

LAND USE

A Land Use Plan is a document for guiding and accomplishing a coordinated and harmonious development for a community. Information regarding adopted land use plans and regulations, historic and existing land use, and land use development patterns are essential to any sound comprehensive planning effort. Through a Land Use Plan, a community can preserve and enhance existing advantages, encourage the most appropriate use of land, water, and other resources consistent with the public interest, overcome problems and deficiencies, and deal effectively with the future requirements related to the use and development of the land within the community's jurisdictions. During the plan preparation process, data, planning standards, and objectives from previous chapters were used to prepare the land use element. This chapter presents the findings of the land use inventories and analyses conducted in support of the preparation of the Comprehensive Plan for the Town of Eagle. This information was reviewed by the Advisory Committee as well as appointed and elected officials. A list of strengths, weaknesses, and concerns can be found in the full text of Chapter 9.

LEGAL BASIS FOR PLANNING

In Wisconsin, the State Statutes specifically define the powers of the Town Planning Board (or Commission) to develop, maintain and implement a Comprehensive Plan for the control of land development¹. The Town Planning Commission and Town Board chose to establish a Joint Advisory Committee as a legal body to prepare the draft Comprehensive Plan, because its members included both Town officials and citizens. This membership attempts to provide representation for all interests in the Town, and to isolate the planning process from day to day political pressures. In the Town of Eagle, the Plan Commission will consider each element of the Comprehensive Plan including the Land Use Plan.

Adoption of the Land Use Plan, as a component of the Comprehensive Plan, is done by an Ordinance approved by the Town Board, and is intended to aid the Planning Commission and Town Board in the decision making for future Town Development.

LAND USE PLAN DESIGN PROCESS

The process used in preparing the Town of Eagle Comprehensive Plan was heavily influenced by statutory requirements, with respect to the treatment of locally adopted land use plans. Wisconsin Statutes require Waukesha County to incorporate into the county development plan all comprehensive plans that have been duly adopted by incorporated cities and villages. However, the Statutes do not explicitly prescribe the treatment of plans adopted by towns acting under village powers, nor do the Statutes provide direction in the case of conflicts between any county-adopted land use objectives and a local comprehensive plan.

The designation of each parcel of land, into one of the Land Use categories, involved utilizing surveys, data, and maps, along with the experience of the Planning Commission, Town Board, and the Town residents. It is felt that the basis for the Land Use decisions portrayed in the Land

¹ Wisconsin State Statutes 60.18(12), 62.23(6).

Use Map, are soundly grounded. The Town of Eagle Land Use Plan, will be reviewed by the County staff for consistency with the County development objectives and standards as approved by the Waukesha County Board of Supervisors, and as presented in the Waukesha County Comprehensive Plan.

LOCAL PLANNING HISTORY

The Town of Eagle was settled in 1836 and was an agricultural community. Most of the residential growth occurred in the Village of Eagle. In the 1880's the Eagle Spring Lake area began developing primarily as a second-home community, though soon after year-round homes were developed around the lake. In the 1970's, the Zoning and Subdivision Ordinance permitted growth in the Town at a rate greater than the Waukesha County average. This growth was due to the availability of land, accessibility to major metropolitan centers, and the attractiveness of recreational opportunities in the Town's rural setting. To slow the increase in development it was decided that a Land Use Plan should be created to guide development, but several efforts were unsuccessful in the 1970's. In the 1980's, the working body for the first successfully adopted Land Use Plan was the Planning Commission and Town Board, working with a planning professional. In August of 1990, the Town of Eagle adopted village powers and subsequently utilized the village zoning authority conferred in Section 62.23 of the State Statutes, to establish its first Zoning Ordinance and Land Division Ordinance. The current 2009 Land Use Plan being prepared, is the culmination of efforts by the Advisory Committee (which is a citizens group along with elected representatives) to provide a direction for the future development of the Town of Eagle.

2000 LAND USES

In 2000, the area of the Town of Eagle was 22,402 acres. This included 313 acres of water according to the 2000 land use inventory. Land in the Town of Eagle is a mixture of agricultural, residential and conservancy/recreational uses. There is a small percentage of commercial and industrial development mainly concentrated adjacent to the eastern boundary of the Village of Eagle. Around Eagle Spring Lake, a concentration of mostly small lot, residential and local commercial development exists. Since the 1970's, several farmsteads were developed into subdivisions, and other residential uses were developed predominantly in the east and south sections of the Town.

To identify the existing land uses, the Southeastern Wisconsin Regional Planning Commission (SEWRPC) studies from 1963 through 2000 were utilized. This data was charted and analyzed to establish a basis for the determination of the pattern of future land use development in the Town of Eagle. The SEWRPC land use inventories which were prepared between 1963 and 2000 classified urban type uses as; residential, commercial, manufacturing, transportation, communication and utilities, public uses, and recreational. The rural type land uses included: farm lands, wet lands, woodlands, surface waters, extractives (quarries), land fills, and unused rural lands. In the 2000 SEWRPC study, 2,832 acres or 12.6 percent of the Town were classified as urban land uses and 19,570 acres or 87.4 percent were rural uses in the Township. In the 2000 updated inventory, the amount of land developed for residential uses in the Town increased by 736 acres or 72.1 percent over the 1990 inventory. While the Town has experienced a significant increase in residential development in the last 25 years, the most dominate land uses in the Town are still natural areas, and agricultural related uses. The following data is drawn from the SEWRPC 2000 Land Use Inventory:

Residential Land Use: 1,757 acres or 62.1 percent of the urban use acres, and 7.8 percent of the total area of the civil division.

Uses Other Than Residential: (Commercial, Industrial, Transportation, Communication & Utilities, Governmental & Institutional, and Public & Recreational uses) they accounted for 37.9 percent of the urban use acres, but only 4.8 percent of the total area of the Town. The only areas of the Town of Eagle which have commercial type development are near the Village of Eagle or near Eagle Spring Lake. The public and recreational (not including the DNR Kettle Moraine State Forest lands) uses represent 250 acres in 2000, or approximately 8.8 percent of the urban uses of the Town.

Rural Land Uses: 42.2 percent or 9,463 acres of the rural type uses are designated in the agricultural category. These figures do not include 4,194 acres of wetland or 4,173 acres of woodlands.

Service Limitations of Utilities and Services

As discussed in Chapter 5 of this document, the entire Town is currently served by WE Energies, and there currently is no public water or sewer available to Town residents.

Natural Resource Limitations for Development: There is a total of 5277 acres of floodplain in the Town, this acreage includes 725 acres of studied floodway, and some of these areas are among the 9,737 acres of Primary Environmental Corridors. Other areas with environmental importance include 236 acres of isolated natural areas and 194 acres of secondary environmental corridors.

PROJECTED LAND USES 2035

Based on current trends and an assumption of approval of most development proposals, the Wisconsin Department of Administration has projected 5,554 persons in the Town of Eagle by the year 2035, which is an increase of 1,975 people, or 665 households. These 665 households would add an average of 23.75 dwellings to the landscape per year. However, roughly 45% of the available land area within the Town is designated as surface water, wetland, woodlands, or open lands to be preserved, and much of this land is within the State Forest, thus is not eligible for development. Therefore, the projected population growth in the Town of Eagle has been modified to account for this fact. The Eagle Advisory Committee has recommended designating enough land for approximately 330 future residential dwelling units, and an estimated increase in population of only 980 persons through the year 2035. As discussed in the Economic Element in Chapter 7, the Town does not foresee large additional areas for commercial uses, but has provided for a second industrial/business park in the Town.

GENERAL LAND USE REGULATIONS

Regulatory Measures

Under the State comprehensive planning law (s.66.1001 Wisconsin Statutes), “beginning on January 1, 2010, official mapping, subdivision regulation, zoning ordinance enacted or amended, and zoning of shorelands or wetlands in shorelands, shall be consistent with the Town of Eagle’s comprehensive plan”. Accordingly, even prior to adoption of its comprehensive plan, the Town has undertaken extensive review of the text of their ordinances and is adjusting them as necessary to carry out the various implementation recommendations contained in this Plan. Detail of the Land Use Ordinances can be found in the full text of Chapter 9.

General Zoning Regulations

The Town of Eagle has adopted village powers and subsequently utilizes the village zoning authority conferred in Section 62.23 of the State Statutes. A zoning ordinance is a public law, which regulates and restricts the use of property in order to advance the public health, safety, and welfare. Zoning also provides an important means for protecting and preserving the natural

resource base. The Town of Eagle Zoning Ordinance in effect was originally adopted on August 28, 1990. It has had a number of amendments, and is being updated in 2009 as part of the Comprehensive Plan process. As of 2009, the Town of Eagle Zoning Ordinance will propose to have thirteen (13) different zoning districts which are further detailed in the full text of Chapter 9.

Specific Zoning Intentions

It is the intention of the Plan Commission and Town Board that planning and zoning should be carried out in such a manner as to preserve rural character

- New residential development will be limited to an overall Town density of no more than one dwelling unit per five acres of open land within the Town.
- Dwelling units should be developed by using residential cluster designs in which dwelling units are grouped together on a relatively small portion of the site
- Residential clusters should be located in areas which are visually screened from public roadways, adjusted to topographic and other natural features without causing undue disturbance, and should be buffered from nearby agricultural and mineral extraction lands, to minimize conflicts between farming or mining and residential uses.
- Accommodate clustering in rural areas through a variety of zoning approaches.
- Intensive land uses should be limited to uses which are consistent with the rural character of the area or otherwise essential to the area, including, among others, animal hospitals and veterinary clinics, riding stables, and plant nurseries.
- Lands which are not designated for residential or other compatible use should be retained in general agricultural, natural, and other open space use.

The application of suburban zoning districts that accommodate residential, commercial, industrial, and other suburban development will be done in a manner that is consistent with any recommendations in the comprehensive plan. Lands are generally placed in zoning districts consistent with their existing use. Zoning of environmentally significant lands, including primary environmental corridors, secondary environmental corridors, and isolated natural resource areas, will be administered in accordance with the Town's comprehensive plan.

State Land Division Regulations

Chapter 236 of the Wisconsin Statutes requires the preparation of a subdivision plat whenever five or more lots of 1.5 acres or less in area are created, either at one time or by successive divisions within a period of five years. Counties have subdivision regulatory authority in towns, cities and villages and cities and villages have extraterritorial control and review as well.

Town Land Division Ordinance

The division of land within the Town of Eagle is regulated by its Land Division Ordinance, which is found in Chapter 3 of the Municipal Code, and was originally adopted on 2-9-88. In September of 2008, as part of the Land Division and development process, the Town of Eagle officials agreed upon a Development Plan Evaluation method to establish a system to evaluate proposed subdivision developments, and/or multi-family units in the Town of Eagle. This Development Plan Evaluation process will encourage a variety of lot sizes, and encourage the location of development of residential dwellings, which will promote the protection of the natural resource base, such as, soils, lakes, streams, floodplains, wetlands, woodlands, wildlife, and other environmentally sensitive areas. In 2009, the Town of Eagle initiated a process to assure that future development is done incrementally, consistent with the future population planned within this comprehensive plan. Process detail can be found in the full text of Chapter 9.

Construction Site Erosion Control and Stormwater Management Ordinance

The Town's Erosion Control and Stormwater Management Ordinance became effective on December 19, 2007, and regulates all earth-moving activities in the Town other than those associated with single-family and two-family home construction. The Ordinance requires submittal of an Erosion Control Plan and a Stormwater Management Plan, and the issuance of a permit prior to commencement of land disturbing activities.

Building Code

The Town of Eagle administers the "Uniform Dwelling Code" which defines construction standards and inspection procedures as outlined in the "Wisconsin Administration Code, Department of Industry, Labor and Human Relations", Chapters 20 through 25.

Official Mapping

The Town of Eagle adopted the Waukesha County Street and Highway Map for all State and County highways by Resolution, on October 15, 2003.

OTHER REGULATIONS APPLICABLE TO THE TOWN

Health Code

The Waukesha County Department of Parks and Land Use, Environmental Health Division, is in charge of administering all portions of the "Waukesha County Code", pertaining to public and community health issues in the Town of Eagle, insofar as possible to prevent the creation of nuisances, sources of filth and conditions menacing the public health, and to promote the safety, health, comfort, and general welfare of the people of the Town.

Floodland Zoning

The Town does not have its own Shoreland/Floodland Ordinance and defers to the County to regulate such areas using the Waukesha County Shoreland and Floodland Protection Zoning Ordinance.

Waukesha County Shoreland /Floodland Zoning

Any development within the Town that occurs within designated Shoreland/Floodland or Wetland areas falls under the jurisdiction of the County's review. The Waukesha County Shoreland & Floodland Protection Ordinance (SFPO), which became effective on July 16, 1970, has jurisdiction within 1000 feet of any lake, pond, or flowage, 300 feet of any stream or river, or the landward side of the floodplain if it is a greater distance.

Land Use Map

The Land Use Map is the graphic expression of growth patterns determined through the planning process. It is intended that the Land Use Map (as seen in Chapter 9) will be used in tandem with the Goals and Policies to produce sound land management for the Town of Eagle.

Land Use Categories

To provide a diversity of land uses within the Town of Eagle, seventeen land use categories were developed. Each category allows for specific land uses, and provides for a minimum desired land area. Definitions of each category can be found within Chapter 9.

OTHER LAND USE AND DEVELOPMENT CONSIDERATIONS

Official Mapping

Adoption of a Town official map can contribute significantly to the implementation of the recommended land use plan. The Town should prepare and adopt its official map pursuant to Section 62.23(6) of the Wisconsin Statutes, showing thereon lands needed for future public use such as streets and parks and playgrounds.

Park and Open Space Implementation

Achievement of the outdoor recreation & open space preservation objectives of the land use plan requires continued public interest acquisition of land for outdoor recreation and open space uses.

The Need For A Comprehensive Trail Facility System Plan

The Town of Eagle supports the regional bicycle way system plan prepared by the Southeastern Wisconsin Regional Planning Commission. Support for the existing SEWRPC overall plan reduces needless duplication and improves overall efficiency and connectivity and helps in the decision-making process in determining the necessary easement or right-of-way widths needed to accommodate such facilities adequately. Support for the plan could help the Town channel local funds efficiently, and could also enable the Town to qualify for potential government assistance programs and funding.

Transfer of Development Rights

As of 2007, the Waukesha County Zoning Code contains provisions for the transfer of development rights, but the Town has yet to adopt such language. Under transfer-of-development-rights programs, or "TDR" programs, the right to develop a specified number of dwelling units under existing zoning may be transferred from one parcel, which would be maintained in open space use, to a different parcel, where the number of dwelling units permitted would be correspondingly increased. As part of the Town's annual review process, it is hoped that this development option will be further evaluated in the future.

Municipal Boundary and Utility Extension Agreements

Cooperative approaches with both the Village of Eagle and the Village of North Prairie to identify future corporate limits, and the extension of suburban services, can contribute to attainment of the suburban growth recommended in the Waukesha County Land Use Plan.

The Wisconsin Statutes establish a number of arrangements for cooperation among communities with regard to sharing of municipal services and cooperatively determining community boundaries. It is recommended that the Town of Eagle cooperatively plan for future land use, civil division boundaries, and the provision of potential future suburban services, as provided for under the Wisconsin Statutes, within the framework of its land use plan.

Brownfield Redevelopment

At this time there are no known or suspected brownfield sites in the Town of Eagle. The Town of Eagle should include the cleanup and re-use of brownfields as a key element in their plan, if such a site should exist, and take advantage of limited State and Federal financial assistance made available in support of the cleanup and re-use of contaminated sites.

PLANNING OBJECTIVES AND STANDARDS

Through the planning process three overall goals emerged as the overriding concerns for the future of the Town of Eagle.

- that the rural nature of the Town be maintained,
- that all development proposals be judged as beneficial to the Town as a whole and,
- that the amount and type of development be dictated by the objectives and standards of this plan.

Land Use Objective No. 1 Maintain the rural atmosphere of the Town for the future by maintaining a large quantity of agricultural land, environmental lands, open space, wetlands, and wildlife habitat.

Land Use Development Objective No. 2 Establish a distribution of the various land uses within the Town, which will result in a convenient and compatible arrangement of land uses. Before making a development decision, the Town will consider comparable development elsewhere within the Town.

Land Use Development Objective No. 3 The development and preservation of residential areas within a physical environment that is healthy, safe, convenient, and attractive.

Land Use Development Objective No. 4 A balanced allocation of space to the various land use categories, which meets the social, physical, and economic needs of the Town population.

Land Use Development Objective No. 5 A distribution within the Town of the various land uses which is properly related to the supporting transportation, utility, and public facility systems in order to assure the economical provision of said services. New development will be assessed by its potential impact on the Town infrastructure. With new development comes the Town's responsibility to provide certain public services: ambulance care and emergency fire protection, maintenance of Town roads, general administrative duties, library services, and waste disposal. In the future, the potential impact of a new development will be evaluated per Exhibit 9-1 before the development is approved.

Note: Principles and Standards associated with these Objectives can be found in the Full Text of Chapter 9.

IMPLEMENTATION RECOMMENDATIONS

The recommended land use plan presented in this chapter provides a design for the attainment of the suburban and rural development, and open space preservation objectives contained in the plan. The implementation recommendations pertaining to the suburban development areas, rural development areas, environmentally sensitive areas, and other land use plan implementation measures, are summarized below.

Suburban Development Areas

1. Zoning in suburban areas should be administered in accordance with the Town's comprehensive plan
2. Pre-zoning lands to match a particular land use plan, can limit the Town's ability to respond to changing conditions. Therefore, the Town will generally Zone land for present use, and designate Land Use based on preferred future uses. This approach allows the Town to determine whether the proposed development is consistent with the comprehensive plan and its objectives, standards, and principles at the time a project is considered for rezoning.
3. Development of suburban density residential, commercial and industrial uses requires the preparation of detailed development plans.
4. The creation or development of zoning districts that accommodate the planned suburban uses should be done incrementally in accordance with the comprehensive plan, and based on market demand.
5. The Town should manage availability of residential lots using the regulations and guidance in the Land Division Ordinance, in order to determine if new suburban residential development is appropriate.

6. The Town should identify specific sites for neighborhood parks, schools, and retail and service centers which are recommended on a general-site-location basis in the Town plan.
7. The Town should identify environmentally significant areas to be preserved consistent with the Town plan.
8. The Town should consider revising its RLO Residential Lake District, to accommodate existing substandard lots of record, using the special exception process. Approval of the Zoning Board of Appeals would be based on specific maximum coverage, and requiring vegetative buffers, so reconstruction can occur.
9. The Town should encourage developers to make full use of design concepts such as Mixed-use Development, Planned Unit Development, including both Residential Cluster Development, and Conservation Design Development. These design concepts preserve

natural resources that can enhance the living environment, and allow smaller lot areas thereby providing efficiency in the provision of suburban services and facilities and in travel patterns.

Rural Development Areas

1. Zoning in rural areas should be administered in accordance with the Town's Comprehensive Plan.
2. Prime agricultural lands identified essentially for agricultural and agriculture-related uses should provide for a residential density of no more than one dwelling unit per 35 acres and should prohibit incompatible suburban development.
3. Other agricultural lands identified for continued agricultural use should be placed into agricultural zoning districts as may be appropriate to allow smaller agricultural operations, such as hobby farms or other specialty farms.
4. Rural residential lands should be placed into a rural residential zoning district that limits development to no more than one dwelling unit per three acres and that encourages the use of conservation subdivision designs to accommodate the permitted development.

Environmentally Sensitive Areas

1. Primary environmental corridors, secondary environmental corridors, isolated natural resource areas, lakes, rivers, streams, wetlands, floodplains and shorelands must be protected to the greatest extent practicable from future development, and shall be incorporated into protected open space whenever possible. If any portion of the above resources will be located on a private lot, said resource must be protected with a protective covenant or restriction.
2. Any environmental corridors, including primary and secondary environmental corridors, and isolated natural resource areas, allowed for development must be at a density not greater than one unit per five acres.
1. Zoning applied to the environmental corridors should, however, accommodate necessary public facilities, such as crossings by streets and highways, utility lines, and engineered flood control facilities, but should require that the location, design, and development of the facilities concerned be sensitive to the protection of the existing resource features, and require that, to the extent possible following construction, disturbed areas be restored to preconstruction conditions.
4. Sites that do not contain significant natural features may be conducive to prairie or wetland restorations or may be enhanced with the establishment of landscaped open spaces.

Zoning Regulations

1. Zoning regulations should be reviewed and be adjusted, as necessary, to ensure the proper staging of development over time, and in this respect, the creation of suburban zoning districts should proceed incrementally.
2. The future pre-zoning of lands for suburban use should be avoided. Accordingly, the areas concerned should be placed in zoning districts consistent with their existing use, and should be rezoned into appropriate suburban districts only when development has been proposed and approved, and essential facilities and services can be efficiently provided.
3. Zoning of environmentally significant lands should be applied to protect primary environmental corridors. Zoning should also be applied to protect secondary environmental corridors and isolated natural resource areas in a manner consistent with the Town's comprehensive plans.

Official Mapping

The Town should prepare and adopt its official map pursuant to Section 62.23(6) of the Wisconsin Statutes, showing thereon lands needed for future public use such as streets and parks and playgrounds. The official map should be amended from time to time to incorporate the additional street and other public land requirements identified in any detailed development plans.

Land Division Ordinance

The Land Division Ordinance adopted by the Town as a basis for the review and approval of subdivision plats and certified survey maps, should be reviewed periodically to address changes in the comprehensive plan. As part of the land division development process the Town of Eagle agreed upon a Development Plan Evaluation method to evaluate proposed subdivision developments. The Town is also evaluating a procedure to assure that future development is done incrementally, consistent with the future population planned within the Town planning area.

Park and Open Space Implementation

The Town should adopt by reference the County Park and Open Space Plan and/or the Regional Natural Areas and Critical Species Habitat Protection and Management Plan. Each plan provides recommendations for public interest acquisition for most of the natural areas and critical species habitat sites identified in that plan.

A Comprehensive Trail Facility System Plan

The Town of Eagle should adopt by reference the Regional Bicycle Way System Plan prepared by the Southeastern Wisconsin Regional Planning Commission.

Transfer of Development Rights

The Town should investigate the potential local advantage to the transfer-of-development-rights programs, or "TDR" programs. The transfer of development rights involves a sale of rights from one owner to another, at fair market value which results in a shift in density away from areas proposed to be maintained in farming or other open use toward areas recommended for development. The transfer of development rights may be permanent or may be for a specific period of time or set of conditions.

Municipal Boundary and Utility Extension Agreements

Where adjacent villages own and operate essential public utilities, not provided by the Town, the plan assumes that villages will either annex unincorporated territory recommended in the plan for suburban development and provide extensions of essential utility services to serve such development, or that the villages will reach agreement with the Town on the extension of those essential services without the need for annexation and municipal boundary change.

It is recommended that the Town of Eagle cooperatively plan for future land use, civil division boundaries, and the provision of potential future suburban services, as provided for under the Wisconsin Statutes, within the framework of its land use plan, and that the Town investigate the advantages of establishing such an agreement with both the Village of Eagle and the Village of North Prairie.

Municipal Revenue Sharing

Opportunity for intergovernmental cooperation is provided under Section 66.0305 of the *Wisconsin Statutes*, which allows the Town to enter into revenue sharing agreements with the adjacent Villages, providing for the sharing of revenues derived from taxes and special charges. The Town should investigate the possibility of shared revenue with both the Village of Eagle and the Village of North Prairie.

Brownfield Redevelopment

The re-use of former commercial and industrial sites is frequently constrained by contamination problems created by past industrial and commercial activities. While brownfields tend to be concentrated in older areas, but they also occur in outlying areas.

If brownfields are identified in the future within the Town of Eagle, then the Town should discuss the inclusion of provisions for cleanup and re-use of brownfields as an element in their plan. However, at this time there are no known or suspected brownfield sites in the Town of Eagle.

Storm-water System Planning

In cooperation with Waukesha County, the Town has established a storm-water management plan in order to coordinate the management of storm-water within defined watersheds. Storm-water management practices appropriate for each proposed suburban development area will be developed through the preparation of a system management plan reviewed by the Town Engineer. Practices that are designed to maintain the natural hydrology should be encouraged.