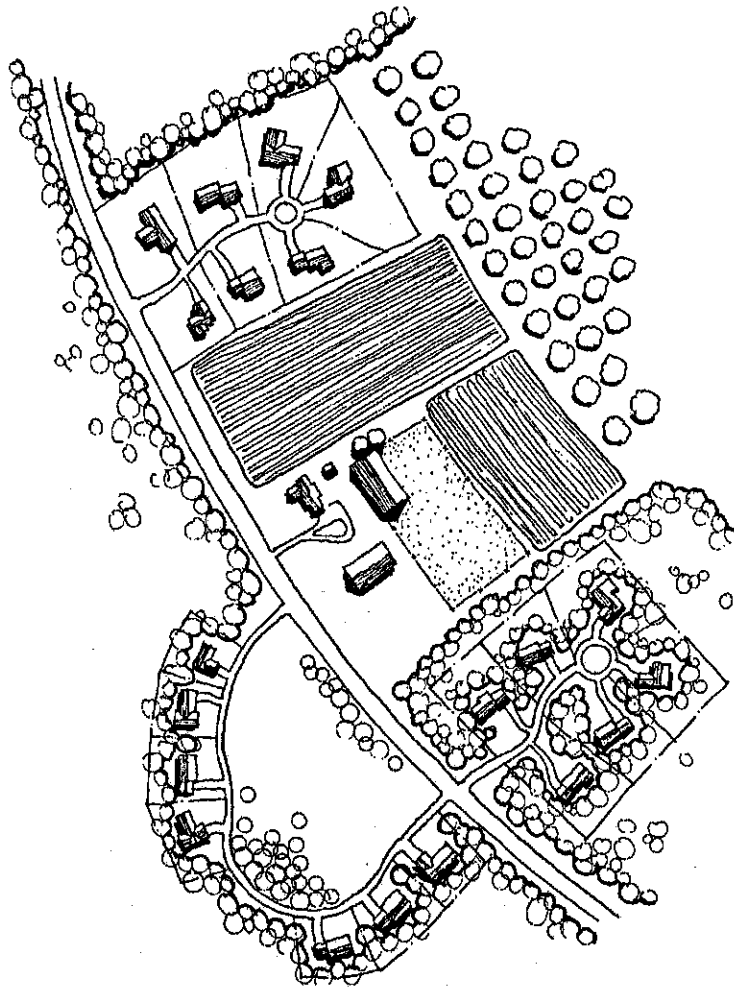


DOOR COUNTY, WISCONSIN
ISSUES PAPER NUMBER 3

GROWTH MANAGEMENT



Lane Kendig, inc.
Performance Concepts in Planning

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ISSUES PAPER NUMBER III

GROWTH MANAGEMENT

Introduction

Door County residents must decide if they truly want a growth management plan. This is a particularly critical question because, at present, only half the County's Townships have accepted County zoning. In order for a growth management plan to be truly effective, the Townships must participate. The issues regarding essential natural, visual, and agricultural resources are discussed in Issues Paper Number II, Resource Protection. That paper deals primarily with resources that require very restrictive controls in order to protect them.

The growth management concept encourages growth in specifically designated areas and discourages growth in other areas. Although growth management is a more positive type of control than a growth moratorium, it too requires some form of land-use control. Zoning is the best tool to use if certain types of development are to be encouraged in specific locations. Positive reinforcement of zoning through other techniques is also possible.

Door County citizens and property owners have identified a number of concerns that relate to land-use in Door County; these concerns may provide the basis for a growth management planning program. The concept of growth management, however, requires that there be a firm commitment to achieving the goals and objectives of the plan. Often, plans are filled with good ideas, but they are ignored when the time comes to actually implement them.

Aside from protecting the major resources of Door County, there are other issues: these include planning for various types of development, controlling access to roads, handling sewerage needs, ensuring adequate public facilities, and providing the revenues needed to support the County's projected growth. These generally fall within the purview of growth management.

Growth Management Planning

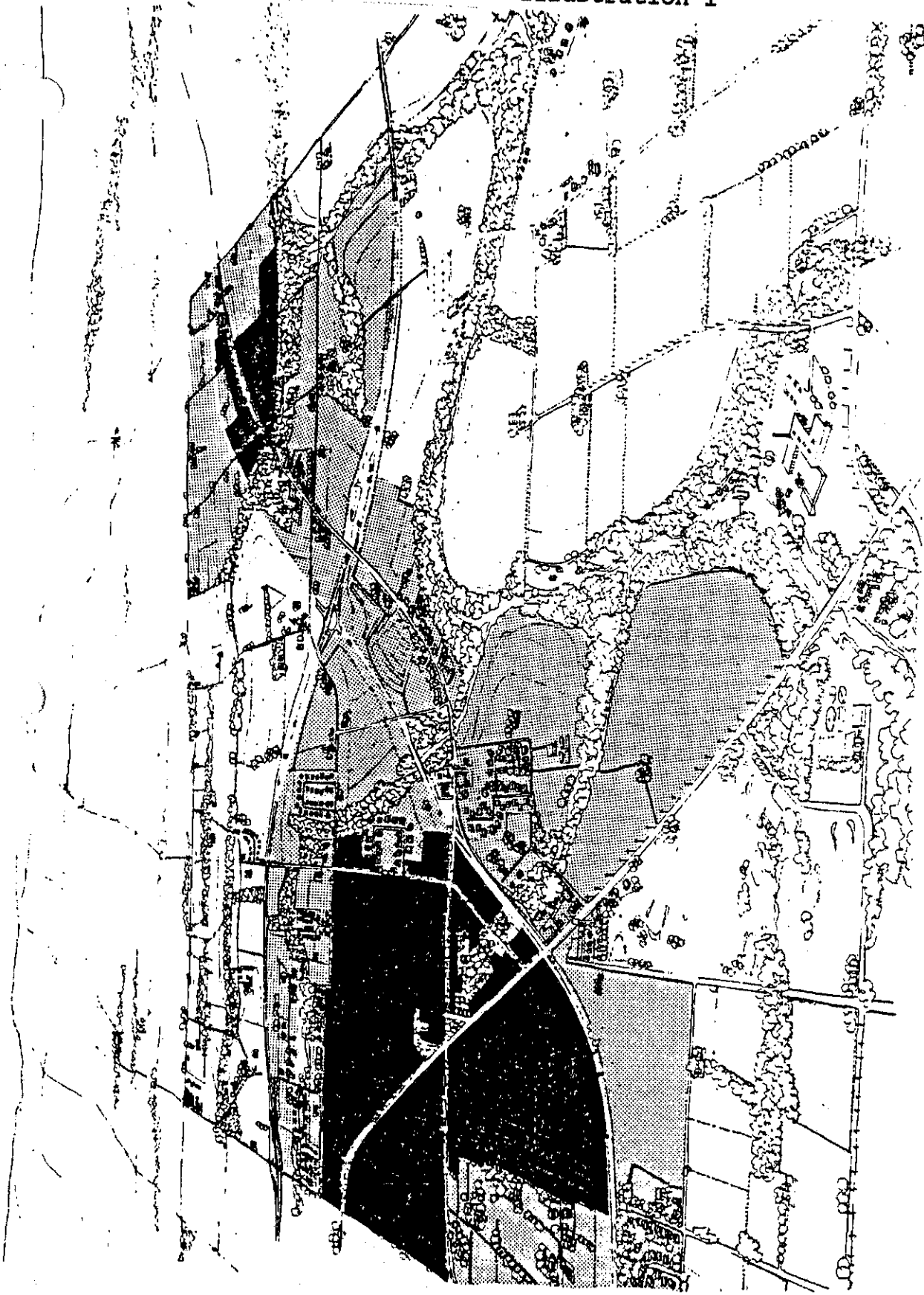
A true growth management plan may be the most effective means to accomplish the goals of the County and its residents and deal with the problems and issues presently at hand. The County and its jurisdictions must decide if they are ready to fully confront the issues, as is necessary during the development of a growth management plan, prior to embarking on further development. This paper outlines the issues and options involved in growth management.




There are several basic types of growth management, each having a different objective. The term "management" is one which implies having greater governmental control over a community's future than a typical comprehensive plan would. Forms of growth management include controlling:

- Location of Growth
- Rate of Growth
- Type of Growth
- Amount of Growth (Growth Cap)
- Cost of Growth

The most common and earliest form of growth management is where the community seeks primarily to contain costly urban sprawl by controlling where development occurs. In its simplest form, this means defining growth areas, plus areas that can not accommodate significant amounts of growth. It is this form that is most critical for Door County. More complex systems of this form seek to phase development in the growth areas. Illustration 1 shows a typical growth management system that concentrates on location.

Illustration 1



-  URBAN areas where few parcels remain undeveloped.
-  DEVELOPMENT areas where growth pressures are intense.
-  RURAL HOLDING areas where much land is still in agriculture or forest, and development pressures are not intense.

A form of growth management which quickly grew out of the locational objective is the growth rate control, where the community seeks to influence the rate of growth generally to limit the need for expansion of governmental services. While earlier examples of this rate of growth management system, i.e. Ramapo, New York and Petaluma, California, were management systems that sought to reduce the rate of growth, many other communities are seeking to use growth management to maintain a level of growth consistent with their ability to provide services in different portions of the community.

A much different form of growth management is very pervasive though little discussed. It focuses on controlling the type of growth. Many communities seek to manage the mix of land uses to achieve specific land use or fiscal objectives. There are a wide variety of these programs, some of which seek to maximize commercial or office uses that pay lots of taxes but demand little from the school districts or other taxing bodies. For some communities, type of growth is primarily a life-style or community character issue. It has been suggested in the growth economic development issues paper that the County strictly control the expansion of daytripper-oriented commercial uses.

A fourth objective is to limit the amount of growth by simply placing a cap on the maximum number of dwelling units and amount of commercial development that will be permitted to occur. This type of planning is usually associated with extremely high growth situations where the citizens say "enough is enough." Boca Raton, Florida was the first to receive national attention in a losing battle to cap its growth. Other communities, such as Sanibel Island, Florida and the New Jersey Pinelands, have successfully capped their growth. In these successful situations, an important resource or limiting factor existed; a cap represented the only solution. This form is inappropriate for the County as a whole, but is a serious question for specific communities.

The last form of growth management focuses on the cost of development. The costs of increasing services and facilities are borne by the development responsible rather than the community as a whole. This form of growth management is actually an extension of a very common practice--developments usually either provide their own facilities and services, such as private roads, wells, and sewage treatment, or the facilities are built to County standards and then dedicated for future public operation and maintenance. In recent years the focus has been on off-site facilities including schools, parks and roads. Growth management regulations are aimed at ensuring that developments pay a sufficient amount of money to cover all the infrastructure costs associated with each development. The regulations can take several forms: adequate facilities ordinances, impact fee ordinances, and conditional use regulations. For example, the needed expansion of a sewage treatment plant would be paid by the development causing the need to expand.

Although the different forms of growth management have been identified separately above, most growth management plans use a combination, thereby achieving a combination of objectives. For example, concern about the rate of growth is at least partly related to the responsibility of a community to provide facilities, such as water, sewers, schools, and highways, that will be necessary to meet projected demand. Efficient provision of services is best achieved by mapping the areas to be served, and areas not to be served, prior to incremental development approval. Thus, both rate and location growth management strategies would be adopted.

In Door County, there has not been much concern over financing needed improvements. The lack of concern is in part due to the tourist-based nature of growth, which has not adversely impacted schools, and to the wide spread use of holding tanks. However, it is predictable that current residents may soon resent the costs of future growth. There is an indication that the rate of growth may be exceeding the communities' abilities to provide needed services. There is a lack of regional service commitments by local service agencies: there are inadequate waste disposal systems, areas of failing septic tanks along most of the coast, and village systems that were not designed for regional service. With the advent of sewers in some parts of the County, current residents may fear having to pay an unreasonable share of the costs. It won't be long before charges are made that new residents are getting a "free ride" at the expense of existing residents.

All forms of growth management require very strict land use controls. In a community such as Door County, growth management generally means limiting the areas of growth. With 491 square miles or 314,560 acres, it is quite feasible for the 2005 population to occupy less than one fifth or even one tenth of all the land in the County. Clearly, there will be winners and losers among land owners with development expectations. There are many in the County who will give lip service to planning, but who want only the trappings of a plan and not a real attempt to control development. Those who want the ability to sell to speculators at the highest price will, in the end, oppose any type of growth management system. Opposition to any serious attempt at growth management is generally based on objections to limitations being placed on development expectations. In Door County the opposition to zoning regulations is based on a similar notion.

A large segment of the community, however, is very concerned that the qualities that make Door County and its municipalities an extremely attractive living and working environment will soon disappear if the County, its cities, and its townships do not take a strong stance in managing growth. This segment is willing to support very stringent development standards and is concerned that uncontrolled speculation will ruin the County.

The key issue that elected officials must address is the conflict between two competing views of growth management; one for uncontrolled growth, the other for strict control. Elected officials will have to determine which direction is best for the community. If the County feels a growth management plan is appropriate, then the County should review the different types of plans available and the types of regulations needed to implement each type of plan. The various options available are discussed in the Implementation Alterations section of this issues paper.

Intergovernmental Cooperation

Intergovernmental cooperation is an important issue. Growth management policies adopted by Door County will be effective only if the other jurisdictions cooperate with those policies rather than work against them. For example, control of strip development will be an essential element of any growth management plan for Door County; the cooperation of the incorporated communities will be crucial to the implementation of the plan.

In terms of the location of growth, there is clearly a real need to coordinate land use decisions. In addition even though it has received little attention, the development must be coordinated with waste disposal solutions. The most critical issue is how to concentrate new tourist related developments and to equitably distribute the windfalls associated with the designation of new tourist areas.

Given the multi-jurisdictional scope of the County, and the legal and administrative context of comprehensive planning in general, adequate treatment must be given to intergovernmental cooperation. Of particular importance are the development fringe areas where the planning goals of the County, the Towns, and the municipalities must be sensitive to one another. For example, the natural and visual resource protection goals of the County may be circumvented through annexation or by the Towns not adopting County zoning regulations. Likewise, the long-term land use goals of the municipalities should be recognized during the County's present and potential long-term tenure as "land use control steward" of the currently unincorporated fringe areas.

The Issues

Door County must deal with several important issues. The most difficult issue will be balancing desires to maximize economic development opportunities with desires to maintain or improve the character of the County and maintain the County's attractiveness to tourists.

Some portions of Door County, those near the shoreline or tourist villages, are experiencing a rapid rise in land value. In other areas, Door County remains a rural county where land values have hovered near agricultural values for decades. The rise in land values, in turn, has caused the expectations of landowners in some areas to rise dramatically. Yet, if present development trends were continued, the County's most important assets--its rural character and scenic beauty--would be badly damaged.

The goals of maximizing economic development opportunity and obtaining planned, quality growth without destroying the environment are interrelated. A well thought out growth management plan would be able to balance these two goals. However, understanding that any serious planning effort will, and must, result in a change in expectations for a good number of landowners is extremely important. This issue is where the most conflict will occur and where elected officials will have to set policy direction.

County decisions most directly related to balancing landowners' desires will concern both the standards and review procedures that need to be developed as part of the growth management plan and the implementing ordinances. The County and its jurisdictions will have to decide at what point the standards become too restrictive or onerous to the developer and at what point the review procedures become too costly or unwieldy. At the same time, they must be satisfied that the standards to be adopted will ensure a level of quality that maintains the County's reputation as a desirable place to live and visit and protect the property values of the present residents, businesses, investors, and property owners. Further, the County and its jurisdictions need to be satisfied that the review process is thorough enough to enforce the objectives of the growth management plan and implementing ordinances.

Another issue concerning the growth management plan is the cost of installing and maintaining infrastructure and facilities needed to service new development. Development pressure stemming from the expanding tourist industry is leading to numerous requests for development approval in widespread areas of the County. If approved, these developments could form a highly diffused and disconnected suburban network that will need to be serviced by water, roads, police protection, fire protection, and other typical governmental services. The growth management plan will need to address the issue of paying for these facility

extensions and services. A major consideration should be that the cost of providing services to noncontiguous development areas is much greater than for developments that are closer together.

One simple way to deal with the costs involved with the installation of infrastructure could be to require developers to pay for their installation. Developers could be required to install utility lines and roads as needed to serve their development. This would be most workable if tourism is focused in selected areas of the County and if a mechanism is provided to extend sewers to nearby septic failure areas.

Another option is a special taxing district. Special taxing districts are created to permit the costs of infrastructure improvements to be paid for by taxes, but only by those benefiting from the facilities. If four subdivisions are to be served, all of their lots would be in the special service district, and the cost of the improvements would be paid for by taxes over a period of time. The costs for services are thus confined to the developer and residents of the development, rather than the general taxpayer. There are some costs and complexities involved in setting up a special district, and the State's legislation must be reviewed to ensure that the taxing structure does not discourage new development.

One last option that could deal with the additional costs involved in extending infrastructure to noncontiguous development would be to have the County or its jurisdictions pay for the extensions. The political viability of collecting additional tax revenues from existing residents and businesses to pay for these extensions is highly questionable.

None of these options deal with the costs involved in the long-term maintenance of the infrastructure or the extra costs involved in providing services to many noncontiguous developments. Again, special taxing districts could provide a solution to pay for these additional costs.

Another way to deal with potential areas of diffuse and noncontiguous development would be to prevent such development. The growth management plan could designate certain compact areas for development and designate other areas to remain substantially rural. This strategy would avoid the issue of extra costs involved in infrastructure extension and inefficient provision of services, because development would be contained in contiguous areas that would be able to be serviced relatively efficiently.

This growth management solution, however, raises the issue of certain property owners being given the opportunity to develop their properties at intensities much greater than property owners in other areas. This is a difficult issue, but not an unusual one. One of the important purposes of planning is to

steer development into locations that can be properly served by public services and where development is desired by the community. In all other areas, a rural character will be maintained with a rural level of services. Only some development can be allowed in these areas, but only at very low densities which are consistent with rural character.

Inevitably, those property owners who have not been granted the right to develop their land at the more intense levels allowed elsewhere will protest that they have been unfairly denied the opportunity to gain a proper yield from their land. This is an unfortunate situation, but an unavoidable one if development is to be directed into appropriate areas. The areas of the County that have high growth pressure are: frontage along Routes 42 and 57; sensitive environmental areas near the shore; and near the existing tourist villages. If the strip development of these areas continues, most of the qualities that bring people to Door County will be lost. This means that there must be a means found to concentrate this development in distinct nodes and to leave the intervening spaces undeveloped. This raises the equity issue. Those designated for development get a windfall, those designated for resource protection suffer a wipeout. The ability to solve this type of problem is both the most critical problem facing the county and the most technically demanding.

Somewhat related to the issue of windfalls and wipeouts is the cost of sprawl. The development pattern that has been followed in Door County, strip development often only one lot deep, is the most costly imaginable from the viewpoint of the cost of providing government services. This has perpetuated the use of holding tanks which in turn makes the development of utility systems difficult, because there is no penalty for sprawl.

Implementation Alternatives

Several alternative approaches are available to Door County and its jurisdictions as they face the issue of managing growth within their borders. The alternatives range from traditional zoning techniques that regulate the intensity of development to more flexible performance standards.

The elected officials of Door County and its jurisdictions must carefully weigh the costs and benefits of each of the following growth management techniques. For each alternative, one or more groups must pay the costs associated with controlled growth. Door County and its jurisdictions need to decide which techniques will work best for them. A technique which has worked particularly well in other counties may be politically unacceptable in Door County. Other alternatives may be viewed as potentially more effective in Door County than in other counties.

No single growth management alternative works in isolation. Each approach has its strengths and weaknesses and must be combined

with other techniques in order to ensure the development of an effective and politically acceptable growth management plan for Door County.

Plan Alternatives

A crucial first step is to determine what sort of plan the communities want. For simplicity, we have defined four types of plans. Each plan represents a different level of commitment to planning and growth management. Many of the techniques used to implement growth management plans are applicable to all four types of plans, but some clearly are not. Also, some will have different levels of effectiveness depending on what type of plan is selected. The four types of plans are:

1. Growth Management Plan
2. Comprehensive Plan
3. Policy Plan
4. Market-Performance System

A growth management plan requires the community to plan for the programmed amount of growth. Typically, this would be the 20 year projected population and its corresponding economic growth. In addition, we usually build in a 25 percent safety factor so that if the plan were to be revised every 5 years, there would never be less than a 20 year supply of land. In the comprehensive plan, there may be, although it weakens the plan, a great deal more land identified for various uses than the market supports. In the policy plan, there may or may not be a map. If used, the map is intended to be a general guide. Elected officials use written policies as their guides rather than the map. The market-performance system is designed to introduce market forces to accomplish the desired objective while permitting the developer to do what he wants with his land, provided it works for him, his neighbors and the community as a whole.

1. Growth Management Plan

This term implies a strong commitment on the part of elected officials to control and direct the growth of the County. States and communities under heavy growth pressure have charted the path. Growth management implies limiting most of the development to limited areas of the County. If development within Door County were to exceed even the highest projections for development made for the year 2005, most of Door County would remain vacant or agricultural. The additional households expected over the next twenty years would consume at the most only about 5 percent of the land in the County. Growth management implies gaining control of land use regulation in the unzoned areas. It implies moderate density in some areas and very low densities in adjoining areas. This means that any growth management plan is going to have to limit development to specific areas of the

County. None of these things have been exercised by local elected officials in the past. A great deal of political heat would accompany the adoption of a growth management plan. While there are political liabilities to such a plan, there are advantages. This type of plan can deal effectively with the need to control the tourist development, preserve natural and visual resources, and promote sound infrastructure planning.

Recommendation

In Door County, it is clear that a growth management plan will be the most effective. It is essential to the success in meeting the County's primary resource protection objectives and preserving a sound tourist economy that the plan be able to deal effectively with the location of new development.

2. Comprehensive Plan

In theory, there should be no difference between a comprehensive plan and a growth management plan. However, after many years of comprehensive planning that has failed to control and guide future growth, planners started calling the more effective plans growth management plans. For the purpose of this discussion, the most important distinction is that, while a growth management plan provides only for the projected growth, the comprehensive plan will show far more land for development than the market will sustain. The rationalization of this over-supply of land is that it frees the market to operate without bureaucratic interference. However, if the land plan is not related to the market, it becomes impossible for government to adequately plan for public improvements. This practice has a long history in this country, leading to development outstripping government's ability to provide services. The result is that growth management has advanced to take over from normal comprehensive planning.

Recommendation

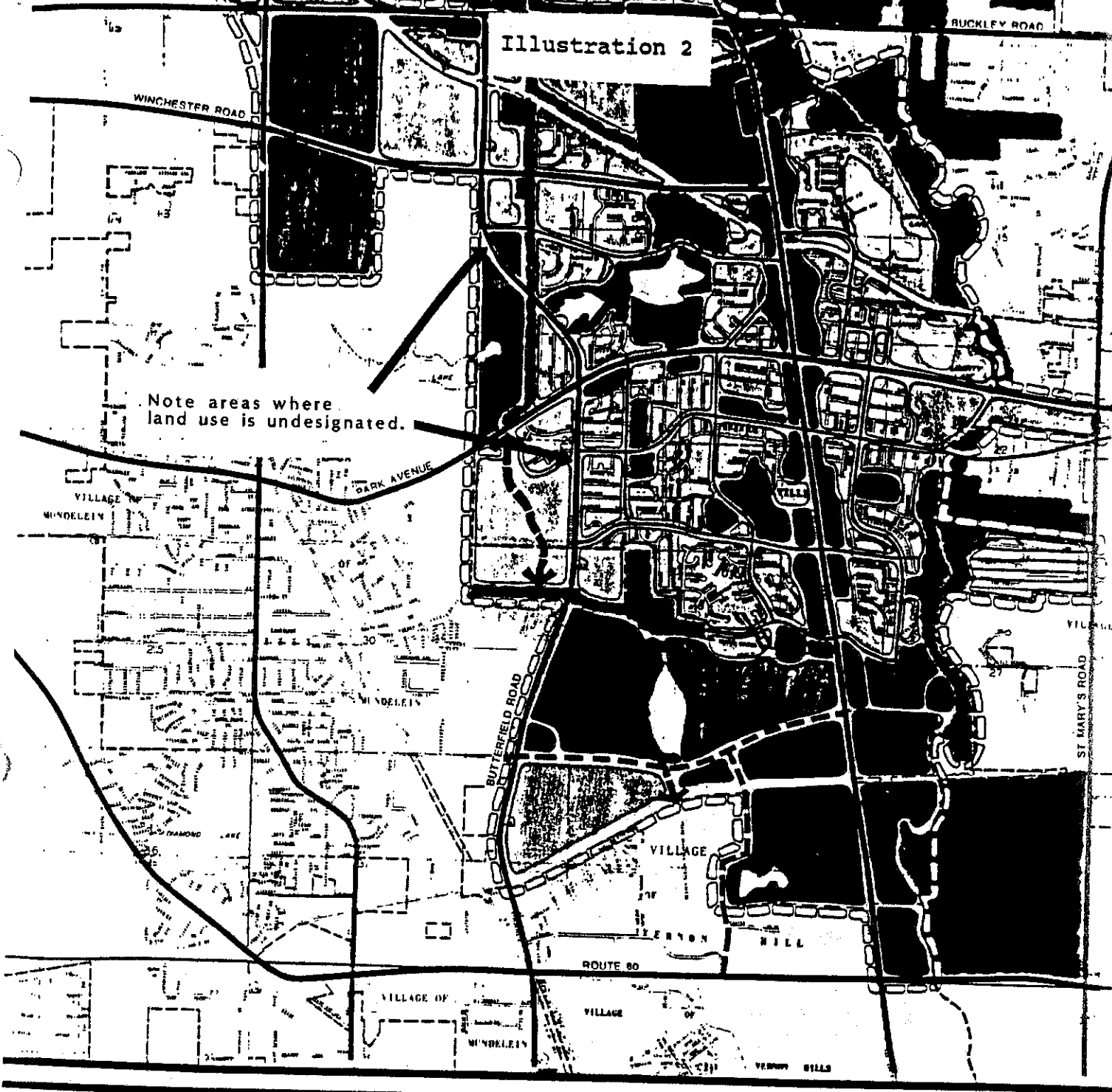
In Door County it is clear that a comprehensive plan would lead to increased strip development. If political pressures force the County to provide a large oversupply of land to support development, it will most likely be stripped out along the shoreline, blufflines, or highways where it is most important to contain development.

3. Policy Plan

Rather than defining a specific land use plan which puts emphasis on a detailed map to implement goals and policies, the policy plan stresses the goals and policies and provides a framework to guide future decision making. Planning occurs on an ad hoc basis as projects are proposed and reviewed relative to these goals and objectives.













As an alternative to a growth management plan, one of the common approaches is a policy plan. Policy plans are based on a de-emphasis of the future land use map and, typically, would use a map that was drawn so as not to give an impression of precision (see Illustration 2). The plan itself contains a series of policies. These policies may be somewhat general and, therefore, subject to considerable subjective interpretation, or they may be a very long set of detailed statements of policy. This type of plan became very popular in the 1970's. Its central premise was that the maps in plans took on too much importance and what was really needed was a clear understanding of policies. The central thesis was not strictly accurate. While it was true then and remains true today, there is a tendency to focus on the map because the map is what relates the plan to an individual's property.

Illustration 2



LAND USE PLAN

VILLAGE OF LIBERTYVILLE COMPREHENSIVE PLAN

- | | | | |
|---|--------------------|---|--|
|  | OFFICE/RESEARCH |  | ESTATE RESIDENTIAL |
|  | OFFICE/COMMERCIAL |  | SINGLE FAMILY RESIDENTIAL |
|  | COMMERCIAL |  | MIXED RESIDENTIAL
SINGLE FAMILY ORIENTATION |
|  | REGIONAL CENTER |  | MIXED RESIDENTIAL
MULTI-FAMILY ORIENTATION |
|  | INDUSTRIAL |  | OPEN SPACE |
|  | PUBLIC/SEMI-PUBLIC |  | OPEN SPACE
LINKAGE |



The critical element in the plan is the ability to get really good policies. All too often, it is difficult to accurately focus on what it is that a policy means. A good example can be taken from this policy from the City of Sparks, Nevada's master plan.

Disapprove commercial or industrial development which has excessive negative impacts on the City.

Everything is clear in this policy statement except the key word, excessive. How is the elected or appointed official to determine that? One way is by counting the number of opponents a particular development may generate, a technique that is used more often than one would admit. It is clear that two experts can be found who will clearly disagree over whether there is any negative impact or not. However, even if there is a negative impact, the word "excessive" is always going to be debatable. While this example represents technical problems with the policy planning approach, these problems can be overcome with careful drafting. A problem that is more difficult to address is that each individual will give somewhat different emphasis to a written policy and may interpret it quite differently. More importantly, there is a backing away from the policies in the face of controversy.

Recommendation

While there are a few communities that have successfully used the policy plan over the years, there are many more that have not. Those communities that have been successful are all small suburban communities that have very clear visions of their future. This technique will not work in Door County to meet the goals set for the County.

4. Market-Performance System

The last alternative plan is one which leaves the type of development largely to the developer, but which introduces economic elements that require the developer to accommodate the various public concerns. The plan would be reduced to a rather simple map indicating areas in which urban, suburban and rural intensities of development would be expected. Such designations would also constitute the zoning map. The plan text would be incorporated into the zoning text and would explain the purpose and rationale of various components of the zoning ordinance and other official documents.

This system is more ordinance-oriented than plan-oriented. It is a market driven system. Ultimately, most plans and zoning ordinances seek to bring the market into conformance with a plan by selectively permitting and prohibiting certain uses. Many jurisdictions have seen a proliferation of zoning districts as they have sought to cope with more complex zoning issues. In a market-performance system, the regulations specify various

levels of performance with regard to neighboring properties and public facilities. The developer must assess the opportunity costs of a higher intensity project. The performance requirements would require an investment in dollars or lost land for the purpose of: protecting or buffering neighbors, or protecting the environment, or providing additional infrastructure. The ordinance would prohibit very few uses. However, it would establish levels of performance which make a certain use economically infeasible on a specific site. The advantage of this system is twofold. First, it would accomplish all nonlocational objectives of the growth management system such as securing adequate roads, schools, and other infrastructure, protecting the environment and neighboring property values, and preserving the character of the area. Secondly, the developers would be relatively free to do whatever type of project they desire as long as they could meet all the criteria. Developers could invest in infrastructure or buffer plantings, for example, to improve the development rating of their property and, therefore, the maximum intensity of use.

The problems of making major decisions on whether to permit specific development proposals generally should not have to go before the elected officials. Instead the developer would have to decide whether the investment in a cheap piece of land requiring large capital investments is really an economically sound decision. The risk and consequences would all relate to fixed rules in the zoning ordinance rather than whether the elected officials would decide to rezone or annex.

This type of regulation is viewed by some as being nonplanning. That is a correct evaluation only if one assumes that the mapping of specific land uses is the plan's critical element. In the community character paper, it was pointed out that it is more critical how the use goes on the ground than what the use is. The market-performance approach leaves a wide degree of freedom in selecting the desired use, yet contains hard unequivocal rules that prevent abuses of the zoning regulations through rezonings or conditional approvals.

Recommendation

The market-performance system works best where there are nonlocational decisions that are most critical and where rural areas are not critical to the plan. Thus, it is not recommended for general use in the plan. It may be applicable in some areas and would be most useful to the incorporated Villages and to Sturgeon Bay.

Specific Regulatory Techniques

Having reviewed each of the types of plans, the specific techniques which can be used to implement growth management objectives shall be reviewed:

1. Large Lot Residential Zoning
2. Development and Protection Districts
3. Very Large Lot
5. Performance Standards
6. Market Systems
7. Transferable Development Rights

1. Large lot residential zoning

Large lot residential zoning is the classic method of reducing both the amount and rate of growth in areas targeted for agricultural and/or natural resource preservation and for encouraging the development of high-income residential areas. A major weakness of this approach is that it "eats up" the land. Even a moderate form of large lot zoning, for example 2 to 5 acre lots, would consume up to 15 times as much land as smaller lot residential zoning. Thus, while it may attract high-end residential development, large lot zoning has always resulted in an accelerated loss of agricultural and resource land and increased sprawl. This form of zoning has been the mainstay of Door County zoning. It has not worked to preserve critical resources.

Large lot zoning is also relatively ineffective at protecting environmentally sensitive lands. Large lot subdivisions depend on septic tanks for waste disposal and require lengthy road networks and water lines to serve lots spread throughout the development area. Moreover, the spreading out of home sites makes it difficult to preserve vegetation and habitat values that may exist on the site. Homeowners of two to five acre lots frequently seed large expanses of lawn and then apply fertilizers and herbicides in order to maintain the lawn. The runoff from these lots can significantly affect the quality of nearby bodies of water.

Recommendation

The plan should not depend on this strategy as a method of growth management although it is adequate as a land use control method.

2. Development and protection districts

The use of development and protection districts was originally based on the premise that new development can be serviced most efficiently if it is limited to certain areas within a jurisdiction. It is, in fact, the oldest and most commonly used growth management technique. The projected 20 year increase in population for a particular county is used as a guide in determining how much land should be designated for a particular type of district. When applied and implemented properly, development districts permit the efficient use of land and discourage urban sprawl. The concept requires two basic types of districts: de-

velopment districts where growth is encouraged, and holding zones or resource protection areas where growth is discouraged. In an area such as Door County, the resource protection goal is greatly expanded and the primary purpose of the development districts is to contain and limit the damage that growth inflicts on the environment, rather than to provide for an efficient system of governmental services.

In the normal planning theory, development districts require access to sewer. Without adequate sewer capacity, 1 acre lots or larger lots on septic will begin to sprawl across the countryside. In Door County the ability to sprawl has been greatly enhanced by the ability to build on holding tanks. That removes two normal constraints on development location, the presence of soils suitable for septic tanks and density controls based on land needed for septic tanks.

Development districts are the key element in many growth management plans. Development districts are very widely used. For example, they are mandated by the State of Oregon's enabling legislation as a component of comprehensive plans, in each plan a 20 year urban growth boundary must be established. Plans in California, Florida, Pennsylvania, Illinois, and New Jersey have also used this concept. Usually, development districts are mapped in areas that have adequate sewer and water. Development districts may also be designated for those areas where services and capital improvements are planned. In Door County, the free use of holding tanks will mean that the development district must stand on its own as a land use control device without dependence on facilities planning criteria. In either case the development district permits medium to high density residential development as well as commercial, institutional and some industrial uses.

The development district is accompanied by a second district. In Oregon most land beyond the urban boundaries is agricultural or forest land. In Bucks County, Pennsylvania and Lake County, Illinois, the remaining land is designated as a holding district and is reserved for future development. In either case the densities permitted must be low enough to discourage any substantial development outside the development district. In Door County there will be three possible types of areas that would be used: rural, natural and countryside. They all provide a rural form of character and protect the natural and visual resources.

A key issue relates to how much land should be mapped for development districts. The amount of land designated for development must be sufficiently large in order to ensure that a small number of landowners cannot manipulate the market place and drive up prices. Prices are most likely to be driven up when the planning period is short or where the total area needed to accommodate expected development is small.

Administratively, development districts are relatively easy to implement. Either traditional zoning or performance zoning may be used to regulate the type of growth that takes place within the districts. The key to the success of development districts in most communities has been the availability of services and capital improvements. There must be adequate sewerage capacity, water, roads, and schools in order for the districts to accommodate the anticipated growth. For example, the feasibility of development districts in Door County may be limited by the capacity of the road network, by the sewer or septage capacity of certain jurisdictions, and perhaps most importantly by shortages in such facilities resulting from a lack of intergovernmental coordination and cooperation.

In general, natural resources and agricultural protection measures tend to assist efforts taken through the use of development districts to control and curb urban sprawl. These regulations set definite limits on the development of agricultural and resource lands. In Door County, methods to protect these areas may be based on either a protection district approach or on a site-specific performance-based approach. The major issue facing elected officials seeking to use the development district approach is that they must draw a line on the map indicating the areas that are intended to accommodate the population and economic growth of the community. Whoever is on the other side of the line usually is placed in either an agricultural zone or a holding zone with much lower residential densities. It is not surprising that many landowners who are on the low density side of the line will object strenuously and even oppose the entire plan. Nevertheless, this is an issue that the elected officials must commit to if most forms of growth management are to be successful.

Recommendation

Development districts and resource protection districts are essential if Door County is to meet its goals for the future. Sewer service areas and large scale septage collection systems will help funnel development into the areas designated as growth areas and, therefore, will make the development district and resource protection district technique more effective.

3. Very Large Lots

Very large lot zoning, in excess of 20 acres, has been the standard land use control method for rural areas in this country. The problem in Door County is that, thus far, this form of zoning has been resisted. Exclusive agricultural zoning is the only legally acceptable means of gaining the benefits of large lot zoning; unfortunately, the tax credits offered as incentives for agriculture (and very large lot zoning) have not proven persuasive to Door County residents either. The County should, as part of any critical area legislation initiative, try

to get special treatment under the exclusive agricultural provision to use clustering at slightly higher densities in order to increase the attractiveness of this approach.

Recommendation

Very large lot zoning, or some performance zoning substitute for it, is essential to the development of the comprehensive plan. Even though the County has shown resistance to this form of zoning in the past, we believe this alternative is one that must be explored.

4. Performance standards

Performance standards relating to the character or impact of conventional site planning were developed in response to the limitations of traditional density and intensity regulations. Performance standards focus more on how development is carried out rather than concentrating on what specific development takes place. Uses are generally permitted as a matter of right in performance zoning districts, provided that preset performance standards are met. This approach to growth management is used in over 25 communities in Bucks County, Pennsylvania; Monroe County, Florida; Lake County, Illinois; Hartford and Queen Anne's Counties, Maryland; and in the City of Largo, Florida. It is also applied in whole or in part in many other areas of the country.

The community character based district is the essential element of the performance zoning approach. The districts available for a county's consideration range from the natural district to the urban district. In Door County, the natural, rural, countryside, estate, suburban, and urban transition districts may be the most appropriate for planning purposes. A more detailed discussion of these districts is found in the Community Character Issues Paper.

The district concept is based on the premise that areas or zoning districts can be described by their community character. The type of growth or land use permitted within a district is controlled by performance standards to ensure the desired character rather than by lists that permit or prohibit uses by district classification. Community character has traditionally been thought of as too subjective to be used as a land planning tool. However, using new techniques, the character of an area can be accurately quantified in terms of the development mix that exists between residential, commercial, industrial, and agricultural or open space uses. Each district is characterized by a range of percentages for each of these uses, as well as by the combined intensity of all these uses.

Many performance type of systems use point systems to determine intensity of use or to permit increased density, as in New Britain, Pennsylvania; Ft. Collins, Colorado; Breckenridge,

Colorado; and Hardin County, Kentucky. These types of systems deal effectively with the adequacy of public facilities, although each of these ordinances has approached that effort from a different perspective and a different set of existing circumstances regarding the present adequacy of facilities. The point systems are much weaker when they are required to deal with visual or resource protection objectives.

Recommendation

Performance zoning has a greater potential than other techniques for protecting natural or visual resources and still permitting the land owner a reasonable economic return. For this reason it is probably the preferred method of dealing with both rural and suburban areas in the County's plan.

5. Market systems

There are a number of performance oriented systems that are highly market oriented. In an ideal system, most uses are permitted and density is dependent upon the level of performance provided by the development. Ft. Collins and Breckenridge, Colorado are the most publicized of such systems. Similar systems are in place in a number of other communities, including Grayslake, Illinois and Hardin County, Kentucky. The theoretical concept is similar to that articulated in performance zoning where it is not the land use that is important but, rather, how it goes on the ground. The notion is that there would be few zoning districts with a wide range of permissible uses. While these systems are touted as "free market" systems in which any land use can be located anywhere as a matter of right, actual practice tends to be quite different.

All of the communities that have adopted such systems have stopped well short of making most uses permitted by right in most zoning districts. All of the systems adopted so far have very few permitted uses by right, with nearly all uses being a conditional use. This means that there is no certainty in the system of having a given use approved. Further, the experience varies widely with regard to the time needed to gain approval of a project.

There is a second form of market system that must be given consideration. In this form all the uses are permitted, but the intensity level is controlled by calculations that prevent the intensity of an area from exceeding the capacities of roads, natural resources, or utilities. As with the other point systems it is based on the notion that developers will make off-site improvements to facilities in order to increase the permitted intensity. When it comes to resource protection or visual resource protection, the incentive nature of the system breaks down.

Recommendation

This system is best adapted to capital facilities oriented systems. While there may be limited uses of this concept in the more intensely developed areas of the County, it is not suitable to the more rural areas.

7. Transferable Development Rights

One of the most difficult problems that has been identified is the provision of room for the expansion of the tourist industry. The traffic levels in the existing villages indicate that these areas simply cannot continue to support new tourism development and retain their character. This means that there will need to be new tourist areas established and strip development must be curtailed. Many of the areas suitable for tourist development are environmentally or visually sensitive areas, thus the areas for permitted development need to be sharply defined and limited in area. This poses a major windfall and wipeout problem. If the development district concept were applied to these areas, then a few property owners would become very rich while the rest would have their development expectations eliminated. This poses a major equity problem. It is likely that the problem is real enough to make it impossible to protect the area.

Transferable development rights are the only technique available that seems to have the possibility of mitigating this sort of problem. Under this sort of program the tourism area would have designated development districts, but the density would be equally divided between all the landowners in the district. It might, for example, have a district in which the permitted on-site development was based on one house per 20 acres, while the development potential through transferable development rights might be one house per 5 acres. This would provide a strong incentive to use the transferable system and to sell development rights to those whose properties were designated for development.

Transferable development rights have been held legal by the U.S. Supreme Court. The Supreme Court, in fact, has repeatedly indicated that development rights are a reasonable way for communities to approach regulatory situations where a degree of compensation may be appropriate to reduce the impact and to provide the land owner with legitimate development expectations.

Recommendations

The County should be prepared to use transferable development rights in certain circumstances. The obvious areas are ones which have intensive development pressures where the use of rural zoning types is not going to prove possible.

Summary

There is a need for very strong land use regulations in Door County, because the economic pressures directing growth are placing maximum stress on some of the County's most important natural and visual resources.

The elected officials of Door County have some difficult decisions to make in order to carefully integrate their desire to benefit from potential development opportunities with the need to plan for the preservation of the resources that make the County attractive.

The recommended policies are all difficult to implement, but once in place, they will ensure that the County's objectives are achieved.