further loss of trust in County Board of Commissioners;
- Further loss of trust in County Planning Commission;
- Loss of confidence in County Zoning Administration;
- Loss of more, or all, townships under County Zoning;
- Loss of trust in County Building Code Administration;
- Irrelevance of County Planning;
- Diminished morale among County staff in the Planning, Zoning and Building Departments;
- Potential lawsuits;
- Potential recalls.

Proposed Immediate Next Steps

Acting in a timely manner does not mean rushing to act. Proper deliberation involving all the affected townships and stakeholders should occur first. These issues need to be

reviewed from the perspective of the best interests of the whole County over time, and not just of those people in the room making the decision, or those that happen to hold jobs in the effected departments at that time. But, because of erosion of confidence, decisions cannot be delayed for very long. Following is a recommended list of actions that should be taken immediately (or very soon if so indicated):

1. The County Board, County Planning Commission, and County staff (County Administrator, County Planner, County Zoning Administrator, and County Building Code Department staff) should immediately commit to building the best rural Michigan County Planning, Zoning and Building Code program that the County can afford (in light of competing responsibilities and in consideration of the fact that these are not state mandated activities).
2. The County Administrator should immediately send a copy of this report to all the townships, cities and villages in the County, as well as to major stakeholder groups, and make it easily available (on a County website, in the County library, etc.).
3. The County Administrator should immediately schedule a joint meeting between the County Board, County Planning Commission and townships presently under County Zoning, or ask to be a part of the next Benzie County Chapter of the MTA gathering in the County. At that meeting the County Board Chairman should ask for validation of the problems, findings and recommendations in this report and for township input on key options. In particular, ascertain under what circumstances, if any, townships that have proposed leaving County Zoning would change their minds and stay.
4. The County Administrator should immediately arrange for training of the new County Zoning Administrator with Kurt H. Schindler.
5. The County Board should immediately instruct the County Planner and County Planning Commission to process the remaining major amendments to the County Zoning Ordinance with a recommendation for adoption of the major amendments (see discussion above) within the next six months.
6. The County Administrator should immediately instruct the Director of the County Building Department to set up a meeting with contractors, builders and the County Building Code staff to go over existing, new and any proposed new regulations, procedures and fees and ask for input on ways to best ensure smooth implementation. Considerably more effort will be needed to notify, and encourage attendance (e.g., provide dinner).
7. The County Administrator should, very soon, schedule a joint training with Kurt H. Schindler in the early fall for the County Board of Commissioners, County Planning Commission and County Zoning Board of Appeals on dates that all can attend. Encourage the County's consulting attorney, and representatives of townships subject to County Zoning to attend as well. This training would focus on the training needs identified in the recommendations.
8. The County Administrator should poll the Planning Commission members to determine if any have any interest in immediately or soon discontinuing their service on the Planning Commission, and if not, whether the County Board wishes to reconstitute the Planning Commission now, or upon adoption of a new codified Michigan Planning Enabling Act.

9. The County Board should commit to completing the County website within two months, and decide what additional communication improvements it would immediately put in place for its activities and direct the Planning Commission, Planning Department, Zoning Department and Building Code Department to put in place, and the deadlines for such implementation (e.g., newsletter, extensive agenda/minutes mailing list, attendance at Benzie Chapter MTA meetings, County Summit, rotate meeting locations, and so on).
10. Following the actions above, decide, what, if anything should be done relative to consolidation of County Planning, Zoning and Building Departments. Prepare for this action by putting into place more formal personnel policies that meet the recommendations of this report, and then commit to consistently following them.

Parting Thoughts

All of these recommendations require several attitude changes on the part of staff and members of the County Board of Commissioners, the County Planning Commission, the County Zoning Commission and the County Zoning Board of Appeals. In particular they require:

- Commitment to a belief that a quality planning and zoning program in Benzie County is very important;
- Agreement that all planning, zoning and building services are provided to “customers” and are provided in conjunction with “partners,” and that townships subject to County Zoning are “partners” as are builders and contractors who are subject to County Building Codes;
- Commitment to meaningfully² involving “customers” and “partners” in future decisions that affect their interests in the planning, zoning and building code arenas;
- Remembering that all “customers” and “partners” are also constituents, voters, and taxpayers, and that in the process of serving them, the County Board and its staff are also serving its neighbors and friends—you are all part of one community;
- A deeper understanding that “we are all in this together” and how much less likely it is that any governmental entity will succeed in achieving quality land use in the long term if it tries to go it alone.

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² Meaningfully means the involvement is at the very beginning, when the discussion is focusing on defining what the issue or problem is, which then moves toward brainstorming as to what the various solutions might be, and finally the selection of the solution after considering various alternatives. Meaningfully does not mean a small group comes up with a proposed solution and then asks for other's input after the fact.