Chapter 10. Implementation

Introduction

This section of the Comprehensive Plan focuses on the actions and initiatives that Stearns County will undertake in order to implement the Land Use Plan and related elements of the Comprehensive Plan. The emphasis is on the relationship between the County's land use and environmental regulations and the policies and land use categories of the plan. These regulations are administered by the County's Environmental Services Department, which will take primary responsibility for implementing the recommendations in this chapter.

Of course, other plan sections such as Transportation, Economic Development and Parks, Recreation and Open Space also include specific implementation actions. These are summarized in tables at the end of each chapter, along with their proposed time frames and primary and secondary responsibilities for carrying them out.

Issues and Challenges

The 1998 Comprehensive Plan set the stage for the County's adoption of its first Zoning Ordinance in 2000. Some of the innovative aspects of the ordinance include:

- The use of a Land Evaluation and Site Assessment process making decisions on applications for rezoning in rural areas;
- A new GIS-based tool, the Resource Suitability Model, which identifies development suitability or sensitivity based on the presence and quality of natural resources, infrastructure, and agricultural practices;
- Standards encouraging cluster development in agricultural districts and open space (conservation) design for larger subdivisions;
- Creation of a Transfer of Development Rights (TDR) program.

While the ordinance has been effective in many respects, several problems and challenges remain to be addressed. Major issues that have been identified during the planning process are discussed below.

Cluster development and its applicability. As a means of protecting agricultural natural resources and agricultural practices, the zoning ordinance included provisions for clustering homes within rural subdivisions. However, the cluster provisions were perceived by some townships as undermining the large lot zoning provisions that also protect agricultural land uses, and as introducing a form of development that ran counter to the community character of some

rural areas. Some townships created zoning ordinances that banned cluster development – an option that could be considered to be more restrictive, so that it could override the County's regulatory minimum standards. (Recent zoning revisions now require cluster development if more than two new lots are being created in an agricultural district.) Questions to be resolved include when and where clustering options are appropriate, and whether cluster development can serve as a 'safety valve' to prevent 40-acre non-agricultural development.

Open space (conservation design) development standards and their application. Open Space Development is encouraged for residential subdivisions, but the standards have been used infrequently and have been prohibited by some townships. The ordinance requires that approximately half the site is set aside as permanent open space and protected by conservation easement. Density bonuses of 25 to 75 percent are provided in various zoning districts. Townships have argued that this increase in density is undesirable, and have prohibited open space development on the grounds that township ordinances may be more restrictive but not less restrictive than County ordinances. Another problem has been the lack of agencies or organizations willing to hold conservation easements, particularly on agricultural land.

As a result of these issues, it is often simpler for landowners to develop conventional subdivisions, and for townships to approve them. Can open space development, like clustering, be effective in advancing the County's interests in natural resource protection and farmland preservation? Can it become more widely acceptable as the "default" development pattern?

Zoning district conflicts. Zoning districts that permit a residential density of one unit per 20 acres (the R-20 and T-20 districts) have tended to result in very large residential lots and to engender conflicts between residential and agricultural operations. The 20-acre lot was a compromise effort between agricultural protection and development flexibility in the original zoning ordinance, and one that has very few advocates supporting its continuation. The issue before the County is whether the 20-acre lot size can be phased out without appearing to backtrack on the original compromise, and whether alternatives to the 20-acre lot can provide development flexibility while still protecting the County's agricultural base.

Transfer of development rights (TDR). One of the innovative aspects of the 2000 ordinance was the creation of a TDR program which allowed development rights to be bought, sold, and transferred from one parcel to another. Two problems with the program emerged: first, development rights could be transferred out of and into any zoning district, provided the receiving parcel allowed equal or higher density. As a result, rights were transferred from parcels within city expansion areas, and these parcels were later rezoned to

urban densities, giving the sellers "new" development rights. Second, it has been difficult to track the parcels from which density has been transferred to ensure that they are permanently restricted from further development. As a result, the program has been suspended until it can be revised.

How can Stearns County redefine the TDR program to clearly identify the goals of the program and create standards that allow the market for development rights to work? Can a TDR program work in conjunction with other land use planning and regulatory tools? Can easements be effectively monitored?

Zoning and plan consistency. The pattern of land use that the current zoning ordinance allows is not consistent in many locations with the Land Use Plan. While the Plan's land use districts explicitly allow for some mix of uses where appropriate, the existing zoning districts would in some cases allow for a distinctively different mix of uses than called for in the Plan. Downzoning, while a legal option for the County to use, can create a loss of speculative development value and thus is unpopular. Upzoning can have similar ramifications by reducing the viability of existing land uses and increasing pressure for development at zoned densities. What approach should Stearns County take towards making the zoning and the plan consistent?

Resource Suitability Model (RSM). The County created a GIS-based model for evaluating the suitability of areas for development. The model has, however, been of limited use since its development because the development review process does not explicitly incorporate how the model should shape regulatory and development decisions. The County needs to consider how the RSM can fit into the review process, whether the model's inputs are sufficient to use it as a tool, and how the County can ensure the model's operation will be sufficiently transparent to staff, Commissioners, developers, and the public.

Policies and Action Items

One of the primary methods of implementing the Comprehensive Plan is through the County's land use and development regulation. Indeed, Minnesota Statutes state that zoning changes should be consistent with the Comprehensive Plan. The Plan's land use section includes a number of references to how land use preferences and priorities can translate to changes in the County's development regulations or procedures. Some of these changes relate to specific ordinances, such as the zoning ordinance, while others may be more procedural, such as how the LESA process or the Resource Suitability Model is incorporated into the review of applications for rezonings or development permits.

As noted above, the land use section describes how the Plan could result in a number of potential changes to the County's development regulations. The zoning districts, for instance, will likely have to be modified in one or more of the following elements:

- Changes in the mix of uses or densities that are allowed within specific districts;
- Creation of new districts or elimination of existing districts;
- Changes to the zoning map - where the districts are located.

Many of these changes will be addressed when the County starts its ordinance update process. Changes to the zoning map, as noted above in the Issues and Challenges, will require decisions about whether to upzone and downzone areas whose current zoning is inconsistent with Plan goals and priorities. Zoning map changes will need to be decided as part of the ordinance update process. The key question mentioned above under "Issues and Challenges" is whether zoning map changes need to occur as a single county-wide process or in a more transitional, piecemeal fashion. Key land use recommendations that relate to changes in zoning districts are summarized below:

1. Urban Expansion District. An urban expansion zoning district will be developed that distinguishes between the purpose of an agricultural zoning district (long-term preference for agricultural land uses) and the purpose of an urban reserve area (ensuring efficient staging of urban development and associated infrastructure). The district will be designed to maximize the opportunities for intergovernmental cooperation on annexation and joint planning issues.

2. Natural Resources District Options. The presence of natural resources may not change the preferred land use or the type of zoning district for a particular area. Natural resources may, however, change the location or design of land uses within the landscape, or the process through which development occurs. An updated zoning code should include provisions for protecting the County's green infrastructure, regardless of the zoning district in which the resources may be found. The standards could apply to a mapped overlay district, or as a set of performance standards that apply to defined but unmapped resources.

3. Staging Standards. In order to assure that the development future shown on the land use map occurs in an efficient manner, the development regulations need to address the order in which areas are developed. Rezonings and Comprehensive Plan amendments, in particular, should consider the proper staging to avoid isolated areas of development needing public infrastructure, areas with poor access

to emergency services, and pockets of development that conflict with the County's goals of ensuring a long-term agricultural base. The Resource Suitability Model, the LESA assessment, in conjunction with the land use map and township or city staging priorities could provide a process for setting and implementing staging goals. (See the discussion of staging in Chapter 3, Land Use Plan.) The County will develop staging standards and priorities by:

- Working with adjacent cities and townships to map all Urban Expansion areas into staging areas. These would be based on the cities' plans for infrastructure extensions; proximity and character of existing development, access to services, and other criteria to be determined.
- Establishing more detailed criteria for rezonings and plan amendments based upon these specific Urban Expansion Area plans.

4. Conservation Design Options. One of the common themes that emerged during the planning process was the desire of many township officials and landowners to have some additional flexibility in siting residential dwellings on land that is less suitable for farming. There was also a strong desire to limit the creation of 20- and 40-acre single-family lots, which take excessive amounts of land out of agriculture, forestry or resource conservation. The concept of a conservation overlay option in the A-40 zoning district was developed to address these concerns. As described in the Land Use Plan under "Development Suitability and Regulatory Flexibility," this option would likely be introduced as a conditional use within the A-40 District. It should not be viewed as a density bonus, but rather as an alternative to 40-acre lot sizes. Conservation design would be required as a condition of this use, with protection of a minimum of 50% of the parcel in open space or agricultural or forestry use.

Two options have been discussed for allowing flexibility without diminishing the County's commitment to long-term agricultural land uses. The first is to allow higher densities by right, but only upon meeting strict performance standards that protect existing agricultural uses and allow for expanded agriculture. The net effect would be an increase in overall density in the agricultural areas, but only after ensuring protection of agricultural natural resources and existing agricultural operations.

The second option is to only allow higher densities on land poorly suited for agriculture, and only then by participating in the TDR program. The TDR program would place permanent protection on higher quality agricultural lands. The net effect would be no net increase in density, but with development flexibility for parcels in areas that the County has identified a priority for long-term agricultural land uses.

Land proposed for either conservation design option would have to meet specific criteria, such as the following:

- LESA scores demonstrate primarily poor crop potential.
- No existing animal agricultural operation within one-half mile.
- The presence of adequate road infrastructure.
- The Resource Suitability Model identifies sufficient contiguous area suitable for development for each proposed home.
- Conservation design principles are used in the platting and development process, including clustering of homes away from sensitive natural resources and active agricultural operations. As a general rule of thumb, at least 50% of the area of a tract should be permanently protected for open space or agriculture.
- Development rights are transferred from other agriculturally-zoned properties through the TDR program.
- Within nitrate risk areas, wastewater and stormwater management and water supply systems are designed to provide additional protection from nitrates in the groundwater.
- Appropriate technology is used to protect groundwater from development-associated impacts.
- Residents are notified that agricultural uses are the primary and preferred use in the district.
- The proposal is reviewed and approved by the Township Board.

5. Conservation Design in the Avon Hills Land Use District. Conservation design has already been identified as a preferred strategy for the Avon Hills area, however, the distinctive topography, forest cover and concentration of natural resources in this area suggests a somewhat different approach; one that considers natural resources first in any planning process. An "Avon Hills Overlay District" could recognize the difference between the typical "A-40" agricultural district and the Avon Hills. It could require the preservation of a higher percentage of wooded sites in their natural state (i.e., 80%), and could include additional requirements for siting of new houses to preserve scenic views and open space networks. Standards for an Avon Hills Overlay District could include:

- Allowing for a higher 'as-of-right' density, provided performance standards and agricultural protections are met;

- Making conventional subdivision a conditional use, with specific conditions such as a requirement to participate in the TDR program to achieve densities greater than 1/40;
- Requiring the preservation of a higher percentage of wooded sites in their natural state (i.e., 80%) than under the A-40 Conservation Overlay;
- Setting performance standards for siting of new houses to preserve scenic views and open space networks;
- Identifying green corridors that could guide open space protection goals for conservation development.

Criteria for rezoning could include:

- Preparing an on-site resource inventory
- Identifying sufficient contiguous area suitable for development for each proposed home.
- Ensuring all homes are sufficiently set back from animal agriculture operations.
- Conservation design techniques should not only cluster homes away from sensitive natural resources and active agricultural operations but also protect views from roads and nearby properties to the extent feasible. Homes should be sited away from ridgelines and scenic roads.
- Low impact development techniques are used to manage surface water, protect and recharge groundwater, and protect significant vegetation.

It is important to distinguish between the Avon Hills Land Use District, as shown on the Future Land Use Plan (Figure 3.4) and any zoning district that may be established. The land use "districts" are generalized, whereas the boundaries of a zoning district would need to be determined through a separate zoning process, with opportunities for additional public input. By the same token, the approach of creating overlay districts could be used to recognize other unique areas within the County, based on further study of resources and public input.

6. Conservation Design in Other Districts. In the past, conservation design was encouraged via bonuses, but was viewed as a departure from the norm of conventional development, making it more difficult to gain approvals. There is now an increased desire to treat conservation as the norm, and conventional development as the exception. This could be achieved by revisions to additional residential districts such as the R-5 and R-10. Conventional large-lot development could be treated as a conditional use, within the burden

on the applicant to demonstrate that conservation design would be inappropriate.

Rather than density bonuses, densities would be specified as part of the base zoning. For example, the R-5 district might be redesigned to permit one unit per 5 acres for all forms of development. Another result of this approach would be that township zoning ordinances would need to be 'consistent' with the County ordinances, unless they chose to reduce permitted densities. Thus, conservation design would be more likely to be accepted rather than prohibited. Clearly, this approach will require additional dialogue with townships to achieve mutually acceptable solutions.

7. Encourage Landowner Compacts for Conservation Design. A landowner compact is a method by which two or more adjoining landowners make a legally binding agreement to jointly plan their common landholdings to create a conservation subdivision. Landowners agree to share the net proceeds proportionately based upon the number of lots that each could have otherwise developed independently. Landowner compacts could provide a useful alternative to the transfer of development rights (see discussion below), providing flexibility while minimizing the administrative burden on landowners and County government.

8. Consider Transitions from Large-Lot Zoning. As discussed above under "Issues and Challenges," the R-20 and T-20 districts have consumed large areas of land and created conflicts between agricultural and residential uses. The conservation design options discussed in this section would allow similar or higher densities to those allowed by the R-20 and T-20 districts. The County will consider replacing these districts with a variety of conservation design options (i.e., the A-40 or Avon Hills options above) or with other zoning districts that will better protect agricultural and natural resources.

9. Redesign of the TDR Program. The existing Transfer of Development Rights (TDR) program was suspended due to a number of problems with administration and perceived fairness. A number of stakeholders have, however, requested that the County revise and restart the TDR program. To be effective and fair, the TDR program will need to be redesigned to work in synergy with the new land use districts and possible new zoning districts identified in the Land Use section of the plan, such as the urban expansion district. The program should also not conflict with the conservation design provisions described above for the Agricultural and Avon Hills land use districts. Examples of TDR provisions include the following:

- Allow transfers of rights within or between agricultural properties, in order to create small clusters within agricultural districts (as described under "Conservation Design Options" above) without changing the overall permitted density within a section of land.
- Create distinct sending and receiving areas that focus on the protection of important resources and that encourage increased density where the Plan identifies development as a priority. Sending areas should be agricultural areas or display a significant concentration of natural resources. Receiving areas should be those already designated for some level of residential development. A maximum density would need to be established for receiving areas that is consistent with the density ranges established in the Land Use Plan.
- Require permanent protection for sending areas. Non-permanent protection in agricultural areas can be better achieved using the Green Acres program or similar programmatic effort. Permanent protection typically requires the use of a conservation easement, which in turn requires that an entity be designated to hold and manage easements.
- Develop a County program that could hold permanent easements on agricultural land protected through the TDR program, possibly in combination with other agriculturally-oriented agencies such as the Soil and Water Conservation District.
- Create design standards that establish how additional density can be integrated into the base zoning standards.
- Prohibit transfers into or out of Urban Expansion areas, unless an intergovernmental agreement is in place with the city to recognize the loss or gain in density in any future rezoning or development plans.
- Consider the specific needs of shoreland areas in relation to TDRs, in particular the carrying capacity of the lake to accommodate development without diminishing water quality. For example, transfers might be encouraged within a single lake if the result is the protection of natural shoreland, in exchange for density increases in Tiers 2 and higher.
- Encourage the Department of Natural Resources to donate development rights to a township when the DNR acquires land within that township for conservation purposes. The County might need to act as the entity that would hold these development rights on behalf of the township.

10. Consider a Purchase of Development Rights (PDR) Program. Purchase of development rights programs are one method that Minnesota counties have used to address protection of critical natural resources or agricultural areas. PDR programs rely on voluntary participation of landowners who wish to ensure long-term protection of natural resources, community character, or agricultural practices. The County would identify an entity to accept conservation easements, and a funding source to purchase easements in areas meeting the County's specific protection goals. The land would remain in private ownership, but would be permanently restricted to land use activities allowed by the easement. PDR programs are generally most effective where development pressure is high, and where the presence of significant natural resources can generate public support for this type of protective mechanism. (Federal funds may be available for PDRs, but local funding is also needed. Generally approval of a local taxing mechanism is needed to provide local funds for a PDR program.)

The general steps in creating a PDR program include:

- Setting protection goals. The County would identify what the program is intended to protect, such as prime agricultural land, buffer around animal agriculture, or high-value woodland or habitat.
- Identifying funding. PDR programs require a source of funds to pay for easements. Some counties have bonded to create a funding source, others have partnered with other local governments or entities (such as watershed districts) that have an income stream to support purchases.
- Creating an evaluation process. The County needs to create a means to evaluate applications for purchase
- As with the TDR program, identifying an entity to hold and manage easements. Conservation easements can only be held by a qualified 3rd party (including a unit of government) – they cannot be held by for-profit corporations, individuals, or any entity with another property interest in the site. Some non-profit organizations and local governments can hold such easements if they do not also own the property.

11. Consider participating in the Minnesota Agricultural Land Preservation Program. This program, administered by the Department of Agriculture, offers benefits to participating counties and landowners. Counties adopting agricultural land preservation plans and implementing land use controls (maximum densities of one unit per 40 acres) may offer farmers the opportunity to join agricultural preserves (an agricultural preserve is a restrictive covenant on qualifying land limiting its

use to agriculture of forestry). In return, farmers receive property tax credits, protection for normal agricultural practices, and other benefits, including some protection from annexation.

Stearns County's agricultural zoning would already qualify it for participation in the program. The option of creating agricultural preserves may be beneficial to farmers who desire to be surrounded by protected farmland and areas suitable for intensive animal agriculture.

12. Protect identified future roadway corridors during the subdivision and/or development review process. As discussed in the Transportation Plan (Chapter 6), Stearns County works with state and regional transportation agencies and local governments to identify corridors for future road alignments or improvements, such as the "Southwest Beltway" in the St. Cloud area. Where such corridors have been identified, Stearns County will not approve subdivisions or land developments adjacent to those corridors unless it can be demonstrated that the corridor will remain adequately protected and that access management guidelines can be met.

13. Identify closed landfill sites and establish land use regulations that will address environmental concerns in these areas. There are at least five closed landfill sites within Stearns County that can be identified. These sites can potentially have impacts on drinking water and groundwater quality. An overlay district or a specific performance standard should be developed to address the uses and practices that may be permitted, modified, or prohibited within the affected areas.

14. Promote adoption of airport zoning standards by all affected cities and townships. As discussed in the Transportation Plan (Chapter 6), land use safety zones and other airport zoning standards are mandated by state law in order to restrict land uses that may be hazardous to the operational safety of aircraft and to protect public safety and property near the airport. Stearns County will continue to work with cities and townships to ensure that airport zoning is adopted by all jurisdictions within defined airport safety zones.