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## Supreme Court Sign Ruling: Implications for Local Government

By Brad Neumann, AICP

In the case *Reed et al. v. Town of Gilbert, Arizona, et al.*, (No. 13-502, June 18, 2015), the United States Supreme Court ruled 9-0, regulations that categorize signs based on the type of information they convey (e.g. temporary, political and ideological) and then apply different standards to each category are content-based regulations of speech and are not allowed under the First Amendment to the United States Constitution.

In this case, Gilbert, Arizona has sign regulations that prohibit the display of outdoor signs without a permit, but exempts 23 categories of signs, including the three relevant here:

- **Ideological Signs** are defined as signs “communicating a message or ideas” that do not fit in any other category and may be up to 20 square feet without placement or time restrictions.
- **Political Signs** are defined as signs “designed to influence the outcome of an election” and may be up to 32 square feet, but may only be displayed during an election season.
- **Temporary Directional Signs** are defined as signs directing the public to a church or other “qualifying event” and include greater restrictions: No more than four of the signs, limited to six square feet, may be on a single property at any time, and signs may be displayed no more than 12 hours before the “qualifying event” and 1 hour after.



Historic Downtown Aztec,  
New Mexico .

(Photo: JC Shepard)

Petitioners, Good News Community Church and its pastor, Clyde Reed, whose Sunday church services are held at various temporary locations in and near Gilbert, posted signs early each Saturday bearing the Church name and the time and location of the next service and did not remove the signs until around midday Sunday. The Church was cited for exceeding the time limits for displaying temporary directional signs and for failing to include an event date on the signs. Unable to reach an accommodation with the Town, petitioners filed suit, claiming that the sign regulations



## *STaR Division*

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# From the Chair

It is the end of June and we are just a few months past Seattle with ten months to go before Phoenix. As a student my life revolved around the academic cycle, as a professional planner in the public sector it shifted to fiscal year, as a Division officer it is based primarily on the National Planning Conference. We just get done with one and it is time to start working on the next one. The STaR executive committee will be planning activities for Phoenix. We are required to hold our annual business meeting and provide content and speakers for one breakout session. I expect that we will also continue our tradition of offering a mobile workshop, a facilitated discussion, and an awards program. In Seattle, we also cohosted a reception with other Divisions immediately after the Awards Presentation/Business Meeting.

As part of that conference cycle it is time to propose sessions for Phoenix. This year submissions will be online and if you indicate that you want your session to be considered as the Division by-right session we will get a copy of the proposal for consideration. All Division proposals need to be submitted by July 30th. Speakers need to be confirmed early this year. They want them confirmed by August 20th. August 20 is also the deadline for session submission in the general call for sessions. You can find out more about the call for proposals at <https://conference.planning.org/conference/proposal/>.

Looking ahead to another cycle it is time to start thinking about elections. STaR will be participating in the consolidated elections next year and new officers will take their positions on January 1, 2017. We have four positions that will be on the slate next year: Chair of the Division, Vice-Chair of Communications, Vice-Chair of Programs, and Secretary/Treasurer. These four people and the Immediate Past Chair constitute the executive committee and are responsible for running the Division, rounding up volunteers, and being the public face of the Division. I am reaching the end of my second term and in this lifetime am no longer eligible to be Chair of STaR. We will need someone to step up and take the reins of the Division. Ideally we will have multiple people interested in all of the elected positions, you don't need to decide until next Spring after the conference in Phoenix but if you are thinking about it and would like to get more involved in the Division give me a call or drop me an email. I can find a spot for you now and you can dip your toes into the Division waters and see how it feels.



Small Town & Rural Planning  
**STaR Member**

## STaR Awards for #APA16

Award nominations for 2016 are now open! Nominate an outstanding small town or rural project or planner today! Complete details on our website: <https://www.planning.org/divisions/smalltown/awards/>

The Small Town and Rural (STAR) Planning Division invites nominations for its Planning Awards to recognize outstanding individuals and projects for their contribution to planning excellence in small town and rural communities. The program is open to any individual, organization, or consulting firm involved in planning for small town and rural areas. Building off of the Facilitated Discussion at the 2014 National Conference, a small town is not defined by any one characteristic or a specific population number – if you consider your work in a small town or rural area, please apply!

Award recipients will receive the award, a one-year membership in the STAR Division, and will receive some reimbursement of travel, lodging and/or registration expenses for public sector or academic employees to attend the APA National Planning Conference.

The categories are:

### **Small Town & Rural Planner**

Given to an individual in public service, academia or the private sector that has made an outstanding contribution to planning in their community.

### **Comprehensive Plan or Special Project Plan**

Given to an outstanding comprehensive plan or special project plan that addressed the development of a neighborhood, community, county or region.

### **Planning Initiative**

Given to an outstanding initiative or program in public education, workshops, ordinances, or enforcement that promotes planning in small towns and rural areas.

### **Student Project**

Given to an outstanding project by a graduate or undergraduate class or individual that addresses a planning issue facing small town or rural areas.

Members of the Awards Committee (and their organizations) are not eligible for an award. Nominated plans, projects, programs and studies must have been completed within two years of the nomination submittal date. For Comprehensive Plans and Special Project Plans prepared by consultants, the award recipient shall be the client for whom the planning activity was conducted.

### **STaR Award Winners #APA15**

Outstanding Plan:

*Essence of Athens: A Strategic Plan for Economic Enhancement and Community Competitiveness Plan*

Athens, Ohio

Outstanding Plan:

*Open Space, Parks & Trails Master Plan*

Adams County, Colorado

Merit Award:

*Harnessing Huntsville's Potential*

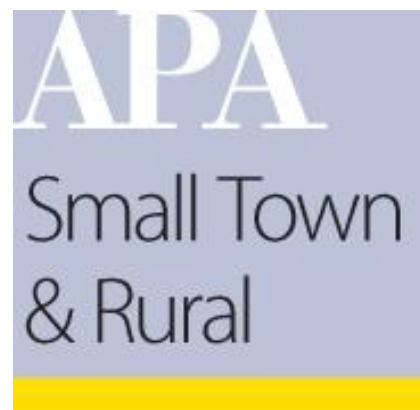
Huntsville, Texas

Outstanding Student Project:

*Palestine 2040: Honoring the Past — Shaping the Future*

University of Texas-Arlington

*Turn to the next page for a profile of two of these projects, and tune in to the next edition for the others.*



## *Essence of Athens: A Strategic Plan for Economic Enhancement and Community Competitiveness Plan*

### Athens, Ohio

#### **Vernon Deines Award for an Outstanding Small Town or Rural Plan**

Athens, Ohio, is a small town in southeast Ohio with 3,000 permanent residents, and is home to Ohio University. Athens was a city with no design guidelines of any kind, and partnered with Designing Local and MKSK to help the community create a locally "Essence of Athens" inspired design culture.

The Awards Committee was incredibly impressed with this plan, and felt it embodies the best of small town planning. The project was selected for an award due to its innovative approach to cre-

ating a uniquely Athens esthetic and design language.

The plan is user-friendly and highlights efforts everyone in the community (not just the development community) can do to implement Athens-based design. The plan's unique design encourages people to use it, draw in it, and remember to always put Athens-based design first. The stakeholder engagement process was clearly targeted to ensure representation of all members of the community.

STaR is excited to share this plan with other communities as an example of how to build on unique community assets and employ community-based design as an economic development tool.



STaR President Chad Nabity presenting the Award to Paul Longue from the City of Athens, Kyle Ezell from Designing Local, and Chris Herman from MKSK.

(Photo: K. Nabity)

**Join the Economic Development Division for a Free webinar on the Athens Plan, Wed July 29. See page 6 for details.**

# *Open Space, Parks & Trails Master Plan*

## Adams County, Colorado

Adams County is a rapidly growing county on the outskirts of Denver. It has a rich agricultural tradition, and sought to preserve that tradition, as well as connect the more urbanized areas of the county to its rural roots. The plan provides a good example of how rural character can be preserved in the face of rapid urbanization.

The project was selected for an award due to its forward thinking and innovative approach to preserving natural areas and connecting urban areas with more rural areas of the county. The plan strikes a balance between different urban and rural community values, and adapts the open space and parks program to the present and future needs of the

changing population. Over 700 community members participated and the plan was unanimously adopted by the Board of County Commissioners. This is a testament to the inclusive and engaging public process.

STaR is excited to share this plan with other communities as an example of how rural communities can identify corridors and other protectable areas that will preserve their agricultural heritage.

**Vernon Deines  
Award for an  
Outstanding  
Small Town or  
Rural Plan**



STaR President Chad Nabity presenting the Award to Shannon McDowell from Adams County, Colorado, and Sara Egan from Design Workshop

(Photo: K. Nabity)

## Planning Webcast Series

APA's Divisions and Chapters sponsor a series of weekly webcasts to help you gain CM credits you need... and maybe learn something if you're not careful.

### July 17 – Tools to Visualize and Plan for Coastal Hazard Resilience—County Planning Division

A major challenge for U.S. coastal and Great Lakes communities is planning for the impacts of current and future flood hazards. Quite a few counties continue to add residents and development at a time when planners are striving to safeguard natural resources and area economies, prepare for intensified natural hazards, and adapt to climate change impacts such as sea level rise. The first step in planning for these impacts is to understand your community's exposure.

### July 24 – How can Landscape Architects Aid the Transportation Planning Process? — Transportation Planning Division

This webinar will examine the linkages between landscape architecture and transportation planning, looking at how addressing design issues as early as possible in the planning process can result in transportation solutions more likely to win public support and produce the best transportation outcomes.

### July 29 – The Athens, Ohio Experiment: Extracting and Implementing Local Design Essence to Increase Economic Competitiveness — Economic Development Division

Athens, Ohio recently adopted *The Essence of Athens: A Strategic Design Plan for Economic Enhancement and Community Competitiveness*. This community collaboration extracted the spirit and personality of the community and encourages architects, landscape architects, and planners to color outside the lines of ordinary design and create things that make people say, "That's so Athens." The local government is taking the lead to create Athens-specific infrastructure and leading the charge to use local design as a powerful economic development tool. **STaR-award winner, 2015.**

### August 14 – Economic Development 101: Is Your Community Prospect Ready? —Econ Dev Division

You will learn what your community can do to prepare for, and land your next economic development prospect. It will cover the following items: (1) Current trends in Economic Development & Site Selection; (2) Understanding your target audience - What Prospects, Site Selection Consultants and other key players are looking for; (3) Understanding your product & target markets; (4) Before the prospect shows up – what can make your community competitive; and (5) The site visit and afterwards - practical pointers for closing the deal.

You can see the current listing of all webcasts on our [new web location](http://www.ohioplanning.org/planningwebcast) at [www.ohioplanning.org/planningwebcast](http://www.ohioplanning.org/planningwebcast).

**Distance Education** – these webcast recordings are approved for CM credit for viewing during the 2015 calendar year:

- **Ethics, Equity and Social Justice: Roles and Implications of Planners - #e.29372**  
– 1.5 CM ETHICS
- **Defensible Historic Preservation Regulations - #e.29371- 1.5 CM LAW**
- **Planners and Planters: What Planners Need to Know about Creating a Sustainable Landscape for Today and Tomorrow - #e.28841 - 1.5 CM** (thanks to the Florida Chapter for paying for the DE credits for this!)

Note that the DE CM credits have a different event number than the original live webcast, so the event number in the recording will not work for DE credit. Use these event numbers above to log your DE CM credits.

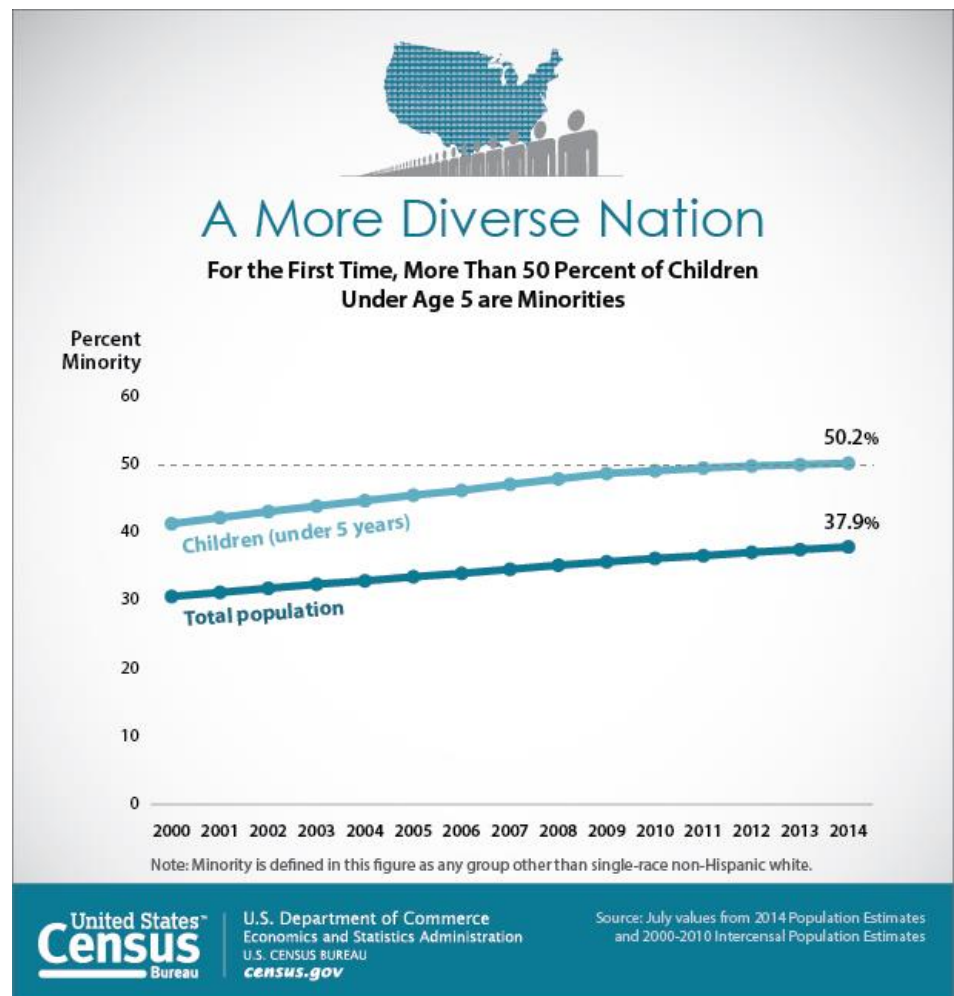
## Millennials Outnumber Boomers

Millennials, or America's youth born between 1982 and 2000, now number 83.1 million and represent more than one quarter of the nation's population. Their size exceeds that of the 75.4 million baby boomers, according to new U.S. Census Bureau estimates released today. Overall, millennials are more diverse than the generations that preceded them, with 44.2% being part of a minority race or ethnic group (that is, a group other than non-Hispanic, single-race white).

These latest population estimates examine changes among groups by age, sex, race and Hispanic origin nationally, as well as in all states and counties, between April 1, 2010, and July 1, 2014.

Even more diverse than millennials are the youngest Americans: those younger than 5 years old. In 2014, this group became majority-minority for the first time, with 50.2% being part of a minority race or ethnic group.

Reflecting these younger age groups, the population as a whole has become more racially and ethnically diverse in just the last decade, with the percentage



Source: US Census Bureau, 2015

minority climbing from 32.9% in 2004 to 37.9% in 2014.

Five states or equivalents were majority-minority: Hawaii (77.0%), the District of Columbia (64.2%), California (61.5%), New Mexico (61.1%) and Texas (56.5%). Among the remaining states, Nevada is the closest to crossing this threshold, with a population 48.5% minority. More than 11% (364) of the nation's 3,142 counties were majority-minority in 2014.

Five reached this milestone during the year beginning July 1, 2013: Russell, Ala.; Newton, Ga.; Ed- dy, N.M.; Brazoria, Texas; and Suffolk city, Va. .

For the full report, look up the US Census online: <http://www.census.gov/>

## STaR gets Social (Media, that is!) Selections from our Facebook Page

The American Planning Association and APA STaR maintain a presence across social media to bring you the latest and greatest news and information throughout the year. Check out our Facebook page for periodic updates between newsletters. It's a veritable potluck of plithy planning (Jello salad optional)



Search for “APA- Small Town and Rural Planning Division” and give us a “Like”.

APA Small Town & Rural  
**APA-Small Town and Rural Planning Division** shared  
 Dana Jelinek's video.  
 May 20 · 🌐



663 Views

**Dana Jelinek**

39 being shipped out of Grand Island. Agri-business.

Like · Comment · Share

👍 Jim Segedy likes this.

APA Small Town & Rural  
**APA-Small Town and Rural Planning Division** via **APA Iowa Chapter**  
 May 16 · 🌐



### CPAT: Community Planning Assistance Teams

APA organizes volunteer planning teams tailored specifically to a community's needs. Our members offer their time and expertise to people and places where additional resources are needed to reach a...

PLANNING.ORG

Like · Comment · Share

👍 Anne Krieg likes this.



## Planner Spotlight:

### David Birchler, AICP

**Name:** David Birchler, AICP

**Position:** CEO, Clearzoning, Inc.

**Education:** Bachelor of Science in Urban Planning from Michigan State University

**APA Involvement:** Served as a board member, treasurer and president of the Michigan chapter of APA; serving as the secretary/treasurer of the Small Town and Rural Planning Division.

**How did you become interested in planning?** When I was a sophomore at Michigan State University, my advisor told me I had to pick a major. I went through the entire alphabetic course catalog until I got to “U” and found that Urban Planning not only sounded interesting, but it did not have a math requirement!

**How is private sector planning different than public?** In the private sector, we have wonderful opportunities to explore a variety of planning projects. Every community is different with its own unique strengths and challenges. We are in a great position to remind communities that there is often a bigger picture than

what they see on a day to day basis. Sometimes just reminding people of how special their community really is helps them make tough decisions that have long-term benefits.

**What's the most interesting project you're working on?**

We have so many great client communities, with numerous interesting projects, but I think the most rewarding are the projects where we reformat ordinances into our Clearzoning format. It is rewarding because of its impact, particularly on small communities where staff often wear many hats. Having a well-organized, easy to use, illustrative ordinance can really make a big difference in both the application and review process.

**Advice for planners just starting out?** Find a good mentor. My mentor was W. Patrick Sterling and I realized very early on that Pat had a real knack for developing client relationships. They always looked to him for advice and his advice was based on a thorough understanding of planning blended with good common sense.



That second part made his advice easy to understand. As a result, I have always tried to speak to my clients in a way that avoids the plannerese.

-Continued from page 1

limited their freedom of speech. The United States District Court denied their motion for a preliminary injunction, and the Ninth United States Circuit affirmed, ultimately concluding that the sign categories (the three noted above) were content neutral.

Upon appeal, the United States Supreme Court held the sign provisions are content-based regulations of speech – the categories of temporary, political and ideological signs are based on their messages and different restrictions apply to each category. As such, the restrictions depend entirely on the sign's com-



Constitutionally protected temporary sign, Pagosa Springs, Colorado.

(Photo: JC Shepard)

municative content and are unconstitutional.

Courts have long ruled that government cannot regulate the content of signs because doing so could violate the right to free speech contained in the First Amendment. In reviewing government regulations, the Supreme Court applies various 'tests' for the constitutionality of a regulation. When a regulation is challenged based on its free speech content, the Court applies the strict scrutiny test, which means the regulation must be for a compelling governmental interest and the regulation must be narrowly tailored to serve the governmental interest. In *Reed et al.*, the Town of Gilbert did not demonstrate that the differentiation between the various types of signs – temporary, political and ideological – furthered a compelling governmental interest. The Supreme Court wrote "The town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the town when other types of signs create the same problem. Nor has it shown that temporary directional signs pose a greater

threat to public safety than ideological or political signs."

It is fairly common (although unconstitutional) for communities to have definitions and/or regulations that classify signs, based on the message being communicated, into categories such as those subject in this case. Typically, regulations will refer to 'open' signs or 'political' signs and have distinct standards for both. In order to reduce the chance of an adverse lawsuit, local governments will want to review their sign regulations with their municipal attorney very carefully to determine whether any regulation(s) in their ordinance(s) might be content-based. If the ordinance can be implemented without reading the message of the sign, then the regulations are content-neutral. That is what the Court says is minimally necessary.

However, local governments must go further and also make sure the underlying governmental purposes of the regulations are compelling. The Town of Gilbert failed to prove to the satisfaction

of the Supreme Court that the underlying governmental purposes of traffic safety and aesthetics are compelling. The Court did not say it was impossible to make such a showing, only that the Town had failed to do so in this case. The Court also said there were ample content-neutral ways of achieving traffic safety that would pass constitutional muster.

In reviewing local regulations, it may be helpful to refer to the [Michigan Sign Guidebook: The Local Planning & Regulation of Signs](#) prepared by the [Planning & Zoning Center at Michigan State University](#) for [Scenic Michigan](#) (for a summary of the Michigan Sign Guidebook, see [Sign regulation guidebook helps communities find their way](#)).

*This article was originally published by Michigan State University Extension. For more information, visit <http://www.msue.msu.edu>.*

*Brad Neumann, AICP, serves as an educational resource for local and tribal governments across Michigan as a Government & Public Policy Educator with MSU Extension. Follow @neuman36 on Twitter.*

## APA Webinars Offer Signs of the Times

You can always rely on your American Planning Association, chapters and divisions for the latest information and education.

### **A Sign Regulation Apocalypse? Understanding the U.S. Supreme Court's Decision In Reed v. Town of Gilbert**

Tuesday 21 July, 1:00-2:30pm EST (CM 1.5)

Host: [Planning and Law Division](#)

Registration is \$20 for PLD members and \$40 for nonmembers.

On June 15, 2015, the U.S. Supreme Court struck down the Town of Gilbert, Arizona's sign code. In a rare unanimous decision, all of the justices of the Court agreed that the Town's code violated the core First Amendment requirement of content neutrality, and the majority opinion provided new insight on what it means for a regulation to be "content neutral." The Court's decision is expected to put thousands of sign codes at increased risk of legal challenges, which could mean increased legal costs for local governments, as well as potential negative impacts on communities' aesthetic concerns. This program will include presentations by some of the nation's leading scholars and practitioners on First Amendment and land use issues.

Speakers: Brian J. Connolly, esq. of Otten Johnson Robinson Neff + Ragonetti, P.C.; Daniel R. Mandelker, esq., Howard A. Stamper Professor of Law at Washington University in St. Louis; John M. Baker, esq. of Greene Espel PLLP; and Susan L. Trevarthen, esq., FAICP of Weiss Serota Helfman Cole & Bierman, P.L..

### **Reed v. Town of Gilbert: The Supreme Court's New Rules for Temporary—and other—Signs**

Thursday 30 July, 1:00-2:30pm EST (CM pending)

Host: [County Planning Division](#)

This webcast will discuss what local governments need to do to ensure that their sign codes comply with the U.S. Supreme Court's June 2015 decision in Reed v. Town of Gilbert. That decision established that any sign regulation that "on its face" requires a consideration of a sign's content to determine how that sign will be regulated is "content-based" and subject to "strict scrutiny." Many, if not most, sign codes contain such distinctions in the regulation of temporary signs; for example, by treating "real estate" signs differently than "political" signs. After Reed, such distinctions will be upheld only if local government can prove they serve a "compelling governmental interest" and are "narrowly-tailored" to achieve that interest. This session will provide guidance on: (1) when and how to replace content-based sign regulations with effective content-neutral sign regulations and (2) which content-based regulations should be retained and how to defend them if challenged.

Speakers: James Carpentier, Alan Weinstein, and Wendy Moeller, author of *Best Practices When Regulating Temporary Signs*.

## Preparing for Phoenix #APA16

Even though the 2015 National Conference just ended, STaR is already gearing up for the 2016 conference in Phoenix! Do you have a great idea for a session, or a pressing topic for a facilitated discussion? Submit your proposal today!

Here's how:

### STaR sponsored sessions:

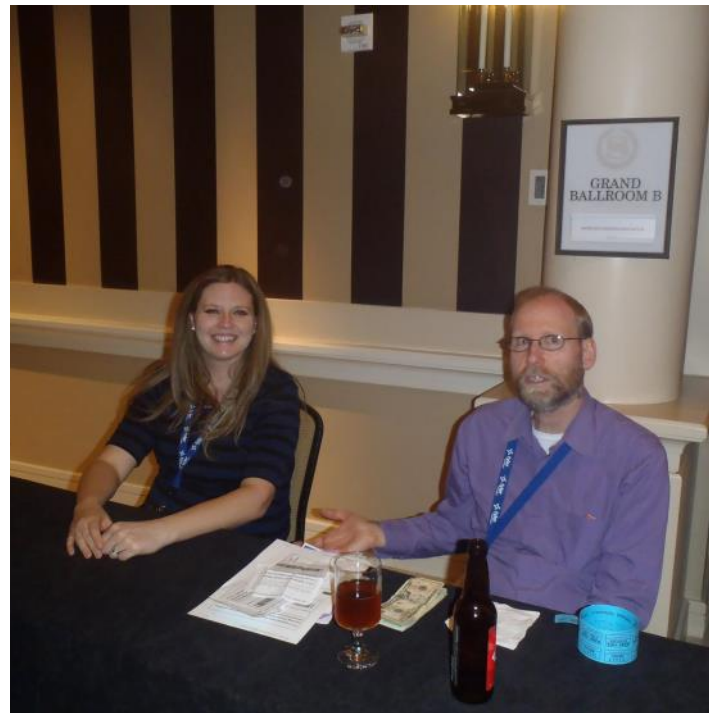
STaR gets one by-right session at the conference. Submit your session proposal online by July 31, 2015 in order to be considered for our by-right session: <https://www.planning.org/conference/proposals.htm>. Make sure you select the Small Town and Rural division in the drop down. Selections will be made in August and all other session will automatically be forwarded to APA for their general session selection process. Questions? Email our Vice-Chair of Conferences, Jessica Garrow, [jessica.garrow@cityofaspen.com](mailto:jessica.garrow@cityofaspen.com).

### Facilitated Discussion:

In 2015 we had a great turn out for our Facilitated Discussion: Small Town PLacemaking. If you have a great topic idea for our 2016 facilitated discussion, please email our Vice-Chair of Conferences, Jessica Garrow.

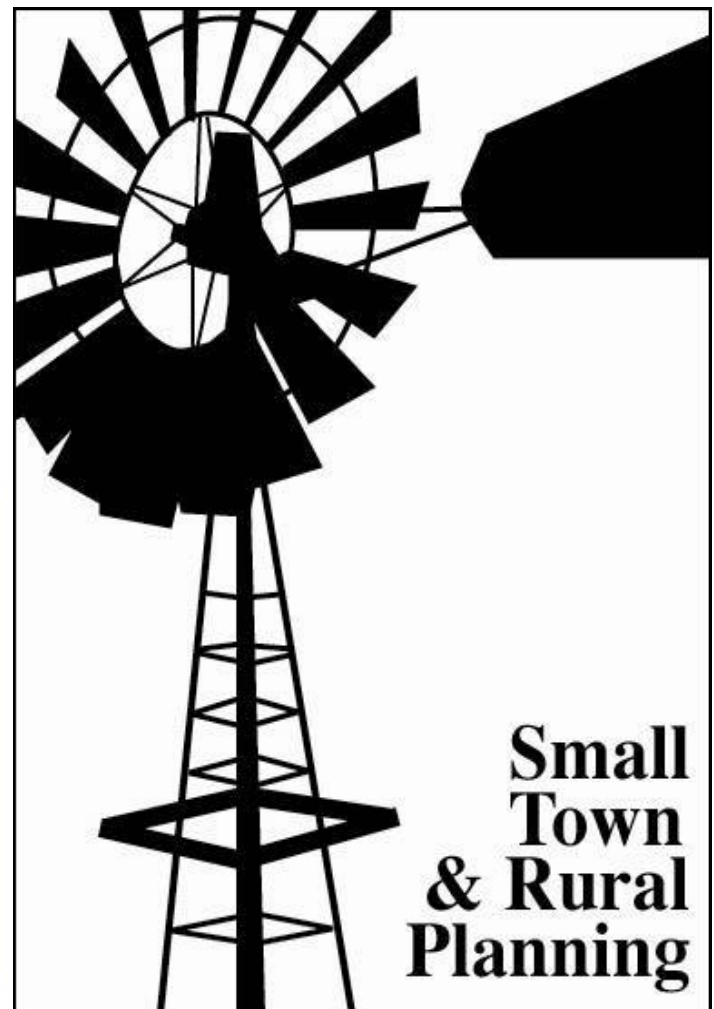
### Other Conference Activities:

STaR is planning on hosting another mobile tour and a dinner session. If you have ideas for these or are interested in speaking, please email our Vice-Chair of Conferences, Jessica Garrow.



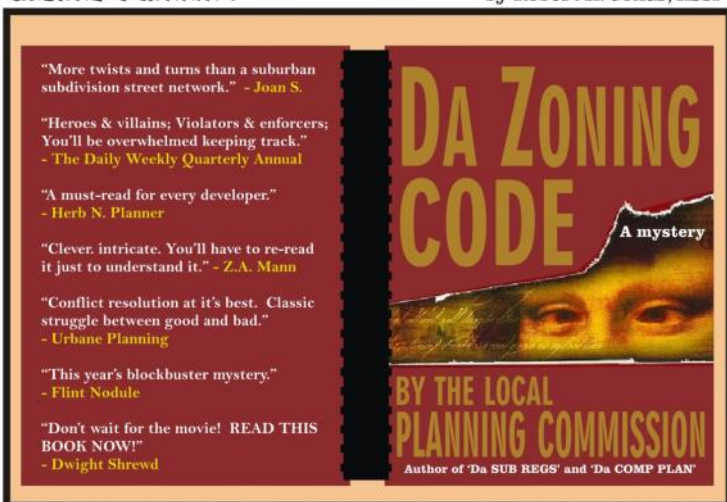
Our friendly greeters for the Joint Reception with the County Planning Division at #APA15 in Seattle.

(Photo: K. Nabity)



## URBANE PLANNING

by Robert A. Jonas, AICP



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