

CHAPTER 5

LAND USE

INTRODUCTION

A long-range land use plan must be based upon careful consideration of the existing land use patterns and physical characteristics of the land and the long-term needs of the community in order to be sound and realistic. 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 Mukwonago. The area of the Town according to the 2000 land use inventory was 20,378 acres, which includes 634 acres of water.

The SEWRPC land use inventories which were prepared between 1963 and 2000 classified urban type uses as: residential, retail service, manufacturing, transportation, communication/utilities, public uses and recreational. The rural type land uses include farmlands, wet lands, woodlands, surface water, extractive, landfills, unused urban and rural land.

EXISTING LAND USE

Urban Land Uses

Urban Land Uses, by definition includes those areas where houses or other buildings have been constructed in relatively close proximity or where a closely spaced network of minor streets have been constructed, thereby indicating a concentration of residential, commercial/industrial, governmental or institutional uses.

In the SEWRPC 1963 land use inventory, urban type uses accounted for approximately 1761 acres or 7.6% of the area of the Town. Rural type uses accounted for approximately 92.3% or 21,357 acres. In 2000 SEWRPC study, 4416 acres or 21.7% of the Town was classified as urban land uses and 15,962 acres or 78.3% were rural uses in the Township. It should be noted, that the total acreage of the Town has decreased because of annexations to the Villages of North Prairie and Mukwonago.

In the 1997 land use plan update, the Town conducted a review of all subdivision plats, Certified Survey Maps and the 1995 aerial photographs which indicated that there were 4868.6 acres of land available for urban uses which was 22.7% of the total Town. This resulted in an increase of 1150 acres of urban uses between 1970 and 1980, however, it should be noted that the 1980 land use study conducted by the SEWRPC included the entire Town including the Village of Mukwonago. The Town has experienced some residential development in the last 25 years. The most dominate land use in the Town is still agricultural related uses. The residential element of the plan should provide a safe, attractive, and affordable setting for residential type uses. It is appropriate that residential designated areas be given careful consideration in the development of the master plan.

The Town of Mukwonago according to the Southeastern Wisconsin Regional Planning Commission 1990 Land Use inventory concluded that residential development land use accounted for 63.2% of the urban land use category or 2198 acres, but only 10% of the total area of the Town. In the 1963, SEWRPC land uses study; there were 617.57 acres of land used for residential purposes in the Town. In the 2000 updated inventory, the amount of land developed for residential uses in the Town increased by 1294.85 acres or 59% over the 1963 inventory. (See Acres of Land Use table)

Table 16

ACRES OF LAND USE - 1963 thru 2000							
Urban & Rural Land Use	Town of Mukwonago						
Category	1963	1970	1980	*1990	1995	2000	Change
Residential	617.57	732.03	2,073.83	2,198.00	2,802.00	3,111.00	+2493.43 acres (59%)
Commercial	29.89	45.77	80.19	34.62	31	37	+7.11 acres
Industrial	13.89	19.16	25.10	5.64	6	5	-8.89 acres
Trans. Comm., Util.	573.56	588.10	917.03	769.36	767	839	+265.44 acres
Govt. & Institutional	65.53	72.78	125.96	34.46	34	39	+26.53
Recreational	368.25	425.83	425.52	370.64	363	385	+16.75
Unused Urban	91.27	84.93	67.24	65.64			
General Parking	1.02	2.29	3.76	2.18			
Urban Total	1,760.98	1,970.89	3,718.63	3,480.54	4,003	4,416	2,655.02

Agricultural	14,312.92	13,695.71	11,440.42	10,792.86	9,648	8,268	-60.44 acres
Wetlands	3,586.29	3,838.25	3,903.20	4,048.17	3,991	3,879	+293 acres
Woodlands	2,504.70	2,534.66	2,450.49	2,355.33	2,282	2,185	-319 acres
Surface Water	650.66	676.10	700.73	671.91	654	634	-17 acres
Extractive	4.61	35.89	14.89	8.55			
Landfill	2.06	2.86	.80	.00			
*Other					754	976	
Other Open Land	295.51	363.37	888.57	619.80			
Total Area	23,117.73	23,117.73	23,117.73	21,977.16	21,332.00	20,358.00	

*The difference in total acreage is due to land outside the Mukwonago Township in Vernon Township for Vernon Marsh.

Source: SEWRPC

*Other includes 1995 extractive, landfills and unused land

As part of the regional land use inventory for the year 2000, the delineation of the existing land use was referenced to real property boundary information not available for prior inventories. This change increases the precision of the land use inventory and makes it more useable to public agencies and private interests throughout the region. As a result of the change however, the year 2000 land use inventory data are not strictly comparable with data from the prior inventories. At the county level, the most significant increase in the changes is to the increase in the transportation, communication and utility category due to the use of actual street and highway right-of-ways as part of the 2000 land use inventory as opposed to the use of the narrower estimated right-of-ways in prior inventories. This treatment of streets and highways generally diminishes the area of adjacent land use traversed by these streets and highways in the 2000 land use inventory relative to prior inventories.

Map K shows the conversion of agricultural land between 1963 and 2005 in the Town of Mukwonago. In reviewing the land use maps from 1990, 1995 and 2000, they showed the areas of changes in the Town of Mukwonago in the last decade. (See maps H, I and J, for land use inventory maps from 1990, 1995, & 2000) According to the Town of Mukwonago, records there were 735 new lots created through the subdivision platting process from 1990 to 2006 and there were 911 building permits issued for new residences in the last 15 years. The difference between that number of lots created and the new residential building permits indicates that numerous new residential building permits are being issued on lots created by certified survey maps or new construction around the lakes.

In 2002 the Town of Mukwonago created a residential development permit and allotment system for new residential subdivisions in the Town as part of their Land Division and Development Control Ordinance which limits the number of new lots that can be created in any one year to 50, as long as there are less than 100 lots less than five years old available for building.

In reviewing the Waukesha County tax data warehouse, an evaluation was done on all vacant lands in the Town having an improvement value of less than \$40,000 and that were not publicly owned. Those lands which have the possibility for potential development are noted on Map L. In comparing other inventory maps in chapter 3, many of these areas are also areas which have Class I and II soils for agricultural purposes (See Map C). Additionally, other vacant parcels contain large amounts of woodlands and primary environmental corridor as indicated on Map E. According to the 2000 SEWRPC Land Use Inventory, there was 8268 acres of agricultural land excluding wetlands and woodlands available in the Town.

Other Urban Land Uses

According to the SEWRPC 1990 land use inventory, other urban land uses which consist of, retail services, manufacturing, transportation, communication, public uses and recreation accounted for about 26.9% of the urban use acres, but only 6.1% of the total area of the Town. In the 2000 Land Use inventory, the other urban land uses accounted for 38.3% of the urban use acres but only 6.4% of the total area of the civil division. The

only areas of the Town of Mukwonago, which have commercial type development, are adjacent to the Village of Mukwonago or on Phantom Lake. According to the 2000, SEWRPC Land Use inventory commercial type uses accounted for 0.7% or 37 acres of urban area and which represents a minimal use of acreage in the Town. A number of shopping centers and commercial/industrial parks are available to Town residents in the Village of Mukwonago, the City of Waukesha, and the metropolitan Milwaukee area. Industrial uses account for about five acres of the urban area of the Town according to the 1990 and 2000 inventory. According to the Land Use map, the area in this category is on the Amron property, located on CTH I, which now has been purchased by the DNR. Mining related uses in 1990 consisting of sand and gravel quarries are accommodated by an additional 8.55 acres that bring the total of the industrial type uses to 14.15 acres. These old quarries in the subsequent land use inventories were shown in the unused land category. The governmental and institutional land use category accounts for 34.46 acres in 1990 and 39 acres in 2000. The public type uses represent 370.64 acres in 1990 or approximately 10.6% of the urban uses of the Town that consist of; schools, governmental buildings, Rainbow Springs Golf Resort, Mukwonago County Park and Town Park facilities. It should be noted that the recreational categories does not include those portions of the Vernon Marsh, which are owned by the DNR, or lands along the Mukwonago or Fox River, which Waukesha County owns. This recreational category increased to 385 acres according to the 2000 year inventory.

Rural Land Uses

According to the SEWRPC 2000 land use study, 40.6% or 8268 acres of the rural type uses are designated in the agricultural category. These figures do not include 3879 acres of wetland or 2185 acres of woodlands. The farmland category includes; crop lands, pasturelands, orchards, nurseries, and special use farms. When the SEWRPC delineated these areas, they did not include the dwellings, which are classified as rural farmsteads and are confined to an area of 30,000 square feet, which are included in the urban use category. All other buildings are included in the agricultural land category.

The Town has large amounts of Class I and II agricultural soils in many of the undeveloped areas of the Town. According to Map C, there are 5601 acres of Class I and II soils for agricultural purposes and 4392 acres of Class III soils. The proposed Grey Hawk Meadows and Hoyt property developments are in areas containing significant amounts of Class I and II soils.

There are many areas in the Town, which have natural resource limitations for development. Those areas are shown on Map B, which designates the wetlands, environmental corridors, hydric soils, poorly drained soils and areas with slopes exceeding 12%.

Other areas within the Town, which are not suitable for development, are the areas within the 100-year floodplain (See Map A), wetlands and woodlands (See Map F) and areas with the environmental corridors, isolated natural areas and areas having soils with a high groundwater table conditions (See Map E). There is a total of 2913 acres of floodplain in the Town, this acreage includes 1129 acres of floodway, and some of these areas are included in the 4963 acres of Primary Environmental Corridors. Other areas with

environmental importance include 425 acres of isolated natural areas and 138 acres of secondary environmental corridors. Many of these areas are designated for public acquisition by Waukesha County and the Wisconsin Department of Natural Resources on the adopted Town and County Park and Open Space Plans and the Town's Official Map, those areas are along the Mukwonago River and the Vernon Marsh along the Fox River.

Service Limitations of Utilities and Services

As discussed in Chapter 4 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. As indicated on the Existing and Planned Sewer Service Areas map in Chapter 4, Mukwonago Park and the Rainbow Springs property are within the Village of Mukwonago Sewer Service Area, however, at this time it does not seem cost effective to service those areas in the Town because of the limited development potential on the Rainbow Springs property because of the environmental issues.

CURRENT AND FUTURE LAND USE CONFLICTS

Although the Town does not have large areas of commercial or industrial land uses, there are situations where adjoining land uses are not compatible. For example, the area around Phantom Lakes has a number of bars, restaurants, old resorts, and parcels with multiple residential rental units next to residential uses. Although these non-residential uses have existed for many years, there is increasingly a conflict with the single family residences as more and more are converted from seasonal use to year round occupancy. Noise, traffic, and excessive outdoor lighting are of concern to those with single family residences.

Another type of land use conflict occurs around legal nonconforming land uses or where various conditional land uses have been permitted. These non-residential uses, such as large landscape contractors, automobile repair shops, and small nursery operations, generate traffic, heavy trucking, and noise in adjoining residential areas.

Conflicts exist in areas where floodplains or environmental corridors have been allowed to develop in the past and are now grandfathered. To partly address this issue, the current land disturbance and vegetative removal provisions in the corridors and prohibition of new development in the floodplain should be continued in the zoning ordinance.

Some residents perceive a conflict between conventional subdivision developments and planned unit and conservation design developments with smaller lots, even though the overall density is the same or exceeds that of adjacent developments. To address this perception, the provisions regarding compatibility with adjacent uses in the residential development permit system should continue.

Although some of the commercial and industrial land uses that were once in the Town, have been annexed to the Village of Mukwonago as part of the border agreement and the need for public services, the land use conflicts continue. It is anticipated that many of these conflicts of existing uses will continue because of their nonconforming or conditional use status.

Finally, some homeowners near and adjacent to the Vernon Marsh Wildlife Area believe there is a conflict with the public hunting that is allowed there.

PROJECTED LAND USES 2030

The population projection of 10,920 persons in the Town of Mukwonago by the year 2030, which is the plan design year and with the projected household size of 2.75 per household, the Focus Group has tried to project the changes of land use in 5-year increments through the year 2030. This number is then multiplied by the desired vacancy rate of 3% to determine the total number of housing units needed in the Town in 2030. The resulting number of housing units is about 3971. The number of additional housing units needed between 2000 and 2030 to provide an adequate supply is 1681 additional housing units. As discussed in the Economic Element the Town does not foresee additional commercial or industrial uses in the Town because of the lack of municipal services. The base for the acreage amounts is the year 2000 SEWRPC Land Use inventory.

Table 17

**PROJECTED FUTURE LAND USE
2005 – 2030**

LAND USE	RESIDENTIAL (3111)	COMMERCIAL	INDUSTRIAL	GOVERNMENTAL & INSTITUTIONAL	AGRICULTURAL (8268)	WETLANDS	WOODLANDS (2185)
2005	4,394	20	0	39 acres	7,113	3,879	2,057
2010	5,002	20	0	39 acres	6,566	3,879	1,996
2015	6,090	20	0	39 acres	5,846	3,879	1,916
2020	6,890	20	0	39 acres	5,146	3,879	1,836
2025	7,690	20	0	39 acres	4,460	3,879	1,756
2030	8,490	20	0	39 acres	3,606	3,879	1,676

- The projected living units in each year were calculated by 3.2 acres per unit, which is the general zoning for approximately 90 percent of the Town, which is undeveloped.
- 3.2 acres is the density used per living unit in Conservation Design and Planned Unit Developments, which is the only allowable way to develop in the majority of the Town.
- When calculating the residential category it was estimated that 90 percent of that area would be from the Agricultural category in land use inventory and 10% would be from the Woodlands category.

(0000) Acreage in 2000 SEWRPC Land Use Inventory

Land Value & Demand

According to information received from the Wisconsin Multiple Listing Service for recent sales of vacant land and improved properties within the Town of Mukwonago from 2003 to 2006; a total of 245 properties were sold and were on the market from 1 day to 676 days. Single-family residences sold for an average of \$299,227 and large vacant parcels sold for an average of \$15,941 per acre over that same period.

CURRENT TOWN ORDINANCES REGULATING LAND USE

All land development and building activities in the Town of Mukwonago are regulated by zoning ordinances, building codes, health regulations, and land division ordinances. Land uses are regulated by the Town of Mukwonago Zoning Ordinance, which is Chapter 82 of the Municipal Code of the Town of Mukwonago, Wisconsin, and the Waukesha County Shoreland & Floodland Protection Ordinance. Land Development activities are regulated by the Town of Mukwonago Land Division and Development Control Ordinance, which is Chapter 34 of the Municipal Code of the Town of Mukwonago, Wisconsin and the Waukesha Shoreland & Floodland Subdivision Control Ordinance. Additionally, all land disturbing activities other than those related to one and two family constructions are regulated by the Waukesha County Stormwater and Erosion Control Ordinance. Health regulations in regards to onsite sewage disposal system, restaurants/food service facilities and animal welfare issues are regulated by the Waukesha County Code under the direction of the Waukesha County Department Parks & Land Use Environmental Health Division. Construction of single-family and 2-family dwellings is regulated by the uniform dwelling code under ILHR, Chapter 20 through 25.

Zoning Ordinances

The Town of Mukwonago Zoning Ordinances, which is Chapter 82 of the Municipal Code, is currently in effect in the Town and was originally adopted on May 19, 1983 and most recently codified in 2007 has jurisdiction in all of the Town of Mukwonago. The Waukesha County Shoreland & Floodland Protection Ordinance, which became effective on July 16, 1970, has jurisdiction within 1000 feet of any lake or pond, 300 feet of any stream or river or the landward side of the floodplain if it is a greater distance. The Town of Mukwonago Zoning Code is administered by the Town of Mukwonago and the Waukesha County Shoreland & Floodplain Protection Ordinance is administered by the Waukesha County Department Parks & Land Use-Planning and Zoning Division staff.

Under the provisions of the Town of Mukwonago Zoning Ordinance, there are 18 land use categories including; Conservancy (3341 acres), Existing Floodplain Overlay (141 acres), Environmental Corridor (2444 acres), Exclusive Agricultural, (244 acres), Residential (2289.2 acres), Commercial, Industrial, Public (296 acres) districts. Currently, there are no commercial or industrial zoned areas in the Town of Mukwonago. These zoning districts regulations are to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the residents of the Town of Mukwonago. Among other purposes such provisions are intended to provide for adequate light, air, sanitation, drainage, convenience of access, conservation of wetlands/floodplains, safety from fire and other dangers, promote the safety/efficiency of

the public streets/highways, aid in conserving/stabilizing the economic values of the community, preserve/promote the general attractiveness/character of the community environments, guide the proper distribution/location of the population in the various land uses, and otherwise provide for the healthy/prosperous growth of the community.

The Town Zoning Ordinance has four agricultural zoning districts: A-E Exclusive Agricultural District, A-P Agricultural Land Preservation District, A-T Agricultural Land Preservation Transition District, and A-1 Agricultural District. The A-E, A-P, and A-T Agricultural Districts all require thirty-five-acre minimum lot sizes. The A-1 Agricultural District permits residential development on three-acre lots created by Certified Survey Maps or by Planned Unit Development or Conservation Design Developments at a 3.2 acre overall density approximately 6262 acres are categorized in this district.

The Waukesha County Shoreland and Floodplain Protection Ordinance has eight agricultural zoning districts: A-E Exclusive Agricultural Conservancy District, A-P Agricultural Land Preservation District, A-T Agricultural Land Preservation Transition District (all requiring 35-acre minimum lot parcel sizes), A-1 Agricultural District permitting residential development on three acre lots, and A-5 Agricultural Mini-Farm District permitting residential development on 5-acre parcels. The A-B Agricultural Business District is a 5-acre district, which allows agricultural businesses that support the agricultural community. The A-O Existing Agricultural Overlay District promotes continued farm operations where there is a potential conflict with new residential development.

The Town of Mukwonago Zoning Ordinance has five residential zoning categories, which have lot sizes ranging from five-acres to 30,000 sq. ft., minimums, and the Waukesha County Shoreland and Floodland Protection Ordinance has six residential districts ranging in size from 3 acres to 20,000 sq. ft. It should be noted in both the Town of Mukwonago Zoning Ordinance and the Waukesha County Shoreland & Floodland Protection Ordinance, a benefit is provided to those lands which have public sewer and water available, permitting a reduction by as much as 30% in lot size, lot width, and other incentives if approved by the local Planning Commission. The Town recently revised their R-3 residential zoning to a district, which accommodates existing substandard lots of record which are within 500 feet of Spring and Phantom lakes, where reconstruction can occur, without variances, by the special exception process with approval of the Plan Commission and with specific maximum coverage and requiring vegetative buffers.

The Town of Mukwonago Zoning Ordinance contains three varieties of business districts and two industrial districts. The Waukesha County Shoreland and Floodland Protection Ordinance contains four business districts, two industrial districts, and a B-P Mixed Use Business Park District, allowing a mixture of light industrial and business type uses. The Waukesha County Shoreland and Floodland Protection Ordinance contains an EC Upland Environmental Corridor District, which allows development at a 5-acre density and a five and 10-acre density zoning districts whose intent is to preserve prime agricultural areas while giving benefit for those areas in the total number of dwelling units allowed on said parcel. These two density districts allow transfer of development rights between parcels.

The environmentally sensitive areas in both the Town and County Ordinances are regulated through the use of the A-E Exclusive Agricultural/Conservancy District and the C-1 Conservancy District. Those areas zoned A-E Exclusive Agricultural Conservancy District are presently in agricultural uses by virtue of either cultivation or pasturing, and if they were not being used for such purposes, would be classified as conservancy lands due to inherent wet soil conditions or the presence of natural vegetation indicative of wet soils. The intent of this district is to identify and regulate existing agricultural uses on those lands. The C-1 Conservancy zoned areas are land which are considered wetlands, marsh lands, swamps, or 100 year floodplains, and under the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance. Those lands which are indicated as Department of Natural Resources wetlands on the final Wisconsin Wetland Inventory maps dated September 6, 1984. In order to protect existing improvements in the C-1 Floodplain areas, the Waukesha County Shoreland and Floodland Protection Ordinance has an existing floodplain overlay (EFD) District and the Town of Mukwonago Zoning Ordinance has an Existing Floodplain Overlay (EFO) District, which permits the reconstruction of existing improvements within the 100-Year Floodplain, if the subject structures and amenities, i.e., wells and septic systems are flood proofed. In order to implement recent amendments to the Town of Mukwonago Master Plan, the Town incorporated an E-C Upland Environmental Corridor District into their zoning ordinance, which is similar to the Waukesha County Shoreland and Floodland Protection Ordinance which allows development at a 5-acre density.

Currently within the Town, the majority of the vacant lands are zoned A-1 Agricultural District, allowing development by Certified Survey Maps at 3 acre lot sizes or by Planned Unit Development or Conservation design Developments 3.2 acre density. The majority of the residential development in the Town currently is developed at an R-1 1-acre lot size development and occurred prior to 1980. Most of the development that has occurred since the early 1980s has developed at a 3-acre density as Planned Unit Developments or in 3 to 5-acre parcels, either through the subdivision platting process or by Certified Survey Map. All the environmental sensitive areas in the Vernon Marsh, along the Mukwonago and Fox Rivers adjacent to Upper Phantom Lake, Lower Phantom Lake, Spring Lake and Willow Spring Lake, are preserved in the C-1 Conservancy District. There are scattered areas of A-P Agricultural Preservation zoning in the southeast, northwest and west central portions of the Town. There is no business or industrial zoning within the Town of Mukwonago at this time.

In 2007, the Town of Mukwonago codified their Zoning Ordinance into Chapter 82 of the Municipal Code of the Town of Mukwonago, making a number of housekeeping and clarifications in the process.

Land Division and Development Control Ordinance

The division of land within the Town of Mukwonago is regulated by the Land Division and Development Control Ordinance for the Town of Mukwonago which Chapter 34 of the Municipal Code for the Town of Mukwonago which was originally adopted on December 12, 1983, and most recently amended and codified in November of 2007, The Waukesha County Shoreland and Floodland Protection Ordinance most recently amended in 2006 having jurisdiction in the same areas as the Waukesha County Shoreland and Floodland Protection Ordinance. The Town's Land Division and Development Control Ordinance requirements are more restrictive than Section 236 of the Wisconsin State Statutes, as it requires formal platting of lands when six or more lots of any size are created within five years.

Generally, the intent of the Land Division Ordinances is to lessen street congestion, secure safety, prevent overcrowding of the land, and facilitate adequate provisions for transportation, water, sewage, drainage, schools, parks, playgrounds, and other public requirements, to prevent scattered development beyond the service areas of the community facilities and utilities; conserve the existing and potential value of land, water and improvements; provide the best possible environment for human habitation and meet the public demand for aquatic recreation with the least disturbance to shoreland owners; preserve growth and cover; prevent erosion and sedimentation; and protect surface and sub-surface water quality; and provide for further division of larger tracts into smaller parcels of land and secure adequate legal descriptions and proper survey documentation of the divided land.

The Ordinances have provisions for adequate open space facilities for public use to be properly located and preserved as the Town develops. Both Ordinances outline pre-application and preliminary filing procedures for both Certified Survey Maps and Subdivision Plats, and details who the documents are to be reviewed by. They set forth specific information as to what items are to be contained on the preliminary plat, the construction plans for all streets, public improvements, and the submittal of stormwater, drainage and erosion control plans. Additionally, specific design standards according to street classification, items pertaining to street arrangements, types of streets, street widths, street grades, intersection details, the designs for lots and blocks are contained within the Ordinances.

The Town's Land Division Ordinance requires Certified Survey Maps for all minor land divisions as does the Waukesha County Shoreland and Floodland Subdivision Control Ordinance. In 1997, the staff of the Waukesha County Department of Park and Land Use Planning Division developed a county wide Land Division and Development Control Ordinance for which public hearings were held, however, that document was never adopted. Waukesha County representatives then met with engineering firms and municipal officials in order to resolve some of the issues regarding land divisions. Those

issues involved a consistent definition of a subdivision which was to be incorporated into their local ordinances along with an adopted checklist in order to encourage consistency between communities in the review of subdivision plats and Certified Survey Maps. That definition and checklist has now been incorporated into the majority of the Land Division Ordinances in the un-incorporated areas in Waukesha County.

In April of 2002, the Town of Mukwonago officials adopted the residential development permit system and an allotment system in January of 2003 in order to control growth and implement the Town of Mukwonago's Master Plan. The purpose of the residential permit system was to establish a system to evaluate proposed subdivision developments or multi-family units in the Town of Mukwonago; to encourage a variety of lot sizes; to 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; to preserve prime agricultural areas in order to maintain the agricultural economy and insure the preservation of the rural atmosphere of the Town; to permit the development of property related to the available facilities, such as proposed sewer, police protection, and emergency services, fire protection, and roads and highways; and to implement the goals and objectives of the Town's Master Plan and Zoning Ordinance.

Construction Site Erosion Control and Stormwater Management Ordinance

The Waukesha County Stormwater and Erosion Control Ordinance became effective on May 5, 1992, and regulates all earth-moving activities in the Town other than those associated with single-family and 2-family home construction. This Ordinance was recently amended to include stormwater management requirements and was adopted by the Waukesha County Board on March 24, 1998. 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. The type of details required on the plan may vary depending on the amount of land to be disturbed. This Ordinance does allow Waukesha County to have an agreement to enforce the Ordinance within the Town unless the Town elects to enforce the provisions on their own. As of December 31, 1992, Erosion Control Plans were required on all single-family and 2-family construction, which is to be reviewed by the Town of Mukwonago Building Inspector, unless the Town elects to have an agreement with the Waukesha County Department of Parks and Land Use, Land Conservation Division, to do their review.

Building Code

The Town of Mukwonago 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. Provisions of this Code apply to the construction and inspection procedures used for single-family and 2-family dwelling, manufactured homes, and newly constructed community based residential facilities providing care, treatment, and services for three up to eight unrelated persons.

This Code applies to occupancy requirements for building construction for all new construction. The Code does not affect the right of the municipality to establish safety regulation for protection of the public from hazards at the job site. This Code allows the Town of Mukwonago to establish fees and require permits for all construction, additions, alterations or repairs.

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 Mukwonago, insofar as possible to prevent the creation of nuisances, sources of filth, conditions menacing the public health, to promote the safety, health, comfort, and general welfare of the people of the Town. The Environmental Health Division is in charge of regulating all private sewage disposal systems, regulating all restaurant facilities, campgrounds, swimming areas, mobile home parks, and issuing dance hall licenses, in the Town of Mukwonago. The Community Humane Technician regulates all animal welfare related issues for the Town. A review by a Waukesha County Sanitarian of the existing septic system or the issuance of a Sanitary Permit for all construction activities in the Town of Mukwonago must be made prior to any Zoning or Building Permit being issued by the Waukesha County Department of Parks and Land Use, Planning Division, or the Town of Mukwonago Building Inspector.

Restaurant and retail food establishments are inspected and regulated by the Environmental Health Division staff prior to licensing, where there is a change in the operator of retail food or restaurant establishment, prior to the opening of a new retail food establishment, or by adding any new category of food processing operations to their current license. The Environmental Health Division staff is in charge of making inspections for dance halls where an admission is obtained by the general public, generally by the payment of a fee or the purchase, possession, or presentation of a ticket or token; or anywhere the public may gain admission with or without payment of a fee.

Current and Future Service Areas

There are currently no sewer or water service areas in the Town of Mukwonago. If and when the Rainbow Springs property ever develops the possibility of sewer from the Village of Mukwonago may be considered based upon the number of living units and whether it is financially feasible. It is anticipated that Mukwonago County Park will not be serviced unless the sewer is extended to Rainbow Springs.

PROPOSED LAND USE PLAN AND DENSITIES OF EACH CLASSIFICATION

One of the goals in the adoption of the new Smart Growth Plan for the Town of Mukwonago is to have the Town's Plan incorporated into the Waukesha County Development Plan. The Southeastern Wisconsin Regional Planning Commission and Waukesha County have set a goal that in the rural areas of the County (those areas outside of proposed sewer service areas) the overall density of the development on the individual community land use plans shall not exceed one unit per five acres overall. As

part of the overall density calculation, communities are allowed to obtain credit for all publicly owned lands, those lands currently owned by the State of Wisconsin, Waukesha County, and the local municipality, of which there are 2623 acres in the Town.

Additionally, if Conservation Organizations own parcels which are prohibited from being developed or there are permanent conservation easements on properties within their communities, those areas would also be allowed to be used toward the overall one unit per five acre density of the community. The intent of the long range plan is that only enough land is designated or allowed to be developed as is necessary in order to meet the goal of the population projections through 2030 and the necessary living units to accommodate that population or some type of growth control mechanism is in place which limits the amount and rate of growth to that which is projected to the year 2030.

An inventory of the vacant land in the Town outside of the sewer service area and the border agreement areas on the Waukesha County Geographical Information System, determined that there are 7,476 acres of vacant lands in the Town, if that number is divided by five, the total living units in that area that would be allowed at the one per five acre density would be 1,495 units. Within that, 7,476 acres of vacant land there are 2,675 acres of environmental corridors and isolated natural areas. This figure contains both upland and lowland corridors. The following formula was used in order to determine the number of living units or acreage that would be available for future development in the Town of Mukwonago. The formula used is as follows:

$$\begin{array}{r} 7,476 \text{ acres of Vacant Land} \\ - \underline{2,675 \text{ acres of Environmentally Sensitive Areas}} \\ 4,801 \text{ acres of Developable Lands} \end{array}$$

Add the 4,801 acres to the 2,623 acres of public open space and conservation easements and that equals 7,424 acres divided by the 5-acre density equals 1,485 new living units. Additionally, divide the 2,675 acres of environmentally sensitive areas by the 5-acre density that equals an additional 535 lots. Therefore, according to the one unit per 5 acres, this is recommended under the Regional Plan and the Waukesha County Development Plan in the rural areas of the Town, the Town could have an additional 2,020 living units at the 1 unit per the 5 acre overall density.

According to the projected population and the projected living units chart in Chapter 2, there will be only 1,681 new living units in the Town through the year 2030. The Town will continue to use the allotment system, which allows fifty new lots for subdivision plats, conservation design and planned unit developments, which would allow 1,150 new units in the 23-year period from the year 2007 through 2030. It should be noted that this allotment system is not required in the creation of lots by Certified Survey Maps, which are limited according to the Land Division and Development Control Ordinance or for the re-development of the area near Phantom Lake, which currently is within the sewer service area and the boundary agreement with the Village of Mukwonago. This area is not required to meet the one unit per 5-acre density of the County or Regional Plans. Further the Land Division and Development Control Ordinance regulates both single family and multi-family developments.

FUTURE LAND USE PLAN CLASSIFICATIONS

Lowland Corridor Areas

It is the intent of the Town in the preparation of the new land use plan to protect and preserve all floodplains as designated on the Map A. It is anticipated that in mapping the 100-year floodplains, the Town will use the new FEMA data which will raise the 100-year floodplain elevation in many areas within the Town of Mukwonago. It is anticipated that these new floodplains elevations will be formally adopted by FEMA and ultimately Waukesha County on the Waukesha County Shoreland and Floodland Protection maps, sometime in the summer of 2008. The Town will continue to protect the 2,913 acres of the undeveloped 100-year floodplains and promote the use of the Existing Floodplain Overlay District (EFO) to encourage the updating and flood proofing of existing improvements currently within the floodplain. The Conservation Design and Planned Unit Development provisions of Chapter 82 of the Municipal Code require that all floodplain areas in these types of developments be in public or common open space areas. Additionally, this land use classification will include any wetlands within the Town. Full credit in the density calculation for Conservation Design and Planned Unit Developments is not given to these areas and the amount of credit is based upon the proportional amount of the site according to Chapter 82 of the Municipal Code of the Town of Mukwonago, Wisconsin, and Zoning Ordinance.

Upland Conservancy Classification

On the new land use plan map, the Town will map all upland primary and secondary environmental corridors and isolated natural areas. Most of these areas are shown on Map E. The Environmental Corridors and Isolated Natural Areas will be encouraged to be preserved where possible and if they are developed, they must be developed at no more than a density of one unit per five acres. The Town will continue to require these areas to be preserved in the open space of all Conservation Design and Planned Unit developments wherever possible and discourage the intrusion into these areas through the residential development permit process in the Land Division and Development Control Ordinance.

Border Agreement Areas

The Town will place areas within the border agreement areas on the Town Plan in a classification consistent with the current land use, except for the area southwest of Phantom Lake, where it has not yet been determined whether property owners will have to annex, if they request services or if the properties will be allowed to develop without public sewer. This area is designated on the border agreement with the Village of Mukwonago.

Conservation Overlay Classification

All areas, which are currently owned by conservation organizations or have conservation easements in perpetuity on them, would be designated with this overlay on the Town's Land Use Plan.

Public Ownership and Future Acquisition Area Overlay

All areas currently owned by the State of Wisconsin, and Waukesha County will be designated in a Public Classification. Additionally, any areas which are municipal or publicly owned facilities such as the Town Hall, Fire Department, and any schools, will also be in this public classification. Proposed Town, State and County park acquisition areas will be designated in this classification such as additions to the existing Town Park adjacent to the existing Town facilities located on CTH EE and Beulah Road. It is the intent that the area in the Town park designation will have 99 acres of area available for active areas such as play fields, baseball diamonds, and playgrounds. The plan will also designate the proposed expansion to Mukwonago County Park located on CTH LO, west of CTH I. and the Vernon Marsh Wildlife Area.

Agricultural Preservation Overlay

Properties within the Town of Mukwonago, which are currently zoned Agricultural Land Preservation will have the Agricultural Preservation Overlay placed over the underlying classification until such time as the property owner or developer can verify and present documentation to the Town whether there are any required tax credits which must be repaid to the State of Wisconsin. This documentation of the status of any required paybacks must be presented to the Town at the time of the request to remove the overlay designation on the Land Use map, request to rezone the property or application for a development project.

Rural Residential Classification

The Rural Residential Classification is to represent those areas in the Town which are developed as five acre or more parcels and could not be developed or divided because their existing width, limited access to county or state trunk highways, the prohibition by the Town of parcels served by easements, and other areas which contain deed restrictions, conditions of certified survey map approvals or conditions of rezoning that require a 5 acre minimum lot size or density

Agricultural Residential Classification

The Agricultural Residential Classification will designate those areas which currently are undeveloped and currently in agricultural uses. It is intended that these areas will be developing at densities of no more than one unit per 3.2 acres as Planned Unit or Conservation Design Developments. Particular attention will have to be given to areas within this agricultural classification which are primary and secondary environmental corridors, isolated natural areas, Class I and II soils for agricultural purposes, and hydric soils with exclusions which should be in the common open space areas wherever practical.

Suburban Density II

The Suburban Density II category will be areas which have been developed in the past as Planned Unit Developments or Conservation Design Developments in the agricultural category on the previous Town of Mukwonago Land Use Plan. These areas generally were developed at a density of one unit per three acres or as individual parcel on Certified Surveys Maps ranging in size from three to five acres. It is the intent of this district that those areas not be allowed to be re-divided.

Low Density Residential Classification

The intent of the Low Density Residential Classification is to incorporate all subdivisions and any parcel that has been developed at 1-acre densities in the past. This classification will include parcels in the Town where there have been previous commitments by the Town of Mukwonago Board or conditions of rezoning to allow development at 1-acre lot sizes because of a transfer of some type of development right to implement the Town or County Open Space Plans.

Medium Density Residential Classification

The Medium Density Residential Classification will be designated in those areas within the border agreement with the Village of Mukwonago southwest of the Phantom Lakes where it is intended that the majority of the development that will occur, will be re-development of existing substandard lots of record and that any new parcel which is in that area or any vacant parcel, i.e., the Berg property will be allowed to developed at one unit per 30,000 square feet if served by municipal services. It is the intent that this category will allow multi-family development including senior housing if served by public sewer. It is felt that in a number of cases where there are multiple substandard non-conforming living units on a single parcel, that the upgrade and re-development of this area is consistent with the plan based upon the close proximity to the Village and the possibly of the extension of public sewer. It is felt that any re-development of this area prior to the extension of public sewer should be for single-family residential living units only and meet all location and size requirements of the applicable zoning district.

Private Recreational Classification

The Private Recreational Classification will be placed upon the YMCA Camp, the Bible Camp and the Rainbow Springs Golf Course. It is intended that these are recreational facilities, although open to the public, are not held in ownership by the State, County and Town.

Soils Classification Overlay Map

It is the intent of the Town's Plan that a separate map will be created to be used as an overlay map on the Land Use Category Map which will designate the Class I and II soils for Agricultural purposes which are areas which should be preserved in open space areas in any Conservation Design or Planned Unit Developments as much as practical. It is felt by the Town that there are not enough large blocks of prime agricultural soils remaining in the Town to support large Agricultural operations. It is anticipated that the overlay of the Class I and II soils for agricultural purposes should encourage their preservation for agricultural purposes wherever possible during the conditional use, allotment and platting process. The overlay areas should include those areas shown on Map C as Class I and II soils.

Further, the Soils Classification Overlay Map will designate all hydric soils and soils where it is known or anticipated that a high groundwater or bedrock condition may exist which will limit basement and septic system construction. When development is proposed in these areas, extensive soils testing may be required by the Town to determine if the area is suitable for construction of basements, septic systems, and storm water facilities or will require public or private improvements which will be costly to maintain in the long term.

LAND USE GOALS AND OBJECTIVES

GOALS & OBJECTIVES

Goals, objective, standards and principle are part of the process of updating the Town of Mukwonago Master Plan. The Town has evaluated the goals, objective, standards and principle in the trends and opportunity chapter of the Waukesha County Development Plan Update as Town representatives are participating with twenty-seven other communities in the update of the County Development Plan. Generally, with regards to these goals and principles, the Town does support the same goals and objectives. One of the issues that the Town has supported, but was not supported after a referendum in April 2007 by the majority of the taxpayers, is using property tax dollars to purchase development rights from farmers in the Town in order to preserve those farms in permanent open space. A 2-year effort was conducted in order to study the proposal to purchase development rights and educate the public on the issue. This was done as the results of the citizen survey which was completed by the Town in 2002 and the County's survey in which citizens of the Town of Mukwonago indicated supporting the idea of purchase of development rights for permanent preservation of open space. Because of this fact, the focus group that is working with the contracted planner to update the Town of Mukwonago's Master Plan to be smart growth compliant is considering other ways that the permanent preservation of open space could occur for large farming operations other than open space in subdivision developments. One possibility discussed, was the transfer of development rights from one parcel to another. It is anticipated that this process will be looked at further as the Master Plan develops.

Land Use Development Objective No. 1

A balanced allocation of space to the various land use categories which meets the social, physical, and economic needs of the Town population.

Principle

The only planned urban land use within the Town is around the Phantom Lakes and within the planned sewer service area.

Land Use Development Objective No. 2

The various land uses shall be convenient and compatible.

Principle

The proper allocation of uses of land can avoid or minimize hazards and dangers to health, safety, and welfare and maximize amenity and convenience in terms of accessibility to supporting land uses.

Standards

Rural residential development should be located in such a way as to minimize conflicts attendant to dust, odors, and noise associated with farming activity that may arise when residences are located in the vicinity of agricultural operations. Rural residential development should also be located in such a way as to minimize impacts on the natural resource base including wildlife habitat.

Land Use Development Objective No. 3

The various land uses should be distributed so they are properly related to the supporting transportation, utility and public facility systems in order to assure the economical provision of transportation, utility, and public facility services.

Principle

The transportation and public utility facilities and the land use pattern which these facilities serve and support are mutually interdependent in that the land use pattern determines the demand for, loading upon, transportation and utility facilities; and these facilities, in turn, are essential to, and form a basic framework for, land use development.

Standards

- a. Development should be located and designed so as to maximize the use of existing transportation and utility systems.
- b. The transportation system should be located and designed to serve not only all land presently devoted to development but to land planned to be used for such development.

- c. Land developed or planned to be developed for urban type residential use should be located in areas serviceable by an existing or planned public sanitary sewerage system.
- d. In the absence of public sanitary sewer service, onsite sewage disposal systems should be utilized only in accordance with the following:
 1. Onsite soil absorption sewage disposal systems should be sited and designed in accordance with Chapter 83 of the *Wisconsin Administrative Code*.
 2. The use of onsite sewage disposal systems should be limited to the following types of development:
 - Rural density residential development.
 - Sub-urban density residential development as planned unit or conservation design developments.
 3. New urban development served by onsite sewage disposal systems in areas planned to receive sanitary sewer service is not allowed.

Land Use Development Objective No. 4

The development and preservation of residential areas within a physical environment that is healthy, safe, convenient, and attractive.

Principle

Residential development in the form of planned residential neighborhoods can provide a desirable environment for families as well as other household types; can provide efficiency in the provision of neighborhood services and facilities; and can foster safety and convenience.

Standards

- a. Urban high-, medium-, and low-density residential neighborhoods should be designed as cohesive units properly related to the larger community of which they are a part. Such neighborhoods should be physically self-contained within clearly defined and relatively permanent recognizable boundaries, such as arterial streets/highways, major park and open space reservations, or significant natural features, such as rivers, streams, or hills. Desirably, the neighborhoods should contain enough area to provide the following: housing for population served by one elementary school and one neighborhood park; an interconnected internal street, bicycle-way, and pedestrian system which provides multiple opportunities for access circulation; and those community and commercial facilities necessary to meet the day-to-day living requirements.

Table 14**PERCENTAGE OF AREA IN LAND DEVELOPMENT CATEGORY**

Land use Category	Rural Residential 5 Acre Density	Agricultural Residential 3.2 Acre Density	Suburban Density II 3 Acre Density	Low Density 1 Acre Density	Medium Density 30,000 sq ft Density
Residential Conventional	88%	NA	83%	81%	77%
P.U.D	58%	58%	58%	56%	56%
Conservation Design	52%	52%	46%	49%	49%
Park & Open Space Conventional	0%	NA	0%	0%	0%
P.U.D.	30%	30%	30%	30%	30%
Conservation Design	40%	40%	40%	40%	40%
Streets Conventional	12%	NA	17%	19%	23%
P.U.D	12%	12%	12%	14%	14%
Conservation Design	08%	08%	14%	11%	11%

Density based upon Planned Unit Development and Conservation Design Conditional Use Standards of 130,680 sq. ft. per unit in R-1 and R-2 and 1 acre in R-1 and R-2 respectively.

Areas of development based upon .23 acres for streets on 1 acre and 30,000 sq. ft. lots, .3 acres for streets on 1.5-acre lots, .6 acres for streets on acre lots and .7 acres for streets on 5-acre lots consistent with Table 139 in the Waukesha County Development Plan

- b. Desirably residential neighborhoods should accommodate a mix of housing sizes, structure types, and lot sizes, resulting in an overall density that is within the planned density range for each neighborhood.
- c. Conservation subdivision design concepts should be incorporated in all land use categories, as appropriate.
- d. To the extent practicable, efforts directed at the conservation and renewal of existing residential areas should be undertaken on a neighborhood basis and should seek to preserve those cultural features which contribute to the promotion of neighborhood identity.

Principle

Residential development in a rural setting can provide a desirable environment for households seeking proximity to open space.

Standards

- a. The Town's Plan to seek and maintain the rural character of lands located outside planned urban service areas.
- b. Continued agricultural and other open space uses are encouraged in such areas.
- c. Where residential development is to be accommodated, the overall density of the Town shall be no more than one dwelling unit per five acres with a 3.2 density in individual developments. The use of residential cluster designs, with homes developed in clusters surrounded by agriculture or other open space sufficient to maintain the maximum recommended density.
- d. A development density of no more than one home per 3.2 acres in rural areas is recommended to help accomplish the following:
 - Minimize traffic volumes on rural highways and the need to widen highways beyond two lanes
 - Preserve natural drainage systems insofar as possible and minimize drainage problems and the need for storm water management facilities
 - Preserve open space and rural character, especially through the use of cluster design, to accommodate residential development while avoiding wall to wall residential subdivisions
 - Sustain development served by onsite sewage treatment systems and wells

- Minimize the risks to the groundwater supply which the widespread use of onsite wells at higher densities may pose in the long term
- Preserve, through careful design, the overall integrity of the rural landscape, including environmental corridors and wildlife habitat areas.
- Minimize the loss of farmland covered by agricultural soil suitability Class I and II soils.

Land Use Development Objective No. 5

Limited commercial type uses may be considered as Conditional Uses.

Principle

These limited commercial type Conditional Uses require areas and locations suitable to their purposes.

Standards

- a. Limited type Commercial Conditional Uses should meet the following standards:
 1. Available adequate water supply, sanitary sewer service or soils suitable for an in ground septic system, storm water management facilities, and power supply.
 2. Ready access to the arterial street and highway system.
 3. Adequate on-street and off-street parking and loading areas.
 4. Provision of properly located points of ingress and egress appropriately controlled to prevent congestion on adjacent arterial streets.
 5. Site design appropriately integrating the site with adjacent land uses.
 6. The uses may be allowed by Conditional Use Permits, where it is determined that the use is compatible with the adjacent residential and agricultural uses.

Land Use Development Objective No. 6

The renewal and upgrading of existing nonconforming structures and uses in the area near Phantom Lake within the Village of Mukwonago sewer service area.

Principle

Such effort, along with infill development on vacant land within the sewer service area, serves to maximize the use of public infrastructure and public service systems.

Standards

- a. Existing urban uses within the sewer service area should be updated and renewed, as appropriate.
- b. Infill of undeveloped lands within the urban areas.