

Chapter B13: Land Ownership

Public Land Ownership

THE ownership of property by government agencies in Wexford County has a major impact on the possible and existing uses of land in the county. The public ownership of land also has impact on the collection of property taxes. Often public ownership creates large areas where local government can not collect taxes, but still has a few dispersed parcels which require services. The most dramatic example is where local government funds road construction through public land to service a small area in private ownership. Again, the principal of more cost effective and efficient delivery of public services is available where housing density is higher. There will be those people who seek isolated locations, who do not desire services or roads. Policy delineating such areas is important for development of tourism and giving the property buyer a knowledgeable selection.

Public property ownership in 2001 is broken down as follows and in more detail on a table on page 320 and illustrated on a map, page 322:

State of Michigan/DNR: 84.4 square miles (14.7

percent of county land area). Depending on if the land is purchased, tax reverted, etc. *ad valorem* tax is paid, or \$1 per acre is paid in lieu of taxes.

U.S. Forest Service: 149.4 square miles (26.0 percent of county land area). The federal government pays P.I.L.T. (payment in lieu of taxes) dependent on revenues generated by the Huron-Manistee National Forests, about 60 to 75 cents per acre.

Wexford County (including road commission): 1.16 square miles ($\frac{2}{10}$ percent of county land area). No tax or payments are made.

Municipal governments: $1\frac{3}{4}$ square mile ($\frac{3}{10}$ percent of county area). No tax or payments are made.

Public School Districts: 3.89 square miles ($\frac{7}{10}$ percent of county land area). No tax or payments are made.

Total public ownership is 42.5 percent of the total area in the county, about 244.63 out of 575.68 square miles (156,565.0 out of 368,435.7 acres).

Public Land Ownership Chart Detail*

	US Forest Service		Michigan Dept. Natural Resources		Municipal lands		Wexford County lands (Co.Bd. & DPW)		Wexford Co. Road Comm.		Local School Districts		Michigan Dept. of Transportation		Other (airport, state police, etc.)	
	acres	%	acres	%	acres	%	acres	%	acres	%	acres	%	acres	%	acres	%
Wexford County (83)	95,626.2	26.0%	54,033.8	14.7%	1,122.0	0.3%	347.4	0.1%	400.7	0.1%	2,489.6	0.7%	1,751.7	0.5%	793.6	0.2%
Antioch Twp.	7,845.3	34.8%	0.0	0.0%	50.8	0.2%	0.0	0.0%	4.4	0.0%	1,367.8	6.1%	0.0	0.0%	0.0	0.0%
Boon Twp.	12,554.4	55.3%	0.0	0.0%	96.9	0.4%	40.0	0.2%	145.4	0.6%	4.0	0.0%	0.0	0.0%	80.0	0.4%
Cedar Creek Twp.	0.0	0.0%	2,277.6	10.4%	82.5	0.4%	177.1	0.8%	0.0	0.0%	177.8	0.8%	373.9	1.7%	0.0	0.0%
Cherry Grove Twp.	6,869.4	29.6%	720.3	3.1%	10.3	0.0%	5.0	0.0%	10.3	0.0%	18.2	0.1%	0.0	0.0%	0.0	0.0%
Clam Lake Twp.	0.0	0.0%	263.5	1.3%	13.1	0.1%	0.0	0.0%	64.0	0.3%	62.9	0.3%	699.0	3.5%	40.0	0.2%
Colfax Twp.	5,212.1	23.0%	947.9	4.2%	65.4	0.3%	0.0	0.0%	36.1	0.2%	0.0	0.0%	0.0	0.0%	0.0	0.0%
Greenwood Twp.	0.0	0.0%	11,902.0	52.5%	5.9	0.0%	0.0	0.0%	39.3	0.2%	0.0	0.0%	0.0	0.0%	0.0	0.0%
Hanover Twp.	0.0	0.0%	14,990.8	68.4%	0.0	0.0%	0.0	0.0%	0.0	0.0%	39.6	0.2%	0.0	0.0%	0.0	0.0%
Haring Charter Twp.	0.0	0.0%	4,935.0	23.1%	146.9	0.7%	53.8	0.3%	12.1	0.1%	430.4	2.0%	410.1	1.9%	417.1	1.9%
Henderson Twp.	19,200.5	82.9%	0.0	0.0%	1.2	0.0%	0.0	0.0%	0.0	0.0%	29.9	0.1%	0.0	0.0%	0.0	0.0%
Liberty Twp.	0.0	0.0%	12,660.5	54.2%	1.0	0.0%	0.0	0.0%	73.2	0.3%	0.0	0.0%	215.3	0.9%	0.0	0.0%
Selma Twp.	9,288.8	40.3%	0.0	0.0%	2.1	0.0%	0.0	0.0%	8.2	0.0%	58.7	0.3%	0.0	0.0%	0.0	0.0%
Slagle Twp.	12,704.7	56.2%	175.7	0.8%	11.6	0.1%	0.0	0.0%	0.0	0.0%	0.0	0.0%	0.0	0.0%	0.0	0.0%
South Branch Twp.	15,507.7	67.3%	40.0	0.2%	7.9	0.0%	0.0	0.0%	0.0	0.0%	0.0	0.0%	0.0	0.0%	19.0	0.1%
Springville Twp.	6,443.3	29.4%	547.8	2.5%	44.2	0.2%	0.0	0.0%	0.0	0.0%	0.0	0.0%	0.0	0.0%	0.0	0.0%
Wexford Twp.	0.0	0.0%	4,470.8	19.1%	2.1	0.0%	0.0	0.0%	0.0	0.0%	40.0	0.2%	0.0	0.0%	0.0	0.0%
Cadillac City	0.0	0.0%	101.1	1.9%	317.1	5.9%	8.6	0.2%	1.5	0.0%	73.1	1.4%	53.4	1.0%	237.5	4.4%
Manton City	0.0	0.0%	0.8	0.1%	210.7	21.1%	0.0	0.0%	0.0	0.0%	42.6	4.3%	0.0	0.0%	0	0.0%
Buckley Village	0.0	0.0%	0.0	0.0%	36.6	3.0%	0.0	0.0%	0.0	0.0%	79.1	6.6%	0.0	0.0%	0	0.0%
Harrietta Village	0.0	0.0%	0.0	0.0%	2.1	0.3%	0.0	0.0%	0.2	0.0%	0.0	0.0%	0.0	0.0%	0	0.0%
Mesick Village	0.0	0.0%	0.0	0.0%	13.6	1.6%	62.9	7.6%	6.0	0.7%	65.5	7.9%	0.0	0.0%	0	0.0%

*Data for both charts based on digitized GIS files prepared by Mike Green based on data from U.S. Forest Service digital data, 2001 *Plat Book Wexford, Michigan* developed by Farm & Home Publishers, and the Wexford County Equalization Role.

Public and Private Land Ownership Chart Summary

	Total Public			Total Private	Size of Municipality	
	acres	square miles	%	acres	acres	square miles
Wexford County (83)	156,565.0	244.633	42.5%	211,870.7	368,435.7	575.681
Antioch Twp.	9,268.3	14.482	41.1%	13,274.6	22,542.9	35.223
Boon Twp.	12,920.7	20.189	56.9%	9,800.2	22,720.9	35.501
Cedar Creek Twp.	3,088.9	4.826	14.1%	18,781.5	21,870.4	34.173
Cherry Grove Twp.	7,633.5	11.927	32.9%	15,598.5	23,232.0	36.300
Clam Lake Twp.	1,142.5	1.785	5.7%	18,766.0	19,908.5	31.107
Colfax Twp.	6,261.5	9.784	27.7%	16,366.8	22,628.3	35.357
Greenwood Twp.	11,947.2	18.668	52.7%	10,717.4	22,664.6	35.413
Hanover Twp.	15,030.4	23.485	68.6%	6,887.1	21,917.5	34.246
Haring Charter Twp.	6,405.4	10.008	29.9%	15,001.6	21,407.0	33.448
Henderson Twp.	19,231.6	30.049	83.0%	3,933.4	23,165.0	36.195
Liberty Twp.	12,950.0	20.234	55.4%	10,410.8	23,360.8	36.501
Selma Twp.	9,357.8	14.622	40.6%	13,671.2	23,029.0	35.983
Slagle Twp.	12,892.0	20.144	57.0%	9,731.5	22,623.5	35.349
South Branch Twp.	15,574.6	24.335	67.6%	7,474.3	23,048.9	36.014
Springville Twp.	7,035.3	10.993	32.1%	14,873.7	21,909.0	34.233
Wexford Twp.	4,512.9	7.051	19.3%	18,876.9	23,389.8	36.547
Cadillac City	792.3	1.238	14.8%	4,558.0	5,350.3	8.360
Manton City	254.1	0.397	25.5%	743.2	997.3	1.558
Buckley Village	115.7	0.181	9.6%	1,088.7	1,204.4	1.882
Harrietta Village	2.3	0.004	0.4%	633.6	635.9	0.994
Mesick Village	148.0	0.231	17.8%	681.7	829.7	1.296

Private Land Ownership

A TREND seen in Wexford County has been the increased number of 40-acre (or larger) parcels which have been split into 10± acre (5 to 35 acre size parcels) "parcelization." In 1967, the Michigan Legislature enacted the Subdivision Control Act.³¹⁹ One of the results of the act has been to increase government approval process for creating new subdivisions. Thus landowners—particularly those who are not in the land development business—chose to avoid subdividing. This has been done by dividing a 40 acre (or quarter-quarter) parcel into four 10-acre parcels or dividing land into parcels just larger than 10 acres and making sure no more than four parcels are created which are 10 acres or smaller. Research by Kurt Norguard, of Michigan State University, documents the unintended result of the Subdivision Control Act was the proliferation of 5 to 35—mainly 10—acre parcels. Further, to avoid road construction, parcels are made long and narrow, so each fronts on an existing road. Typically this means parcels created have a width to depth ratio of 1:4, and about 333 feet wide at the road. However there are many examples of far more extreme parcel shapes.

The problem with 10± acre parcels is they are too large for practical use in conjunction with a single family residence. Usually the home and its yard occupy about an

acre, and the remainder of the land is not used or managed. The larger problem is the parcelization of private land into 10± acre parcels eliminates the practical use of the land for forest management, agriculture, open space/scenic (for tourism), effective wildlife management, and practical mineral extraction purposes. This trend also introduces a generally higher per acre land value (as opposed to sale of a large parcel) which in turn results in higher taxes. This phenomenon creates problems for farm and forestry management in the form of higher taxes than may otherwise exist.

In part, in response to Norguard's research the Subdivision Control Act was extensively amended (and renamed the Land Division Act) to make non-10± acre parcel creation easier and to give local government more ability to control divisions of parcels. More recently the legislature has been considering legislation to change farm land taxation so parcelization does not have as large an influence on farm property taxes.

However, the effects of past practices has resulted in parcelization throughout Wexford County. See the Parcelization Map on page 323. The impacts of parcelization on agriculture is discussed on page 83.

Parcelization results in an area no longer appearing to be "rural." As homes are built among places where tourists recreate conflicts increase. The loss of "rural" appearance, or open space, is seen by some as a potential negative impact on the tourist industry and for economic development. "Northern Michigan's economy is our good looks" is an often repeated phrase by Rod Cortright, Charlevoix County

³¹⁹ P. A. 288 of 1967, as amended prior to 1979 (being the Subdivision Control Act, M.C.L. 560.201 *et. seq.*) In 1979 the act was amended, changing the definition of land divisions that are not subdivisions and renaming the act the Michigan Land Division Act.

Extension Director, and land use specialist.

Parcelization also makes gaining access to minerals (sand, gravel, oil and gas) more difficult as those industries must assemble from several property owners enough area for purposes of mining or extraction. Except for oil and gas, assembly of property for this purpose is often cost-prohibitive and simply not done. The economic value of those minerals (royalties, jobs, etc.) is essentially lost.

A pulpwood logger has a certain fixed cost just to move equipment to a site and start work. Estimates vary according to the logger, distance to market, and market value of wood, but one can estimate 35 to 40 acres of land with pulpwood trees, is necessary to realize fixed costs. Trees on a parcel of land 10 acres in size may as well not be there in terms of providing jobs in a pulpwood timber industry, or keeping existing jobs in the timber industry.

Forest industry is not just good forest management, so tree harvest continues on a sustainable basis, it is also preserving large parcels of land, or groups of parcels of land, which are economically available for timber management and harvest. This is also true for management of property for successful wildlife management.

Another concern raised, is that parcelization of forest lands increases fractionalization of forests. Fractionalization is where large blocks of forest land become broken, or carved up by openings, development, roads, power lines, clearing. Many animals need a certain size of wild lands to successfully exist. This means maintaining travel corridors between areas where fractionalization has not occurred. An example of this need is between the U.S. Forest Service lands in the west and south parts of Wexford County and the major bear wintering area at Brandybrook Swamp. The swamp is separated from large forest blocks by privately owned forest lands that could become or are fractionionalized. The Cadillac Area Conservancy, WildLink, and Soil Conservation District each have programs to help landowners awareness of this issue and to provide assistance for wildlife management.

For both the timber industry and wildlife management

large tracts of forest land are seen to suffer from segmentation by gravel or paved road construction (not two-track roads). Multiple use of forest lands, some argue, is not necessarily enhanced by additional road access. Careful consideration might be in order before new road construction or road improvement is done in areas where preservation of agriculture, forestry, or Special and Unique Areas is an objective.

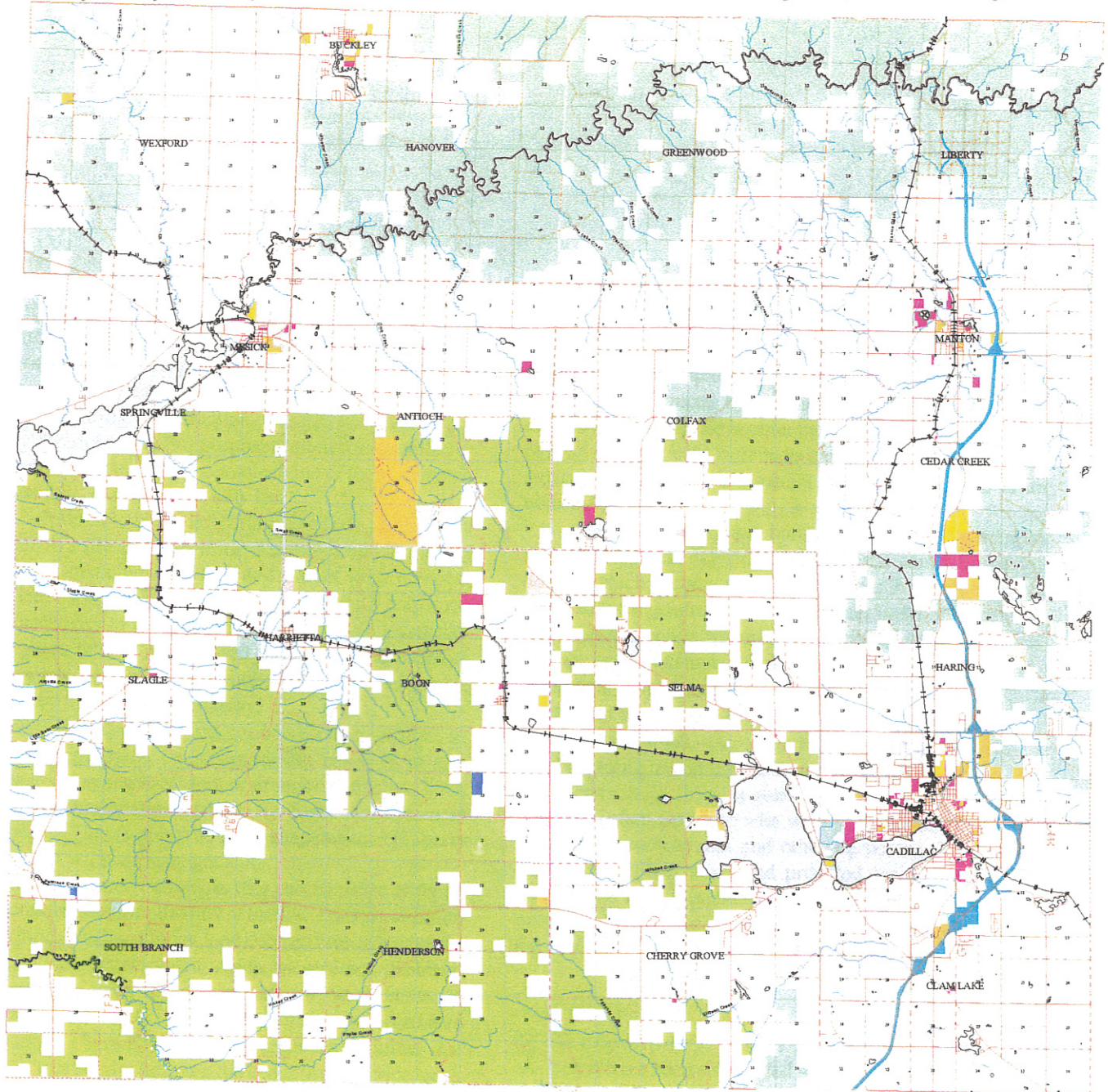
Parcelization of land, particularly when coupled with strip development housing and scattered summer/hunting homes (which become year-round homes in time), becomes costly to local government. More street lights are required, road construction is required, road maintenance increases, garbage collection and school bus routes become longer, fire equipment which used to be "central" to the population is spread too thin trying to provide service to an increasing population spread throughout the county without a corresponding tax base growth to pay for the services.

Conversely there is some demand for the 10± acre "farmet," often for those who wish to keep horses or other animals for recreational and other purposes. That desire should be kept in mind and provided for. However Dr. Norguard's work documented the Subdivision Control Act provided incentive to create far more 10± acre parcels than the real estate market would have normally demanded.

Subdivided Land

THE map on page 324 shows the areas of Wexford County which have been subdivided – recorded plats. With few exceptions, the subdivisions tend to be located near traditional trade centers in the county and tend to reinforce the concept of segregating residential uses.

Exceptions include subdivisions found (1) around inland lakes, (2) in South Branch township, and (3) scattered along the Big Manistee River. Many of these subdivisions were recorded prior to the 1977 Michigan Subdivision Control Act.

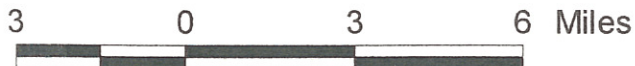


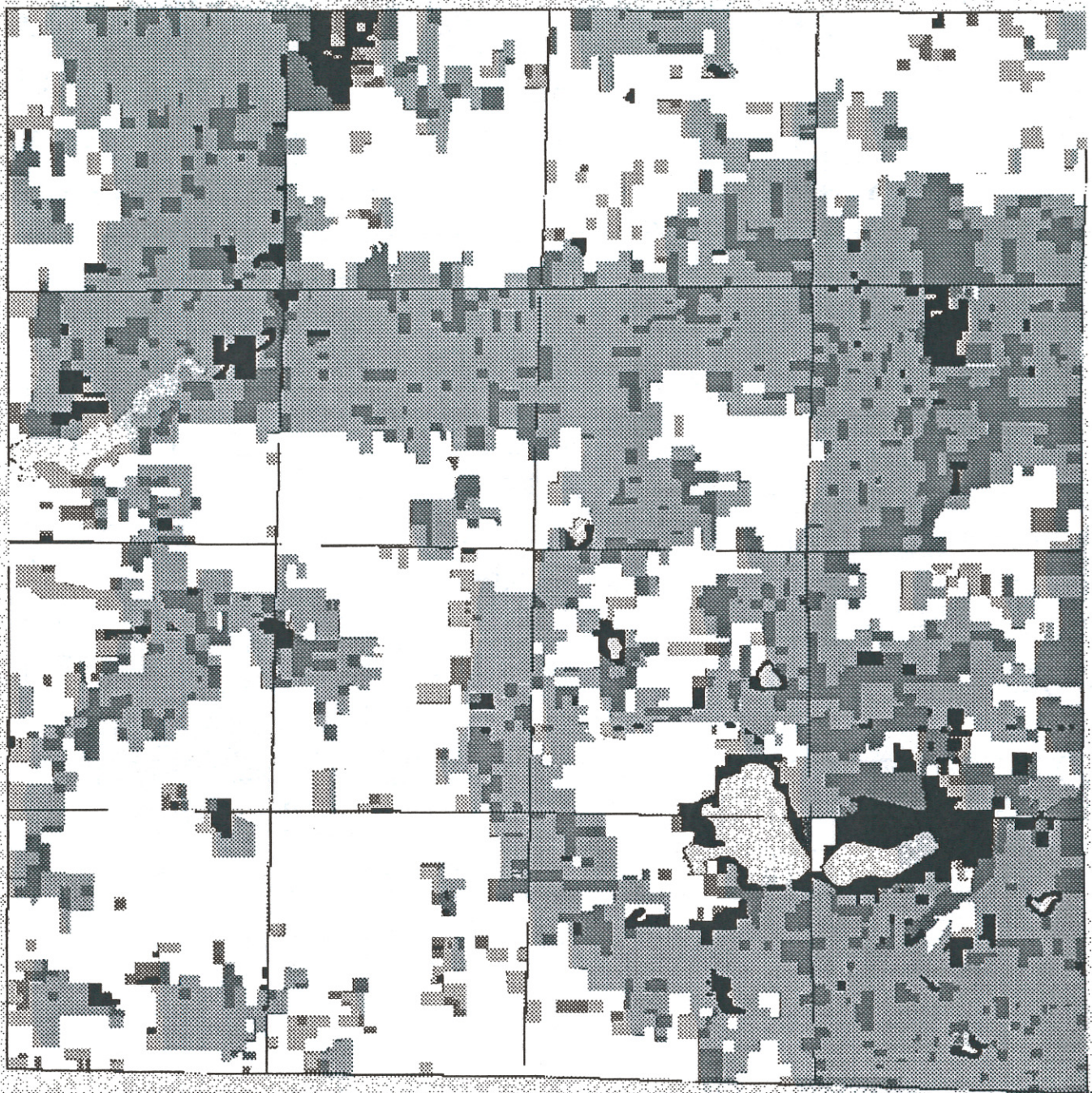
PUBLIC LAND OWNERSHIP

- PUBLIC LANDS
- AIRPORT AUTHORITY
 - MUNICIPAL OWNERSHIP
 - SCHOOL DISTRICT
 - STATE-DNR
 - STATE-MDOT
 - STATE-MSP
 - US FOREST SERVICE
 - WEXFORD COUNTY
 - WEXFORD COUNTY R.C.



SOURCE: Digitized by Mike Green based on data from U.S. Forest Service digital data, 2001 Plat Book Wexford, Michigan developed by Farm & Home Publishers, and the Wexford County Equalization Role.






MICHIGAN STATE
UNIVERSITY
EXTENSION

Parcelization Map

December 2001

 Public Land, regardless of parcel size

Private Lands:

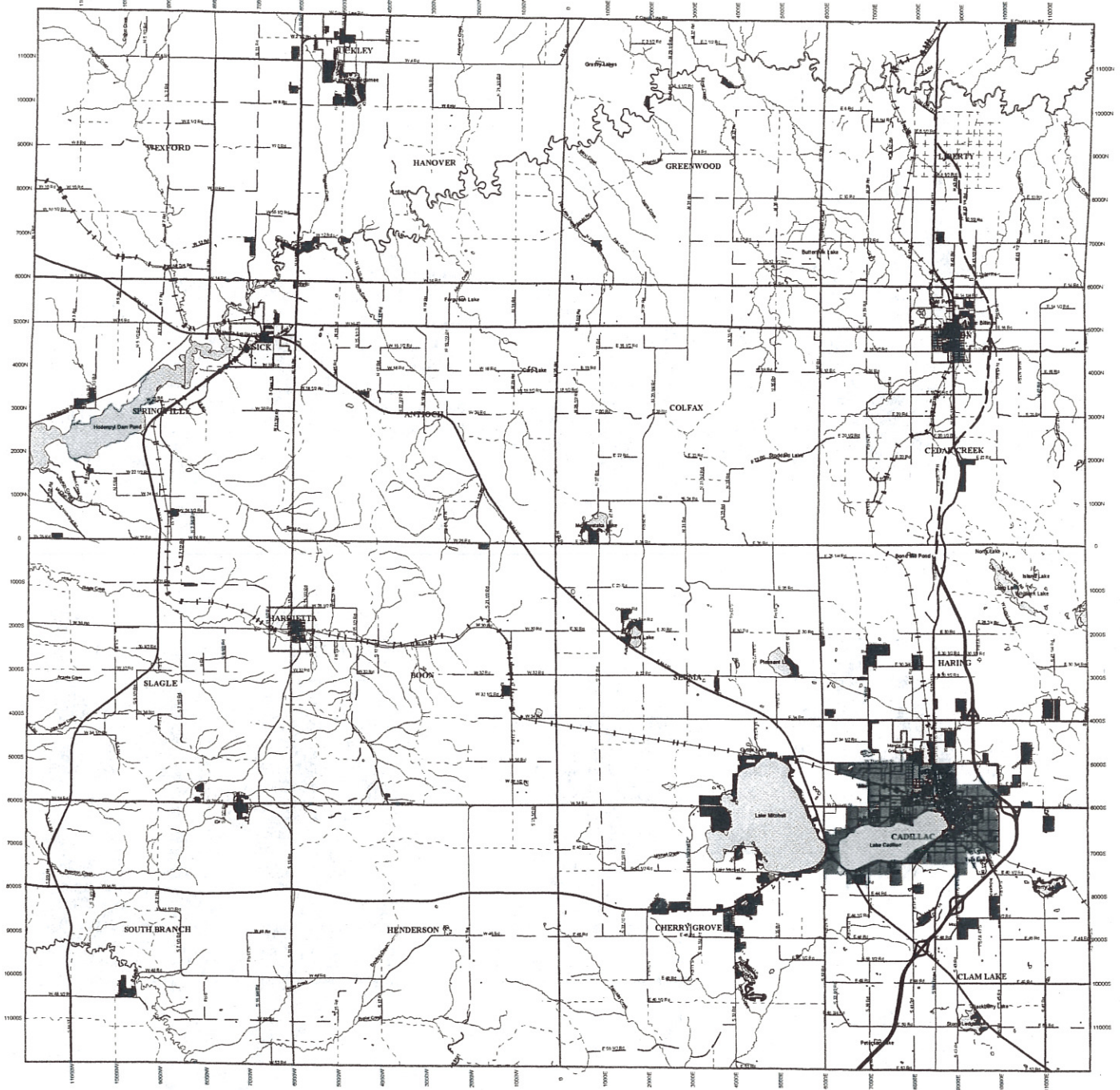
 Quarter-Quarter (40± acres) or larger parcel size

 Between 6 acres and Quarter-Quarter (40± acres) parcel size

 Under 6 acre parcel size (including subdivisions, site-condominiums)



SOURCE: Map drawn by hand by Kurt H. Schindler, Wexford County Extension Director, based on *Wexford County 2001 Plat Book* (Farm & Home Publishers, LTD) and *Land Atlas & Plat Book of Wexford County*, 1997, Rockford Map Publishers, Inc.



RECORDED SUBDIVISIONS

SOURCE: Digitized by Mike Green, Wexford County Planning Department using Wexford County Equalization Department records.

- Transportation
- State Trunkline-Limited Access
 - State Trunkline
 - County Primary-All Season
 - County Primary
 - County Local-Paved
 - County Local-Gravel
 - County Local-Seasonal
 - City or Village Major
 - City or Village Minor
 - Under Construction
 - Subdivisions



Chapter B14: Existing Zoning

Composite Zoning Map

IN THE process of developing a county wide composite zoning map (combining several different municipal zoning maps into one map), it is necessary to generically classify zoning districts into general groupings. The use of zoning district titles is not an accurate reflection of the types of land uses and densities permitted in a land use district.

For example "R-1" in one municipality may be the most dense residential zoning, but in another community "R-1" may be the large parcel residential area. One community might call a zoning district "agricultural" but without actually reading the zoning text the title alone does not indicate if it is an agricultural protection zone or a mix of rural residents and farms.

As a result there is a zoning district classification system developed for GIS applications and currently pending adoption by the IMAGIN³²⁰ Board of Directors. The purpose

of this classification system is to develop a standardized numeric zoning (land use) district classification system. The primary application is with the database associated with a Geographic Information System.

This classification system uses a number classification system, with each digit representing a different feature, or attribute of the zoning district. This classification system --rather than the zoning district title-- is used to group similar zoning districts together to identify the "generic" intent of a zoning ordinance.

Because there is not any consistency in zoning district titles, each zoning ordinance in Wexford was reviewed, and each zoning district was classified. This same system should also be used by the Planning Commission when reviewing municipal zoning ordinances. As a result of this work, the following table could be constructed.

³²⁰ IMAGIN is the Improving Michigan Access to Geographic Information Networks, Inc. a private non-profit education, data sharing and standardization quality control professional organization for GIS practitioners in Michigan.

Estimated Areas of Current Zoning Districts in Wexford County

Generic Zoning Name	Existing Zoning Districts in Wexford County (Based on Wexford County Gis Composite Zoning Map)				Actual Land Use (Based on Miris Land Use/cover)		
	No. Of Dist.	Estimated Square Miles	Estimated Acres	Percent of County Land Area	Square Miles in Wexford County	For Wexford County	For Michigan
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
General (compilation)	0	0	0	0.0%	n/a	n/a	n/a
Conservation	30	0.58	369.2	0.1%	23.4	4.09%	5.33%
Resource Production (agriculture/ forest preservation)	2	1.15	739.5	94.8%	525.4	91.2%	86.16%
Rural	115	537.12	343,758.3				
Residential	562	20.50	13,122.5	3.6%	16.5	2.86%	4.02%
Mixed Residential/non-rural Residential	16	0.10	62.54	0.7%	2.1	0.36%	0.60%
Commercial	172	3.72	2,381.8				
Industrial	64	3.06	1,959.7	0.5%	1.5	0.26%	0.84%
Overlay	2	n/a	n/a	n/a	n/a	n/a	n/a
Other	10	0.59	379.7	0.1%	7.07	1.23%	3.05%
Not zoned	1	0.994	635.9	0.2%	n/a	n/a	n/a

In some respects the above table is trying to compare apples to oranges. Actual land use/cover is not directly comparable to zoning district classifications. But it is still useful to try to make the comparison. The table illustrates a miss-match between actual demand for land, based on current use (column 5) and the number of acres in various zoning district categories (column 2).

For example zoning sets aside 20.5 square miles for residential development, but there is only 16.5 square miles of the land actually used for residential. That is a zoned for growth of 4 square miles. Based on the population projections, the "rule of thumb" growth impact, including seasonal population growth, on development it is anticipated the need for more residential land in Wexford in the next ten years will be about 510 acres (0.79 square miles). (See the table on page 195).

Another example is with zoning setting aside 3.82 square miles for commercial (service and retail)

development, but there is only 2.1 square miles of the land in the county actually used for commercial. That is a zoned for growth of 1.72 square miles. Based on population projections, the "rule of thumb" growth impact, including seasonal population growth, on development it is anticipated the need for more retail and service establishment land in Wexford in the next ten years will be about 34 acres (0.05 square miles). See the table on page 195). The next 20 years has a projected need for 64.7 acres, and the next 30 years need for 101 acres (0.15 square miles). The rule of thumb projects retail and service establishment need based on just Wexford's growth. It does not include additional acres needed as a result of being a regional shopping center. But even if one doubles the anticipated land needed, it is significantly less (0.3 square miles for the next 30 years) than the vacant 1.72 square miles of land currently zoned commercial. That is providing 5.7 times the projected need.

Buildout and Other Analysis

Clearly people in Wexford County say they want more jobs. Also people also say they do not want to be like Traverse City. If that goal is a consensus then that should be easy to accomplish. Traverse City is the product of what planning and zoning provided for 10 to 25 years ago. So one can look at how Traverse City area zoned and planned 10 to 25 years ago, to learn what not to do here.

Much of the zoning in Wexford County emulates exactly what Traverse communities had done 10 to 25 years ago. In those areas, one can expect the same type result.

That is an oversimplification. Zoning alone does not result in development. It simply directs it. Traverse also had planning for economic development in the early 1960's. By the late 1960's economic development implementation had started, and was in full swing in the 1970's.

Planning and zoning in the United States --and even more so in Michigan-- is weak. By 1975 most of Wexford County and municipalities had zoning in place. However none had done planning first. Today all but one municipality is zoned (Harrietta Village). Most of those with zoning have adopted a plan. All, except one (Cedar Creek Township), are out-of-date.

Economic development occurs most effectively at the same geographic scale as a definable labor market area. The Cadillac Labor Market Area includes all of Wexford County, Missaukee County the north part of Osceola County, and the northeast part of Lake County. A major disadvantage of municipal zoning, is that it is for a geographic area which is much too small for effective or successful economic development. The advantage is a strong sense of local control on land use issues.

This underscores the importance of a strong coordinated approach to land use planning for zoning coordination.

The tables and maps in this report reflect a projected "build-out" of Wexford County based on current zoning (January 2002).

A "buildout" is illustrative of what the ultimate --or extreme-- result of current zoning would be. The process

used to figure out the county's "buildout" is take the land area of each zoning district of each municipality in the county, subtract from it the public land in each zoning district to provide the area of private land in each zoning district. Also, subtract undevelopable lands (wetlands, areas that do not perc in places without public sewer, development restriction (conservancy lands), easements, right-of-ways, lakes, rivers, etc.) from the private land remaining in the zoning district. The result is the number of acres of "buildable" area in each zoning district. Then, take the minimum parcel size,³²¹ in each zoning district that allows dwellings, and divide it into the total "buildable" land to obtain an estimate on the number of (housing units) possible to build in the zoning district.

The result is Wexford County's zoning collectively has set up a development code for just under a half million population -- about half the size of the City of Detroit, or close to the same size as Kent County³²² and Genesee County.³²³

In other words, the municipalities and Wexford County have adopted zoning which collectively is designed to accommodate construction of about 199,347 dwelling units for 498,374 people. The question that should be considered is if this is the future Wexford County residents want.

A table showing the buildout by municipality follows.

³²¹Harrietta Village is not zoned. For the calculations used here, 12,000 square feet was used as the minimum parcel size, the minimum lot size allowed in a new subdivision in an area without public sewer pursuant to the Michigan Land Division Act (P.A. 288 of 1967, as amended, being M.C.L. 560.201 *et. seq.*)

³²²Kent County, where Grand Rapids is located, has a 2000 population of 574,335.

³²³Genesee County, where Flint is located, has a 2000 population of 436,141.

Wexford County Buildout

"Buildable acres" means the total acres in the zoning district minus undevelopable lands (wetlands, public lands, areas that do not perc in places without public sewer, development restriction (conservancy lands), lakes, rivers, etc.)

"Number of Houses" is the buildable acres multiplied by the allowable density in that zoning district.

"Ultimate Population" is calculated with the assumption of 2.5 people per house, or dwelling unit.

Detailed breakdown of the buildout is in Appendix C10, on page 413

Zoning Jurisdiction	Municipality	Buildable Acres	Number of Houses	Ultimate Population
Buckley Village Total		1,045	3,191	7,978
Cadillac Total		5,767.2	9,883	24,840
Cedar Creek Total		17,655.91	17,926	44,821
Haring Township Total		12,951.72	8,648	21,634
Harrietta Village Total (not zoned)		535.81	1,945	4,863
Manton City Total		643.99	1,423	3,561
Mesick Village Total		554.80	2,099	5,248
Springville Township Total		14,117.76	13,893	34,741
Wexford County Zoning	Antioch Township Total	12,037.63	12,172	30,433
	Boon Township Total	9,351.67	3,219	8,054
	Cherry Grove Township Total	10,268.77	12,479	31,204
	Clam Lake Township Total	17,609.94	18,910	47,281
	Colfax Township Total	15,200.49	15,676	39,192
	Greenwood Township Total	8,788.07	8,787	21,973
	Hanover Township Total	5,827.17	5,760	14,404
	Henderson Township Total	3,601.08	3,589	8,977
	Liberty Township Total	8607.31	8,608	21,527
	Selma Township Total	11,083.44	12,003	30,015
	Slagle Township Total	8,828.24	8,775	21,941
	South Branch Township Total	6,992.46	6,911	17,292
	Wexford Township Total	17,357.80	17,315	43,290
	Wexford County Planning Commission Total	136,118.40	142,284	355,785
Wexford County Total		199,347.00	199,347	498,374

Analysis of Existing Zoning

THIS part of this chapter is to review the existing township and county zoning.³²⁴ This review, or critique will be of the *Wexford County Zoning Ordinance #5* (February 15, 1995), the *Springville Township Zoning Ordinance* (July 16, 1990), *Haring Charter Township Zoning Ordinance #3* (date unknown), and *Cedar Creek Township Zoning Ordinance #3*, (July 7, 1982). Each ordinance reviewed is as it was amended as of January 15, 2001.

This review will follow a standardized outline of zoning ordinance content. There is value for all communities in a county to organize and codify their zoning in the same way. Currently, none of the zoning ordinances in Wexford County (including Manton, Cadillac Cities, Buckley, and Mesick Villages) do so. The advantages of doing so make it easier for inter-governmental cooperation, sharing of zoning administration resources, and it is easier for the public to understand the organization structure as well as count on the same structure to find (and compare) similar provisions in different municipal zoning.

Planning

Each of the enabling statutes require zoning to be based on a plan. Thus, one should expect that a plan was adopted, then a zoning ordinance was adopted. Zoning without a plan could be challenged. Zoning with a plan adopted afterwards could be challenged. There is not a known adopted plan which predates Cedar Creek's³²⁵ or Springville's zoning. Zoning amendments should not be adopted without first a formal finding that the proposed amendment complies – or at a minimum does not contravene – the adopted plan. This is often a step which does not get enough attention. If such a finding is not made, the zoning amendment should be rejected, or the plan changed first. There are a number of examples in the county where this shortcoming has been allowed to happen.

One technique that helps coordinate, save money, and

provide a valuable role for the county is for the county planning commission to take the lead in the development of a county-wide plan. Then cities, villages, townships, and charter townships can adopt the county plan and base their zoning on the county plan. This saves municipal government the cost of creating plans (often duplicating efforts and duplicating government expenditures). This also protects the local control that some townships wish to have with their own zoning – in that zoning remains at the township level. A county plan should be written with enough detail and input from municipalities so that it can serve as the adopted plan.

Good planning, or best planning practices, should focus heavily on coordination, cooperation, and a single vision with all governments in the county. Cities, villages, townships and charter townships are generally small areas -- too small for effective or realistic planning or zoning for many of the topics which should be the subject of plans. For example:

- Economic hinterlands: nearly always include areas in territories of many municipalities. To be effective economic planning, for example, must be done at the same geographic scale as the labor market area; often one or more counties.
- Watersheds: nearly always include areas in territory of many municipalities.
- Groundwater – our drinking water: cross political boundaries.
- Natural features (lakes, rivers): often touch more than one municipality.
- Technology for farming, mining, pipelines, radio transmissions: cross municipal boundaries.
- Transportation networks (billboards, parking, scenic vistas): include multiple municipalities.
- Major developments: have impacts on more than just one municipality (traffic, lights, etc.)
- State statute requires zoning and planning provide for “everything”: it is not realistic or desirable to do that within each municipality (See page 350).

It is unrealistic, ineffective, and irresponsible to plan for just one municipality. Under Michigan's planning acts it falls mainly to the county planning commission to accomplish this coordination, to bring together all the municipalities in a county for purposes of dealing with various issues. The table below is derived from work done by Mark A. Wyckoff.

³²⁴Township and County zoning is reviewed because it is directly subject to review against a county plan. City and Villages should also strive to comply with a county plan, but city and village are not subject to the legal requirement that their plans are found to comply with a county plan before they can be adopted and zoning is not subject to advisory review by a county planning commission.

³²⁵Cedar Creek Township adopted a plan in 2000. It is currently working on a new zoning ordinance based on that plan. It is the current (1982) zoning which might be challenged on this point.

What is "Good Planning?"

MINIMUM Coordinate land use planning and infrastructure at borders with other communities.	BETTER Joint planning and zoning program.	BEST An active County Planning Commission and staff.	WEXFORD'S Current Status
Exchange plans and zoning regulations.	Everything being done under "minimum" (except minimal county planning).	Everything being done under "minimum" (except minimal county planning) and "better."	No.
Notify neighbors of proposed text changes, rezoning, special land uses, PUDs, and variances.	Permanent inter-jurisdictional committee (especially between villages or cities and townships.		No.
Periodically meet to discuss issues of mutual interest.	Uniform format for plans and zoning ordinances.		Some townships do so, not initiated by county planning.
Establish ad hoc committees to resolve differences.	Where feasible, share zoning administrator, building inspector, and community planner (or consultant).		Occasionally
County planning activity is minimal or non existent.	County Planning should act as a facilitator.	County has a professional community planner (staff working for the county planning commission, cooperatively with MSU Extension, or the region).	Has a professional planner, but advanced planning activity is minimal because planner's time is spent on county current zoning enforcement building and planning department supervision.
	County Planning acts as a coordinator.	County has a Geographic Information System (GIS) with resource data bases.	Has a GIS, but databases are not fully developed (improving with development of this fact book). No coordination is initiated by the county.
	County acts as a resource provider – direct dollars, bonding assistance.	County Planning develops a "Comprehensive" or "Growth Management Plan."	Plan is not "comprehensive" and not "growth management" County does not play a finance role.
	County develops a "County General" or "Land Use Plan."	County Planning assists local government in development of local plans and zoning.	County General, or Land Use plan is dated 1988 –too old.

MINIMUM Coordinate land use planning and infrastructure at borders with other communities.	BETTER Joint planning and zoning program.	BEST An active County Planning Commission and staff.	WEXFORD'S Current Status
	County Planning provides technical assistance.	County Planning develops sample ordinance regulations.	Yes.
	County Planning takes the lead to deal with issues of "greater than local importance."	County Planning encourages uniform regulations.	No.
	County Planning takes an active, helpful, and critical role in review and recommendation on local government plans and zoning.		Not in the past (pre-2000), may be starting to now.
	County takes an active role in its respective regional planning program		Attendance less than 10% of the time. Does not participate in joint projects.

Wexford County's participation with the Northwest Michigan Council of Governments (the 10th regional planning area in Michigan) has been minimal. For example Wexford did not participate with the other counties in joint solid waste planning, seasonal population studies, and other projects. New (2001) planning legislation in Michigan places greater emphasis on cooperation and joint efforts between multiple governments. Wexford County officials have expressed a desire to be more aggressive in

programming and participating in joint efforts involving local and county governments.

Opinion Survey on Planning and Zoning

The opinion survey of Wexford residents showed strong public support for "better coordination of city/county planning (89.8%) and "improving zoning" (61.9%).

Importance of Infrastructure Changes to the Future of Wexford County: Percentage Distributions and Means

	<i>Mean*</i>	Very Important	Somewhat Important	Not Too Important	Not at All Important	Don't Know
Improving Zoning	2.08	24.5	37.4	21.5	5.0	11.6

*The response options are given the following numeric codes: "very important"=1; "somewhat important"=2; "not too important"=3; and "not at all important"=4. Consequently, low mean scores represent high importance ratings. ("Don't know" responses are excluded when computing mean scores.)

Level of Agreement with New Initiatives Being Proposed to Improve the Quality of Life: Percentage Distributions and Means

	<i>Mean*</i>	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
Better coordination of city/county planning	1.68	36.7	53.1	5.2	0.5	4.5

*Numeric codes are assigned to each response option, such that "strongly agree" equals 1; "agree"=2; "disagree"=3; and "strongly disagree"=4. "Don't know" responses are excluded when means are computed.

Review of Zoning Text

The review of existing zoning, below, is organized by a standardized codification system. The article and section numbers used in the headings would be the zoning ordinance section numbers if that standardized codification were used. Section numbers referred to with § in the text is for the respective zoning ordinance. This is not a through critique of zoning as would be done by a planning and zoning specialist (consulting planner, Michigan State University Extension Land Use Area of Expertise team member). It is much briefer, but serves to generally outline existing zoning for purpose of preparing a county plan.

Article 1-9 for introductory material for this Ordinance.

Article 1 for basic legal clauses such as, but not limited to, title, citation, purposes, legal basis, effective date, explanation of scope and codification. Wexford County (preamble prior to §1.1), Springville (§1.01-1.02), Cedar Creek (§101 or paragraph prior to §101) zoning ordinances do not provide the citation of the legal authority under which the zoning ordinance is adopted. Wexford County's does include reference to a public act, but the citation is incomplete (preamble prior to §1.1). One can assume it refers to the County Zoning Enabling Act, but can not definitively draw that conclusion from the incomplete citation. Haring includes the full and proper citation (§104). All zoning should include the full citation of legal authority. Each of the ordinances have a recitation of various purposes except Cedar Creek. A list of purposes should be a part of zoning. Zoning for Wexford County §1.1-1.3; Springville §1.02; Cedar Creek §100-102; and Haring §101-103) of the zoning includes the purpose of implementing a plan. All zoning should be based on a plan and should be reflected as one of the purposes.

Article 5 for definitions of words and uses which are used in this Ordinance. Definitions were not reviewed. A careful review of definitions of the words "family," "lot," or "parcel," "dwelling" or "single family home" (and how its compares to "duplex" and "apartment building"), "agriculture" or "farm," and "group day care home" should take place. These terms have been subject to court decisions and/or legislation which limit how the terms might be defined in a zoning ordinance. (See Wexford County §2.0; Springville §1.05; Cedar Creek §201; Haring §802). Haring Township placed its definitions at the rear of the zoning ordinance. Definitions in ordinances, statutes, and administrative rules should be toward the beginning of the document, not at the end, to establish the meaning of words prior to their use in the document. Definitions should only be used to define words. A definition should never contain a regulatory provision or standard.

Article 10-19 for general regulations applicable to all of the land under jurisdiction of this Ordinance.

Article 10 for general regulations which are

applicable in all zoning districts. This article is further subset as follows:

Sections 1000-1099 for general provisions.

This is the section of the zoning ordinance where regulations presented are for all parts of the municipality. It should say so at the beginning of the article. None of the ordinances say so in this article (Wexford County §3.1; Springville §11.01; Cedar Creek §301; Haring §201). Also missing in Springville are "bulk regulations" which limit the use of a parcel to one principal use and require the amount of land, setbacks, etc. to remain associated with that principle use. An abbreviated form of this appears in Haring's zoning (§204), Cedar Creek (§301.B and §301.C) and Wexford (§3.22).

Sections 1010-1019 for water related environmental regulations. None of the zoning reviewed has provisions to protect groundwater. Contemporary zoning ordinances normally do. See discussion on page 139, 140, of this report on the importance of groundwater pollution prevention. Zoning is seen as the most effective way to accomplish this. Watershed level planning and zoning is also an accepted contemporary approach, but little has been done along these lines in Wexford County. Surface water protection in zoning, according to recommendations from the Michigan State University Institute of Water Research should include a 50 foot setback for buildings, 100 foot setback for nutrient sources (heavily fertilized crop, traditional design drain field, etc.), 100 foot minimum width waterfront parcel, and a 10+ foot vegetation belt. Wexford County zoning has the 50 foot building setback, (§3.4) and a 20 foot vegetation belt if within the Lake Mitchell Overlay Zone (§5.6(3)(b)). Springville Zoning includes an 80 foot width at the water's edge (§10.01-E) but then has a minimum 100 foot lot width for all parcels (§10.01-A). Each of these are incomplete water protection provisions and Cedar Creek and Haring do not have any water protection provisions. Each, (Wexford §3.16 and §3.13(E); Springville §11.06; Cedar Creek §801; and Haring §218) have direct cross reference to the requirement of on-site sewage disposal system with approval from the District Health Department (usually required prior to a zoning permit).

Sections 1020-1029 for solid waste related environmental regulations. Provisions for storage and handling of solid waste appear only in Wexford County's site plan review standards (§11.5(7)) and for commercial uses (§3.26) only. Haring includes similar standards for industrial uses in the industrial district (§203), but not applicable elsewhere. The others do not include provisions in this area.

Sections 1030-1039 for land and other environmental regulations. None appear in any of

the zoning ordinances. Most likely these provisions are not relevant to land use situations in Wexford County.

Sections 1040-1049 for parcel and setback regulations. Each ordinance has provisions for parcel and setback regulations applicable for the entire municipality (here) or in the respective zoning district. There is not uniformity of setback from municipality to municipality. Wexford County (§3.5) and Springville (§11.04) have an out-dated land division provision in its ordinance. Wexford (§3.8), Springville (§11.13), Cedar Creek (§301.F), and Haring (§210 and §207) have fence regulations. Springville's fence provisions are detailed and lengthy. None have a width-to-depth ratio for parcel size.

Sections 1050-1059 for vehicle access, road and parking regulations. Wexford County has provisions for vehicle access (§3.4) and parking (§3.18). Springville has provisions for parking (§11.08). Cedar Creek has provisions for parking (§301.M, §301.L). Haring has provisions for vehicle

access (§214) and parking (§219 and §220). Springville and Cedar Creek do not have provisions for vehicle access to newly created parcels nor any road standards. Wexford County does not have provisions for road standards. Haring does not have road construction standards. All three do not have modern parking regulations which result in smaller parking lots (based on more recent customer and use surveys) that reduce the amount of impervious surface. All three do not have modern parking lot design standards to provide islands, lawn, shade tree areas within parking areas and landscaping around parking lots. For example, modern parking regulations have both a minimum number of parking spaces required and a maximum number of parking spaces required (to service both parking needs and to minimize impervious surface for runoff management and other environmental considerations. The following chart provides actual parking demand for certain types of land uses:

Land Use	Actual Average Parking Demand	Suggested Range (minimum-maximum)
Single family homes	1.11 spaces per dwelling unit	1 to 2
Shopping center	3.97 spaces per 1,000 square feet of gross floor area (not storage and utility areas)	3.9 to 4.25
Industrial	1.48 spaces per 1,000 square feet of gross floor area (not storage and utility areas)	0.5 to 1.5
Medical/dental office	4.11 spaces per 1,000 square feet of gross floor area (not storage and utility areas)	4 to 4.25

Center for Watershed Protection; *Better Site Design: A Handbook for Changing Development Rules in Your Community*, Ellicott City, Maryland; August 1998;p. 61.

Sections 1060-1069 for aesthetic (sign, viewshed, sex oriented businesses and so on) regulations. Sign regulations exist in each of the zoning ordinances except for Cedar Creek (Wexford §3.19, Springville §11.09, and Haring §601 through §609). There is no coordination or standardization between municipalities for signs. There should be as the visitor and resident seldom distinguish between one political jurisdiction and another. Sign regulation coordination between local governments is a basic essential for a community-wide aesthetic appearance.

Sex Oriented Business provisions exist in Wexford (§3.21(?)) and Haring (§102.5 and §505). In Haring, there appears to be an inappropriate mixing of special use permit standards in the same section as involvement of the Appeals Board in review of special use permits. Springville and Cedar Creek do not have sexually oriented business provisions. None have viewshed regulations.

Sections 1070-1079 for structure (not dwelling) regulations. Wexford has provisions for only commercial (§3.26) buildings (but not, for example, industrial, institutional, etc.). Springville (§10.02-H and §10.03) and Haring (§202) for accessory structures. Cedar Creek does not have any.

Sections 1080-1089 for dwelling and residential regulations. Wexford's dwelling regulations deal with home construction (§3.13), duplexes (§3.6), and mobile homes (§3.21). Springville's dwelling regulations deal with duplexes and apartment buildings (§10.02-G and §10.02-H), and mobile homes (§11.11-C, §11.11-D, §11.11-H, and §11.11-I). Springville does not have dwelling regulations. Cedar Creek's dwelling deal with traditional and mobile home regulations (§401(1) see also §501(1)), but applicable only in the Residential, Forest-Agriculture districts – not the dwellings in the Commercial district. Haring Township's dwelling

regulations deal with dwellings and mobile homes (§221).

A key to dwelling regulations is that the traditional built home ("stick built") is not treated any differently than the mobile home/modular home. The best way to write a zoning ordinance in light of these types of court rulings is to have a single section that deals with regulations for all dwellings – regardless of how it is made. This "no discrimination on the basis of type of construction" concept should be a particular concern to Springville and Cedar Creek Townships. Wexford County might be treating stick built and mobile homes the same, but the construction of its zoning with two different sections (§3.13 and §3.21) is a concern.

Sections 1090-1099 for other special purpose general regulations which are not classified above.
Not applicable.

Article 14 for standards for specific possible conditional uses. None of the ordinances reviewed use conditional uses. (Springville has what its ordinance calls a list of possible conditional uses in some of its zoning districts, but there are no listed conditions to meet – rendering them in essence permitted uses. This should be corrected.)

Article 16 for standards for specific possible special uses. A special use is the third list of possible uses in a zoning district (the first being "permitted," "primary" or "use by right" uses; the second being "conditional uses"). It is a list of possible uses which might be allowed if certain standards are met. If all standards in a zoning ordinance are shown to be complied within a special use application, then that special use permit must be issued. There are three types of standards found in a zoning ordinance. The first is the standards found in the General Provisions and in the respective zoning district which apply to both permitted and special uses. The second are general standards usually found in the article on special uses. They are often generic and a reiteration of language found in the state enabling statute. Third are very specific standards written for specific possible special uses which would be found in this article.

Wexford County's general standards are the generic version (§10.3). Missing is a statement that any specific standards or the General Provisions and respective zoning district requirements must be complied with. Specific standards include junk, etc. (§3.14), mining (§3.15), communication towers (§[new amendment]). These specific standards have been mixed in with the general provisions of the ordinance rather than set out separately on their own. Springville Township's general standards are the generic version (§11.05-C). Missing is a statement that any specific standards or the General Provisions and respective zoning district requirements must be complied with. Specific standards include junk, etc. (§11.10), mobile

home parks (§11.11), and mining (§11.12), communication towers (§11.14). These specific standards have been mixed in with the general provisions of the ordinance rather than set out separately on their own.

Cedar Creek Township does not have any possible special use permits.

Haring Township's general standards are the generic version (§503(1)). Specific standards are provided for in its own section (table following §505(2)) on a long list of possible special uses.

Article 18 for establishment of the zoning map and definition of zoning districts. A composite zoning map of Wexford County is found on page 359. This map should be compared to a county future land use plan map, or township future land use plan map for purposes of determining discrepancies. Over time the zoning map should undergo amendments which change it to appear more like the future land use plan map. If a proposed zoning amendment does not do so, then it should not be adopted, or the plan map should be amended first so that it does. In addition, problems with zoning maps tend to be (1) spot zoning, (2) strip zoning, (3) zoning districts which bear no relationship to natural features or state statutes. Spot zoning is where the area of a zoning district is so small that only a very few different land owners are in the district. The result is those landowners may have a monopoly of land zoned in that manner. That should be avoided. Strip zoning is where a particular type of zoning is found along a lineal feature, such as a road. Common would be to zone commercial along both sides of a highway for a long distance. Zoning district should also have a logical – or common sense – relationship to the land and state statute. If an area is predominantly wet and one can not develop it because it is wetland and due to state wetland protection laws, then the area should not be zoned for intensive development (e.g. residential, commercial, industrial). This would also be true of features such as steep slopes, heavy (no septic perc) soils, large blocks of public ownership, existence of other natural features.

Wexford's ordinance does not include a section or article which establishes the zoning map as part of the ordinance, rules for ordinance interpretation, and has no means to certify the zoning map.

Wexford's zoning map tends to support the idea that various natural features were not taken into account (e.g. Big Manistee River, Pine River, Brandybrook wetland area, and many others). There appears to be a disconnect between the zoning ordinance and continued re-zoning to commercial/industrial at the intersection of M-115 and E. 34 (Boon) Road, as well as, the area starting to look like strip zoning. Commercial strip zoning appears to be occurring at M-115 from S 39 Road to E 34 (Boon) Road near Cadillac, and on M-115 and M-37 from N 15 Road to ½ mile north of W 14 Road near Mesick. Residential strip zoning appears to be occurring along M-55 from S 25 Road to Cadillac City limits, along M-55 from Cadillac City limits to the Missaukee County line, and along M-115 from S 39 Road to

S 45 Road.

Springville's zoning map is characterized as strip zoning on M-37, M-115, N 9 Road, North Hodenpyle Dam Road, and N 7¼ Road (near Yuma). While the strip zoning, that appears to be taking place in Wexford's zoning might have legitimate explanation and might be justified, the Springville Township strip zoning is epidemic. The zoning also does not appear to recognize the Big Manistee River/Hodenpyle Backwater as a dominate natural feature, as well as a large public ownership block, and some steep slopes.

Cedar Creek's ordinance does not include a section or article which establishes the zoning map as part of the ordinance, includes rules for ordinance interpretation, and has a means to certify the zoning map.

Cedar Creek's zoning map consists of three districts: residential, commercial, and forest-agriculture (everything else). The map does not appear to recognize or take into account various features such as large public ownership blocks, wetland and water associated with Manton (Cedar) Creek, steep slopes.

Haring's zoning map appears to create commercial strip zoning along E 38 Road (Division Street), E 34 (Boon) Road west of U.S.-131, and an agricultural strip zone along E 34 (Boon) Road east of U.S.-131. An area zoned industrial in section 31 (along E 36 Road (Thirteenth Street)) ignores the predominant wetland characteristics of the area. Overall,

the zoning's impact on growth in the township is to encourage urban sprawl.

Articles 20-79 for each zoning district, further organized as follows with articles 20-69 organized from least intense to most intense:

Articles 20-29 for environmental, historic and other special zoning districts with each zoning district organized from least intense to most intense. There are no such zoning districts in Wexford County. There may be future proposals for historic districts, and several environmental-oriented districts (Brandybrook, Big Manistee River, Pine River, and so on). There is a potential list of special and unique Areas which might be candidates for such zoning districts. However, there may also be reasons not to do so:

The following is a summary or simplification of the pros and cons for this issue. It is presented in an attempt to clarify and synthesize the points of debate for consideration in making policy decisions on this topic. Source materials for this discussion are from Dr. Robert W. McIntosh, retired MSU specialist on Tourism and an international expert on hotel/motel management and tourism; MSPO Michigan's *Trend Future Tourism & Recreation Trends, Natural Resources & The Environment*.

<u>For Tourism/Special & Unique Environment Protection</u>	<u>Against Tourism/Special & Unique Environment Protection</u>
A land use plan should be natural resource based.	
	Need to balance private property/activity with the public goals. Private sector protection systems exist with land conservancies, conservation easements, gift of land, etc. (Cadillac Area Conservancy, Inc.)
Tourism is based on natural, cultural and built environment (historic homes, historic commercial buildings, lakes, beaches, national forest, Big Manistee River, natural areas, open space, parks, wildflower photography) special and unique areas.	Problem is "protection" might result in stopping all development; thus we should not have any protection. To preserve land just to preserve land is wrong.
If a natural resource is not protected, then the value it has to attract tourists is lost.	One quarter of the land in Michigan (and more in Wexford County) is already publicly owned. That is enough. So "protection" of private land should not be needed.

<p>State of Michigan (DNR) and National Forest (USFS) lands are the public's. It should not be easy to trade or to sell to the private sector.</p> <p>There is a direct correlation between tourist attraction to an area and public lands available for use.</p> <p>Tourism is not just for tourist's sake. What attracts a tourist to Wexford is also what --in part-- attracts a potential new employer to locate his business in Wexford. Tourist-natural environment is Wexford's marketing ploy to bring new business to the area.</p>	<p>Public land should be easier to be traded/sold to a developer for private use.</p>
<u>Other Points concerning Tourism/Special & Unique Environment Protection</u>	
MSU will be listing information on 25 different tools for growth management.	
Fishing is a major tourist activity in Wexford County (rivers and lakes)	
Grand Traverse Bay Watershed initiative is a good example to follow.	
<i>Grand Traverse Region Guidebook</i> and New Designs For Growth program in Grand Traverse County are important concepts for tourist related economic development.	
Tourism & recreation is a growing part of Wexford County's economy (an export economy). World wide tourism will double in size by 2005 –a growth rate faster then the general economy.	
Ecotourism (visits to see natural environment, endangered species, etc.) is a growing segment of the tourism industry. Wexford County's outdoor opportunities, result in a major potential for Wexford to tap into this growing market.	
<p>Three important government strategies (enlightened government policy) for tourism:</p> <ol style="list-style-type: none"> 1. Protection of undeveloped land, such as offered by zoning, conservancies. 2. Enhancement of resources tourists are drawn to. 3. Enlargement of facilities for tourists and infrastructure serving the tourist industry. 	
About 2,700 jobs in Wexford are tourist-based.	
There are 39 Special and Unique Areas nominated in Wexford County; including scenic roads, public ownership blocks, Big Manistee River, historic districts/buildings, selected wetlands, selected geologic features.	
Special and Unique Areas are located where there is a concentration of features: archaeological, historic sites; historic buildings; scenic/aesthetic overlooks, roads, areas; rare geological features; glacial/geological formations; habitat for endangered, threatened or rare species; unique forest, wetland, water features.	

See also the discussion on setbacks, below, on page 346.

Articles 30-39 for agricultural, forestry, rural and rural residential zoning districts zoning districts with each zoning district organized from least intense to most intense. There are no agricultural or forest protection, preservation, or resource production zoning districts in Wexford County. In all cases, the districts with names such as agriculture, forestry, recreation, or some combination of those words, are in reality "rural residential" zoning districts. The zoning is allowing – or encouraging-development of homes on small (10 acres or less) parcels. This takes land out of potential for farm or forest production and harvesting. The fractionalization of land into these small parcels also

removes many options for land management (for wildlife, hunting, recreation, scenic vistas, etc.) However, there is a strong demand by people who wish to live in a rural setting with their bit of open space around them. There should be serious exploration of a wider use of alternative means to divide land – such as cluster development systems.

There should also be an analysis done where traditional 10 acre (cluster) developments can take place, as well as, where there might be consideration for farm and forest operations protection.

There should be serious consideration given to zoning which is more serious about protecting farm and forest lands (e.g. large 40+ acre parcel sizes). With recent amendments to Michigan's Right to Farm Act, it is even more important

than ever to have some form of control on residential development in farm areas – such as in Wexford and Clam Lake Townships. One of the provisions of the Right to Farm Act is to establish Generally Accepted Agricultural Management Practices (GAAMPS) for various aspects of running a farm. A farmer can choose to follow the requirements of GAAMPS or not. If a farmer does not, then he has no protection or immunity from nuisance law suits from neighbors. If a farmer does follow GAAMPS then he is protected from lawsuits over noise, smell, pollution, etc. As a result of recent amendments to the Right to Farm Act, the Michigan Department of Agriculture adopted GAAMPS on siting of farms with over 50 animal units of livestock. Dairy and cattle farms are a major part of the agricultural business in Wexford County. Under those GAAMPS a farmer could be significantly penalized by development of single family homes and other similar development near by. The GAAMPS create three classes, or situations, for siting or expanding 50+ animal unit livestock operation. In the first class, new farm operations or expansion of existing is easy relative to the other two classes. The second class is harder. In the third class, areas new farm livestock operations would not be allowed, and expansion would be difficult or not allowed. The first, second and third class

areas are defined, in part by the number of homes or other public places which exist within a certain distance of the farm. If non-farm growth occurs in an area, the farmer's ability to expand is limited or eliminated.

The issues between property rights, desiring development, and farmland preservation can often be seen as in conflict. The decision to protect farmland is often a political hot potato. There is more than one viewpoint on this issue.

When considering protection of forest lands, one should be focusing on the preservation of large (40+ acre) size parcels of land. Unless the value of wood to be harvested is unusually high for this part of Michigan, often 40 acres is the smallest size area which is economical to harvest.

There are several tools for farmland preservation. They are summarized here.³²⁶ Any one, or combination of these can be considered for use in a community.

³²⁶Kohler, Ellen; *Agricultural Land Conservation Toolkit* Leelanau [County] Agriculture Alliance; July 2000.

	Description	Advantages	Disadvantages	Forest Tool
Zoning Tools				
Sliding Scale	Number of buildable lots set by scale that considered total size of landowner's parcel; smaller parcels are allowed more divisions proportional to land areas as compared to larger parcels to help concentrate and direct development to parcels too small to be productive agricultural lands; more permanent if remaining lands must be placed under easement after parcel's maximum density is reached.	<ul style="list-style-type: none"> ●Helps protect commercially viable farms. ●Allows farmers some development for family or income. ●Easy to implement. 	<ul style="list-style-type: none"> ●May not be appropriate in areas without wide range of parcel sizes ●Not permanent (zoning can be changed with a change in local officials), ●Effectiveness is dependent on the effectiveness of the administration and enforcement of the zoning ordinance. 	Yes (if 40+ acres left in forest)
Quarter/Quarter	One non-farm parcel is allowed for every 40 acres (one quarter of a quarter section of land); once all possible non-farm lots are converted, it is recorded and no further non-farm development is allowed.	<ul style="list-style-type: none"> ●Easy to implement 	<ul style="list-style-type: none"> ●May not be appropriate in areas where average parcel size is under 40 acres. ●Not permanent (zoning can be changed with a change in local officials), ●Effectiveness is dependent on the effectiveness of the administration and enforcement of the zoning ordinance. 	Yes (if 40+ acres left in forest)
Area Based Allocation Zoning	Parent parcel is divided by a set figure to determine the number of residences that can be placed on the parcel, establishing the building density for the parcel; building parcel size, set separately, is kept small to maintain the majority of land for agricultural use.	<ul style="list-style-type: none"> ●Greater flexibility in siting non-farm dwellings ●Can help protect most productive farmland and other natural resources 	<ul style="list-style-type: none"> ●May result in increased population in farming areas ●May not avoid the problems of low-density sprawl and associated costs of public services. ●Not permanent (zoning can be changed with a change in local officials), ●Effectiveness is dependent on the effectiveness of the administration and enforcement of the zoning ordinance. 	Yes (if 40+ acres left in forest)
Cluster Development/ Rural Clustering	Allows for residential development clustered on part of a parcel, with much smaller parcel sizes.	<ul style="list-style-type: none"> ●Some flexibility in siting of non-farm dwellings ●Greater local involvement in development design ●Helps protect most productive farmland and other natural resources 	<ul style="list-style-type: none"> ●May result in increased population in farming areas ●May result in conflicts between farmers and non-farm residents ●May result in clustered sprawl, instead of limited growth ●May not be effective if plan approval process is not easier than conventional development ●Not permanent (zoning can be changed with a change in local officials), ●Effectiveness is dependent on the effectiveness of the administration and enforcement of the zoning ordinance. 	Yes (if 40+ acres left in forest)

	Description	Advantages	Disadvantages	Forest Tool
Open Space Zoning	Protection of open space is primary site development characteristic; development is usually designed to maximize the quantity and quality of open space, as well as maintaining low visual impact.	<ul style="list-style-type: none"> ●Flexibility in siting non-farm development ●Greater local involvement in development design ●Helps maintain rural character ●Can result in permanent protection if open space must be placed under easement 	<ul style="list-style-type: none"> ●May not result in protection of productive agriculture's role in the local economy ●May not be effective if plan approval process is not easier than conventional development ●Not permanent (zoning can be changed with a change in local officials), ●Effectiveness is dependent on the effectiveness of the administration and enforcement of the zoning ordinance. 	No
Agricultural Protection Zoning	Local government outlines areas where farming is primary land use, and limits or prohibits other land uses in the protection zone density of residential development as restricted, ranging from one house per 20 acres to one house per 640 acres (in western states), depending on minimum size for productive farming	<ul style="list-style-type: none"> ●Creates core agricultural area to fight impermanence syndrome 	<ul style="list-style-type: none"> ●May not be sufficient by itself to maintain farming as part of local economy in the long run ●Not permanent (zoning can be changed with a change in local officials), ●Effectiveness is dependent on the effectiveness of the administration and enforcement of the zoning ordinance. 	Yes
Development Rights Tools				
Donation of Development Rights	Same as donation of a conservation easement to a conservation organization (such as the Cadillac Area Land Conservancy) or a government entity; a voluntary agreement that limits land permanently to specific uses; purpose of easement is conservation of productive agricultural lands, so terms prohibit or limit development on a parcel	<ul style="list-style-type: none"> ●Cost effective ●Provides permanent protection because easement runs with the land ●Can provide tax advantages ●Flexibility of agreements to meet farmer's needs ●Farmers can continue their way of life, farming the land 	<ul style="list-style-type: none"> ●May not result in preservation of critical mass of farmland without combination with other tools 	Yes (if 40+ acres left in forest)
Purchase of Development Rights	Voluntary for landowner; landowner is paid by government or conservation organization (e.g. Cadillac Area Land Conservancy) for value of development rights on land; in return, land is permanently restricted from non-agricultural development	<ul style="list-style-type: none"> ●Provides permanent protection because easement runs with the land ●Can be structured to reduce tax burden on participating farmers ●Flexibility of agreements to meet farmer's needs. ●Farmers can continue their way of life, farming the land 	<ul style="list-style-type: none"> ●Can be expensive ●May not result in preservation of critical mass of farmland without combination with other tools 	Yes (if 40+ acres left in forest)
Leasing Development Rights	Voluntary for landowner; landowner receives compensation for keeping land in agriculture for term of lease; amount of compensation would be less than that provided under a purchase of development rights program, since land is only temporarily restricted. (The state has a leasing program under part 361 of PA451 of 1994, as amended ³²⁷)	<ul style="list-style-type: none"> ●Not as costly as Purchase of Development Rights ●Farmers can continue their way of life, farming the land 	<ul style="list-style-type: none"> ●May not be legal in Michigan, but there does not appear to be a prohibition from doing so ●Only lasts for the term of the agreement ●Can reward land speculators if penalty for withdrawal is not stiff enough ●May not result in preservation of critical mass of farmland without combination with other tools 	Yes (if 40+ acres left in forest)

³²⁷ Part 361 of P.A. 451 of 1994, as amended, being the Farmland and Open Space Preservation part of the Michigan Natural Resources and Environmental Protection Act, M.C.L. 324.36101 *et. seq.* (formerly P.A. 116 of 1974, as amended, Farmland and Open Space Preservation Act, M.C.L. 554.701).

	Description	Advantages	Disadvantages	Forest Tool
Transfer of Development Rights	Voluntary for landowner; development rights are purchased and transferred to another parcel of land through private market mechanism; land from which development rights were purchased (sending zone) is placed under easement, restricting is to agricultural uses; land to which the development rights are transferred (receiving zone) is developed at a greater density – more housing per acre – than normal zoning would allow. Sending zone and receiving zone must be subject to the same zoning ordinance.	<ul style="list-style-type: none"> ●Provides permanent protection because easement runs with the land ●Limited and stable funding needs ●Farmers can continue their way of life, farming the land ●Helps concentrate development where it is appropriate 	<ul style="list-style-type: none"> ●Can be complicated to administer ●Effectiveness depends on briskness of real estate market ●Residents in receiving areas may resist increased density ●May not result in preservation of critical mass of farmland without combination with other tools 	Yes (if 40+ acres left in forest)
State Programs to Protect Farmland				
Farmland and Open Space Preservation Act ³²⁸	Voluntary for landowner, creates an incentives-based program to protect farmland from future development; landowner enters into a development rights agreement (like a lease) with the state, or a purchase of development rights by the state. Land then can not be used for other than agriculture for 10 years to in perpetuity.	<ul style="list-style-type: none"> ●Can provide tax advantages ●Flexibility of agreements to meet farmer's needs ●Farmers can continue their way of life, farming the land 	<ul style="list-style-type: none"> ●Only lasts for the term of the agreement ●Can reward land speculators if penalty for withdrawal is not stiff enough ●May not result in preservation of critical mass of farmland without combination with other tools 	No
County & Township Zoning Purchase of Development Rights	Voluntary for landowner, county and township can purchase development rights to protect agricultural land.	<ul style="list-style-type: none"> ●Provides permanent protection because easement runs with the land ●Can be structured to reduce tax burden on participating farmers ●Flexibility of agreements to meet farmer's needs. ●Farmers can continue their way of life, farming the land 	<ul style="list-style-type: none"> ●Can be expensive ●May not result in preservation of critical mass of farmland without combination with other tools ●Complex procedure 	No
Conservation & Historic Preservation Easement Act ³²⁹	Government can hold conservation easements, as long as for a public purpose including preserving land in its natural state.	See donation purchase leasing, above	See donation purchase leasing, above	No
Private Forestry Act ³³⁰ and Commercial Forest Act ³³¹	Voluntary for landowner, creates an incentives-based program to protect forest land which meets certain criteria from future development; landowner enters into a development rights agreement (like a lease) with the state. Land then can not be used for other than agriculture for 10 years to in perpetuity.	<ul style="list-style-type: none"> ●Can provide tax advantages ●Flexibility of agreements to meet farmer's needs ●Farmers can continue their way of life, farming the land 	<ul style="list-style-type: none"> ●Only lasts for the term of the agreement ●Can reward land speculators if penalty for withdrawal is not stiff enough ●May not result in preservation of critical mass of farmland without combination with other tools 	Yes

³²⁸Part 361 of P.A. 451 of 1994, as amended, being the Farmland and Open Space Preservation part of the Michigan Natural Resources and Environmental Protection Act, M.C.L. 324.36101 *et. seq.* (formerly P.A. 116 of 1974, as amended, Farmland and Open Space Preservation Act, M.C.L. 554.701).

³²⁹Part 21 of P.A. 451 of 1994, as amended, being the Conservation & Historic Preservation Easement part of the Michigan Natural Resources and Environmental Protection Act, M.C.L. 324.2140 *et. seq.*

³³⁰Part 513 of P.A. 451 of 1994, as amended, being the Private Forestry part of the Michigan Natural Resources and Environmental Protection Act, M.C.L. 324.51301 *et. seq.*

³³¹Part 511 of P.A. 451 of 1994, as amended, being the Commercial Forest part of the Michigan Natural Resources and Environmental Protection Act, M.C.L. 324.51101 *et. seq.*

	Description	Advantages	Disadvantages	Forest Tool
Other Tools				
Concurrency	Under concurrency, development can occur only to the extent that current public facilities, infrastructure, and services can accommodate it; if available services and facilities are inadequate to support a development, developer can choose to provide the necessary facilities or wait until local government provides them at future date.		<ul style="list-style-type: none"> ●Indirectly addresses the issue ●May not be legal in Michigan., but nothing appears to prohibit it. 	Indirect
Local Agricultural Economic Development	Designed according to local conditions; might involve establishing regular farmers' markets on certain days (e.g. Cadillac Farm Market), organizing farm tours, assisting farmers with marketing of their products locally.	<ul style="list-style-type: none"> ●Helps address problems of agricultural operations remaining viable ●Limited only by the creativity of the community ●Helps create a connection between residents and farmers 	<ul style="list-style-type: none"> ●Requires some administrative funding 	Yes
Joint Planning	Allows governmental jurisdictions to work together to address planning issues that cross boundaries.	<ul style="list-style-type: none"> ●Provides broader opportunities and flexibility ●Make certain tools more viable (such as purchase of development rights) 	<ul style="list-style-type: none"> ●Can be politically difficult ●Requires significant amount of time 	Yes

Federal programs that may assist farm, or forest, preservation include the following provisions of the 1996 federal farm bill. These programs are administered through the Wexford county office of the Natural Resources Conservation Service, or the Wexford County Conservation District.

- Farmland Preservation Program, Section 388
- Conservation Reserve Program, Section 332
- Wetland Reserve Program, Section 333
- Environmental Quality Incentives Program, Section 334
- Wildlife Habitat Incentives Program, Section 387
- Forestry Incentives Program, Section 352

The issues between property rights, desiring development, and forest land preservation can often be seen as in conflict. The decision to protect forest land is often a political hot potato. There is more than one viewpoint on this issue.

The following is a summary, or simplification of the pros and cons for this issue. It is presented in an attempt to clarify and synthesize the points of debate for consideration in making policy decisions on this topic. Source materials for this discussion are from Mr. Lynn Gould, Dr. Kurt

Norguard, Mr. Russell P. Kidd, specialists with MSU Extension; Mr. John Pilon, Michigan Department of Natural Resources; Mr. John "Hojo" Hojonowski, United States Forest Service; MSPO Michigan's Trend Future reports on *Agricultural Trends, Public Lands and Forestry Trends*; "Using Natural Resources as a Planning Guide", *Rural and Small Town Planning*; "Interim Policy on Farm & Forest Preservation"; *Policy Recommendations and Options for the Future Growth of Michigan Agriculture*; "Farmland Preservation: Protecting the Future Growth of Michigan Agriculture" *Planning & Zoning News*; *Michigan Forest Statistics, 1993*; "Comparison of Adjusted 1980 and 1993 area and Growing-Stock volume by Forest Type, Northern Lower Peninsula, Michigan"; *Ready-to-Assemble Furniture Manufacturing, A Business Plan for the Northeastern Area*; *Michigan Timber Industry, An Assessment of Timber Product Output and Use 1992*; *Forest Statistics*; *Michigan Forests; Manufacturing and Marketing Opportunities for Modern Timber Bridges in Michigan*; *A Planning Guide for Small and Medium Size Wood Products Companies: The Key to Success*. (For additional information on the sources, see the bibliographic listing in Appendix C2, page 363.)

<u>For Agriculture/Forestry preservation</u>	<u>Against Agriculture/Forestry preservation</u>
<p>Losing 700,000 acres of farmland a year in Michigan (10 acres per every hour of every day).</p> <p>There is a problem with loss of farm land, even if</p>	<p>Farmland loss is a comparison of land owned by farmers in past and present. Not accurate numbers. Trends, taken to the extreme, can be misleading.</p>

<u>For Agriculture/Forestry preservation</u>	<u>Against Agriculture/Forestry preservation</u>
Farmland preservation is endorsed by a large number of organizations: Regional Science Research Institute working for US Dept. of Agriculture, Michigan Farm Bureau, MSU Extension, MSU Center for Rural Manpower and Public Affairs, Land Resource Program Division of DNR, Rockefeller Brothers Fund, American Planning Association, Michigan Society of Planning Officials, formal USA policy, formal State of Michigan policy, Michigan Soil Conservation Service, Michigan Republican Task Force on Agriculture.	Farmland preservation is opposed (not endorsed) by the Michigan Association of Realtors.
Demand for farm crops will get better (and thus need for option to have undeveloped farmland). World population is doubling every 38 years. More land is not being made. Food production has not kept ahead of population growth. Farmland per person is decreasing. Community should keep its options open for the future. In the future, Michigan will need more farmland.	Should not make effort to preserve farmland when farm industry is not making a profit --indicative of a surplus of agricultural products on the market. Productivity per acre is increasing for apple orchards with closer tree planting techniques. Michigan does not need more farmland today.
Land assembly (buying small parcels to create one large one) and tearing down homes is not likely or realistic if farmland is needed in the future (farmer can not force one holdout to sell to him). Agricultural industry is not dependant on economics alone. It also depends on politics, property rights. Farming will always succumb to land development in a pure free market place--no matter how much food is needed.	If farmland becomes valuable enough in the free market place, homes will be torn down for agriculture. Give the farmer an economically viable pathway to succeed in farming, and the farmer will preserve farmland.
Agriculture/Forest lands preservation is job retention: Wexford County has 278 full time year round jobs on 251 farms in 1997. Wexford and Missaukee Counties have 325 jobs in the timber industries in 1999.	
The best (most revenue) land development for property tax supported government (municipalities) is farmland. (Must compare amount land is taxed with cost of providing services and compute the net.) Michigan is one of the few states that has not implemented property tax "use value assessment", which assesses farmland according to its agricultural use rather than according to its developmental value.	
In other countries there is never "takings" compensation for property without also "givings" where the land owner pays back the government when government action increases value of the land. In the United States, the culture of land purchasing is to take a gamble, land value may go up or go down, that is the risk taken in buying land as part of capitalist free market enterprise system.	Property rights: Farmer who owns agricultural-preserved land loses his resale of his land at its highest possible value (lose value of his "retirement plan"). Should not tell a landowner they can not divide their parcel up into as many parcels as they wish.

<u>For Agriculture/Forestry preservation</u>	<u>Against Agriculture/Forestry preservation</u>
Amendment to Right-to-Farm Act will make farmer nuisance protections subservient to zoning (that is, zoning which changes to allow residential development in an agricultural area will, over time, result in the loss of Right-to-Farm act protections for farmers.	Farmland preservation fails to have farmer's support for purposes of "lowering property taxes" and "buffer from nuisance factor." Only when threat of development and encroachment is seen/felt will farmland preservation be important. That has not happened in Wexford yet.
	The idea to preserve farmland is more an environmental movement than a farm preservation effort.
Land fractionalization is effectively taking timber out of production.	
Expansion of the timber industry (e.g. more demand for harvesting timber on 40+ acre parcels) has gone up and is expected to continue to increase. (20 acre minimum for high quality hardwood, and 40 acres for most other harvests depending on value of wood and other timber sales in the same area.)	Minimum 40 acre parcel sizes for forest protection is not reasonable regulation of private land.
In the mid to late 1980's Packaging Corporation of America (in Filer City, Manistee County) indicated the need for a minimum 40 acre parcel to economically harvest timber –especially for chipped timber harvesting. There is not the high value timber to make it economically feasible to be innovative methods to resolve the 40 acre minimum requirement. Tennico Packaging has (1980's) relied heavily on public lands for timber; so much so that if harvest on public land were stopped or public land were sold, then Packaging would close shortly thereafter.	The expected innovations within the forest industry will resolve the need for a minimum 40 acre parcel for economic harvesting of trees. Menasha Corporation Paperboard Division (Wisconsin) has already successfully implemented some of these innovations.
There is great potential for timber industry growth in Michigan. For that to happen in Wexford County one must realize Wexford is not much different than any county in the northern half of the lower peninsula.	If new timber industry is not going to locate in or around Wexford County, land use policy should not be geared to encourage timber harvesting for an industry located elsewhere. Forest/timber harvest on unfractionalized private land ownership is not the only use the forest can, or should be used for. Division of lands into smaller (than 40 acre) parcels should be allowed for tourist and resort growth. A community is economically healthiest when there is a mix of economic activity between both timber industry/harvesting and tourism.
An advantage is proximity to Grand Rapids, Holland, Zeeland, for "just-on-time" delivery of wood products to furniture manufacturing there. An advantage is Wexford has 72% forested land, with 36% of the forested land owned by the United States Forest Service, 20% by the DNR, and 43% by private (individuals). The public ownership is relatively unfractionalized land ownership patterns.	

For Agriculture/Forestry preservation	Against Agriculture/Forestry preservation
<p>Public lands, by policy, replant or regenerate trees which have been harvested for timber.</p> <p>Should not depend only on public lands for timber, or even increase reliance on public lands for timber. Do not count on continued harvesting on federal lands, U.S. Forest Service has a multiple use mandate; U.S. Forest Service lands may not exist (as least as known today) in 30 years; continued harvesting is anticipated on state lands (a single purpose management philosophy); there is serious discussion about selling state forest lands.</p>	<p>Natural for private landowner to harvest timber, and not put some of the earned money back into planting trees (which they may not live to see it mature).</p> <p>It has become common for the private landowner (timber harvester) to harvest timber (for maximum short term gain, and no management for long term regeneration or future harvesting) and then sell the land in smaller parcels. With higher timber prices, and individuals moving to the area willing to pay the same price for cut-over land this provides short term profit.</p>
<u>Other Points concerning Agriculture/Forestry</u>	
Loss of Agricultural/Forestry land is not in itself bad, if the new use results in economic activity/employment equal to or more than was provided by the farm. Then that may be good.	
Problem is not loss of farm land, but proper utilization of existing farmland.	
Forty percent of all farms are owned by individuals who are 55 years or older. That represents a lot of land coming up for sale.	
Agricultural lands are becoming fractionalized (into 10 acre parcels).	
There is a change in farm sizes: fewer middle sized farms and in increase in the number of very small and large sized farms.	
Use soils (clay, loamy-clay and loamy soils; e.g. septic perc problem soils {prime farmland and locally essential farmland}) as a resource indicator to identify areas to preserve for farmland.	
<p>Resource indicators are more than just soils. Resource-based planning includes:</p> <p>Topography and Slope; elevation, avoidance of steep slopes 25%+, lower density on 10% to 25% slopes, scenic vistas.</p> <p>Hydrology: surface water for aesthetic, water supply, food, recreation, waste dispersion, transportation, power generation, groundwater discharge/recharge, floodlands, wetlands, groundwater protection.</p> <p>Soils; composition for bearing load, frost damage, septic suitability, and other engineering properties, agriculture and forest productivity.</p> <p>Geology; subsurface mineral deposits (sand, gravel, clay), bedrock formations (salt, brine, oil, gas).</p> <p>Vegetation and Wildlife (Biotic Resources); groundcover for flood and runoff prevention, wildlife corridors, watershed protection (vegetation belts).</p>	
Maybe also use existing land use showing actual farmed areas as a criteria also (e.g. not to preserve areas which have not been farmed).	
<p>Farmland and Open Space Act³³² (P.A.116) turned out to be a farmer protection law, not a farmland preservation law. Overall trend is poor farmlands, marginal farm operations enrolled in P.A.116. It is a lease which does expire. Proposal A property tax reform has made P.A.116 much less effective as a tax break for farms.</p>	

³³²Part 361 of P.A. 451 of 1994, as amended, being the Farmland and Open Space Preservation part of the Michigan Natural Resources and Environmental Protection Act, M.C.L. 324.36101 *et. seq.* (formerly P.A. 116 of 1974, as amended, Farmland and Open Space Preservation Act, M.C.L. 554.701).

Michigan Environmental & Relative Risk Report ranked "High-High" the problem: Lack of coordinated resource-based land use planning. As a result the Republican Farmland and Agriculture Development Task Force recommends:

1. Right-to-Farm act was be strengthened, and local zoning is subservient.
2. Should adopt agricultural security areas (tax system specifically for farm use/activity).
3. Should adopt enabling legislation for growth management tools for local governments.
4. Should include agriculture protection provisions in local zoning.
5. Amended the Land Division Act (formerly Subdivision Control Act.)
6. Increase public policy to foster redevelopment in urban areas.
7. Should have watershed based planning/environmental stewardship.

Do not have the political will-power in Michigan to tell a farmer he can not divide up farmland as he wants to. In other states large (40 to 160 acre) minimum parcel sizes are common in agricultural areas.

Prime forest lands in Wexford County correspond to areas of the county where heavier soils (clay, loamy-clay and loamy soils; e.g. septic perc problem soils) exist. Locally important timberlands exist in such large areas due to proximity to paper mills—a user of low grade wood for pulp manufacturing. There are no "unique" timberlands in Wexford County.

For forest or agricultural preservation, 5, 10, 20 acre minimum parcel sizes does not work. A 40+ acre parcel size may work and is recommended; but preferably the approach such as:

1. Do not limit the farmer in terms of what he can do with his land. This is both in terms of not limiting the type of farm operation, farm practices or types of crops (i.e. a broad definition of what is a farm), and for what uses the land may be sold for.
2. Protect the farmer, so incompatible land uses do not start up next to him and so land development in the agricultural area does not drive up the value of land.

Recommendations of the *Farmland Preservation: Protecting the Future Growth of Michigan Agriculture* for local government (zoning) include the following. Each is done only in areas which warrant agricultural or forest protection.

1. Lowering the density of development in agricultural areas; quarter-quarter zoning (minimum 40± acre parcel), with one home on a maximum of 2½ acre parcel for each 40± acres owned by the farmer in addition to the farmer's home.
2. Use of cluster development; allowing 4 houses on a 160 acre parcel, each clustered within a 4 acre corner of the parcel, leaving the remaining 156 acres for agriculture or forestry.
3. Formation of Agricultural Security areas; voluntary program initiated by landowners in an area and implemented by local government. Lower taxes, enhanced right-to-farm protection, greater eminent domain protection are incentives to participate. In return blocks of agricultural lands are preserved and the local community must prohibit development in the area and surrounding the area.
4. Purchase of Development Rights; where a conservatory or local government buy from the landowner his rights to develop the land, placing an easement or deed covenant restricting use of the land for non-farm/forest purposes.
5. Transfer of Development Rights: Same as purchase of development rights, but here a private developer buys the farmer's rights to develop the land, and the local government allows the developer to transfer those rights to another part of the municipality for the ability to have more intense development outside the agricultural/forest area.
6. Urban Redevelopment: Actions to attract people to live and develop in existing cities, and developed areas.

Timberland in Michigan has increased by 1.1 million acres from 1980 to 1993 mainly from fallow fields, herbaceous fields and abandoned agricultural operations growing back into forest. The increase also occurred in Wexford County.

The forests in Michigan are still harvested at a sustainable level (e.g. not cutting more than the forest can grow). In 1980, three units were grown for every one unit cut. In 1993, 2.6 units were grown for every one unit cut. There has been timber industry growth in Michigan. Given the world population growth there will be a increased demand for wood products and Michigan does not have an immediate timber harvesting problem (e.g. Spotted Owl).

The forest industry growth rate is faster than the nation's economy as a whole. This is also true in Michigan. Michigan harvests only one half the lumber which is consumed in the state. New industrial potential exists for Ready-to-Assemble (RTA) furniture from structured (particle board) wood with a veneer surface; timber-built bridges; kiln hardwood dimension plant.

Red Pine harvesting has come to its own. Today, Wexford is seeing the benefit of 1930's and 1940's land use planning and Civilian Conservation Corps (CCC) pine plantings. Harvest is thinning red pine stands (for treated lumber). The long term question is will harvested red pine be re-planted? Lumber prices in Michigan have, in the past 10 years, caught up with prices in the rest of the United States.

Many hardwood stands in Wexford county have not been thinned. A northern hardwood stand, done right, can be thinned every 12 to 15 years, increasing the value of the woodlot each time. Clear-cutting hardwood stands is a poor forestry practice.

Best forest management practices can be summed up in six words: "Cut the worst, leave the best." Wexford County private landowners would be wise to use these words as a guide to managing their woodlots. Due to U.S. Forest Service harvest restrictions, pressure to cut private woodlands is high. In order to continue a sustainable yield of forest products, selective harvests are critical, especially in northern hardwood stands. Diameter limit cuts, removing all large, straight-stemmed trees, and clear cutting in hardwood stands are poor management practices. The higher proportion of straight, healthy trees remaining after a timber harvest, the better. This is true as the remaining trees are the future harvest trees.

Clear cutting aspen, jack or scotch pine is good forest management. Aspen and jack pine are pioneer species and need full sunlight to regenerate and thrive, therefore, clear cutting is necessary to retain these species. If left to succession, pioneer species will die as other species block necessary sunlight. Scots pine is a non-native, nuisance species and should be eradicated when possible, unless being maintained as Christmas trees.

Proper red pine management is done by removing one-third of the stand on the first harvest. This is accomplished by removing every third row on the first entry at age 25 to 35 years. Entries thereafter (every 10 years) are selective cuts. Removing over one-half of a stand of red pine is poor forest management.

Setbacks are for fire safety, open space, air flow, and adequate sunlight. Setbacks are also to insure a building is not damaged from objects being thrown from snow plow activity on public roads. In rural areas where snow plows travel at greater speeds this can be a significant distance. There may be other reasons for setbacks than those mentioned here. However, for these reasons, the following are minimum and maximum setback recommendations for Rural Residential Resource Development, Resource Limitation:

Maximum Front: 49 feet from the front property line, or 82 feet from the centerline of the road, whichever is greater. (In some cases a front setback of only 13 feet from property line, 46 feet from road centerline, is all that is necessary to avoid snow plow-throw.)

Minimum Front: 10 feet

Maximum Side: 10 feet

Minimum Side: 0 feet (any construction less than 10 feet from side property lines should be constructed as a firewall, pursuant to the state construction code.)

Maximum Rear: 20 feet

Minimum Rear: 0 feet (any construction less than 10 feet from side property lines should be constructed as a firewall, pursuant to the state construction code.)

One can anticipate smaller setbacks in residential areas. One can expect greater setbacks in Special and Unique areas. There may be valid reasons to deviate from the above setbacks. Those reasons should be documented

before incorporated into zoning. Such reasons may include to create a visual, noise, dust, aesthetic barrier for industry, commercial and uses and Plan Map Areas as well as for special and unique Plan Map Areas.

Articles 40-49 for residential zoning districts with each zoning district organized from least intense to most intense. Residential zoning tends to be concentrated near where existing subdivisions or small parcels exist: Near cities, villages, inland lakes, and ski/golf resorts.

Zoning, as practiced in northern Michigan, and Wexford County is a formula for urban sprawl: creating a waste of land. A better alternative is to conduct a 'natural features' inventory of the property; locate the buildings (homes, commercial structures) based on site-specific resource basis (rather than drawing the lots first); then draw the parcels to accommodate the placement of the buildings; reserving open space for view, farming, forestry, etc. The resulting development is an approach which has lower development costs and higher resale of land value. This is done through "Cluster zoning," Planned Unit Development (PUD) or other technique.

"Cluster zoning," or PUD, is an alternative approach for residential and commercial development. (e.g. developer has 20 acres with 1 acre minimum zoning; current zoning would be to divide the 20 acres into 20 one acre lots; "cluster zoning" under a PUD approach would place the 20 homes on five acres, and the remaining 15 acres would have development restrictions/conservation easements to retain it as open space, farmland, forest, golf course, park, etc.)

Adjacent open space is a valuable commodity. People pay more (80% to 100%) for less land next to preserved open

space than they do for the 1 acre lots.

Owner of the protected open space is paid for his development rights to that land, or benefits from being able to develop the same number of homes, and still retains the use of the open space for a golf course, farm or woodlot.

The open space land can be kept by the original land owner; be sold to a third party, or attached to the developed part of the property (condo/subdivision association) with the covenant for only certain uses.

If a community has nothing but 10 acre, or smaller, parcels left, then it is too late for "cluster zoning" with PUD or neo-traditional development techniques.

See also the discussion on setbacks, above, on page 346.

Modern zoning also provides for "neo-traditional" development patterns of narrower streets, more through streets, frequent sidewalks for pedestrians and bikes, smaller setback lines and smaller lots. This same zoning approach also accommodates creation of neighborhoods where residential development is within walking distance of public and commercial attractions: the school, corner store, various services, and so on. This "mixed" use zoning is not found anywhere in Wexford and would not be permitted under any current zoning in the county. Development of this type might be most closely emulated in the older cities and villages. For more detail on this zoning approach, see Appendix C12 on page 423.

Articles 50-59 for commercial zoning districts with each zoning district organized from least intense to most intense. The most effective commercial development pattern (measured in terms of economic success through long term, stable, higher paying jobs) is when commercial establishments are located near each other. The basic principle is that like business located near like businesses both help each other, resulting in more business for both. Stated another way, a business district is better able to draw a larger number of people to the district than any one retailer or service provider can ever hope to do on their own. This is why the current *Wexford County Plan* endorses the concept of "town center" where commercial activities should

be located. The idea is to further the development of downtowns and established commercial districts – not to encourage or allow strip development or sprawl of commercial land uses into the country side. The existing *Plan* recognizes Cadillac downtown, Haring commercial area, west Cadillac, Manton, Mesick, Buckley, Boon, and Harrietta as locations³³³ where commercial development should occur.

However, directing this type of development in this manner raises issues between property rights, desiring development where the free market places it, and a community's attempt to maximize economic success can often be seen as in conflict. The decision on commercial development is often a political hot potato. There is more than one viewpoint on this issue.

The following is a summary, or simplification of the pros and cons for this issue. It is presented in an attempt to clarify and synthesize the points of debate for consideration in making policy decisions on this topic. Source materials for this discussion are from Mr. Rod Cortright, MSU Extension Specialist; Mr. Keith Charters, Grand Traverse New Designs for Growth and Chair of the Michigan Natural Resources Commission; MSPO Michigan's Trend Future reports on *Transportation Trends*, *Water Sewer & Other Infrastructure Trends*, *Future Jobs and the Built Environment Trends*; *New Designs for Growth--Linking community, economy, and land in Northwest Michigan*; *Direct Services Available*, *New Designs for Growth*; pamphlet; "Development Guidelines: A New Tool for Building Growth in the Grand Traverse Bay Region"; *Planning & Zoning News*; "Disney Turns Its Dream Machine To Building Real-Life Community" *The Christian Science Monitor*; "Cities Plan to Build a Sense of Community" *The Christian Science Monitor*; *Grand Traverse Bay Region Development Guidebook*.

³³³The Clam Lake downtown area is intended to be more for development of an office park or technology development.

<u>For Commercial town center (not strip development along highways)</u>	<u>For Commercial strip development along highways (not town center)</u>
Business persons for large corporations look for community commitment to town center (not strip zoning) in selecting where to build (In one case a shopping center owner was upset and vocal about allowing commercial sprawl along the highway, thus undermining his investment).	
A highway has a primary function to move traffic. Concentrating commercial development along a highway runs counter to the basic goal of a highway. Turning movements, slower traffic, lane changes, associated with commercial development and with driveways, have a direct correlation to the number of traffic accidents on that road. When commercial driveways exceed 20 per mile, the rate of traffic accidents increase dramatically. Then the highway is required to service conflicting demands: local vs. regional traffic; freight vs. private auto; recreational traffic; residential home site traffic.	Businesses primarily want high visibility and high traffic count that locating along a highway provides. Commercial land along a highway is in premium demand for commercial use. It should be commercial.
A linear pattern of commercial development covers more miles than rectangular development. Utility costs (water, sewer) are higher as a result. Pedestrian traffic is discouraged. Strip development eliminates the ability to park a car once and patronize more than one store; costing businesses impulse shopping/sales. Strip development often has residential uses intermixed or on land behind the commercial uses; resulting in conflicts	
Strip development, with the above problems, all result in a poorer business climate. There is a high correlation to rural strip businesses failing, resulting in blight or undesirable activities (e.g. Blair Township in Grand Traverse County). Customers attracted to strip development is done at the cost of established commercial areas in the County (Bear Lake, Onckama, Copemish, Kaleva, Arcadia, Brethren, Wellston, Wexford Lake area).	
Strip development creates poor community image.	
A special use permit technique (including PUD) can be used as an alternative to accommodate business' high traffic needs and to void disadvantages of strip development.	
Strip zoning, has not always been viewed favorably in courts.	

<u>For Commercial town center (not strip development along highways)</u>	<u>For Commercial strip development along highways (not town center)</u>
<p>Economic Development Offices in all of Northern Michigan indicate existence of commercial zoning stripped along highways works --in the long term-- to the detriment of economic development efforts.</p> <p>Blair Township in Grand Traverse County (Chums' Corner area) is an example of what NOT to do. It has resulted in the classic instable economy; low budget businesses (burning tires), low paying job, high rate of turnover (job and business), high rate of bank loan failures, high incidence of derelict businesses, undesired businesses (sex-oriented businesses), which is typical of strip zoning along a rural highway. The contrast between Blair Township and other communities which use cluster or "town center" zoning (e.g. Green Lake Township) is large and widely recognized by banks, loan institutions and others in the investment community.</p>	<p>There are commercial businesses that can not/will not/do not want to locate in assigned areas (commercial zoning districts). A community should plan for businesses outside commercially zoned areas. It is not reasonable to expect all businesses to be in commercial zoned areas. To just prohibit commercial construction along highways does not work. It is not like an industrial park placed in a certain area. Only logical to set aside other areas for commercial development.</p>
<u>Other Points concerning Commercial</u>	
Our flourishing economy, natural attractions, northern Michigan's sense of place, and low crime rate are magnets for new residents.	
Economic Development Strategies do not work over night, but take decades of continued commitment.	
See also discussion on employment and unemployment levels on page 351 concerning the significant element of the unemployed have low levels of education, skills, not likely to become employed in jobs demanding high tech skills. More and more those high tech jobs will be in manufacturing, etc. They are well suited for retail and service sector jobs.	
The zoning in Wexford County collectively has 0.7% of the county land area in commercial. Land in Wexford County actually used for commercial is 0.36%, of the county's land area. The remainder of the commercial land is vacant. That is compared to 0.6% used for commercial, state-wide.	
Zoning, as practiced in northern Michigan is a formula for urban sprawl: creating a waste of land.	
A better alternative is to conduct a "natural features" inventory of the property; locate the buildings (homes, commercial structures) based on site-specific resource basis (rather than drawing the lots first); then draw the parcels to accommodate the placement of the buildings; reserving open space for view, farming, forestry, etc. The resulting development is an approach which has lower development costs and higher resale of land value. This is done through "Cluster zoning," Planned Unit Development (PUD) or other technique.	
<p>"Cluster zoning," or PUD, is an alternative approach for residential and commercial development. (e.g. developer has 20 acres with 1 acre minimum zoning; current zoning would be to divide the 20 acres into 20 one acre lots; "cluster zoning" under a PUD approach would place the 20 homes on five acres, and the remaining 15 acres would have development restrictions/conservation easements to retain it as open space, farmland, forest, golf course, park, etc.)</p> <p>For commercial development landscaping is between the building and road, parking hidden in the rear.</p> <p>Commercial development can be clustered, with mixed uses near each other.</p> <p>Result is fewer driveways (traffic management, lower cost infrastructure (cluster sewage systems, etc.)).</p> <p>Result is preserved views, aesthetics which attract the tourist and potential new employers to an area.</p> <p>This type of development is more expensive up front, as one must purchase or have control over a larger parcel of land, rather than a small lot.</p>	
Neo-traditional development is another alternative to strip development along roads: copying the traditional compact square road and lot pattern of early American small towns.	

- Grand Traverse area Chamber of Commerce's New Designs for Growth program includes efforts, funding, staff time, to:
1. Publicize the *Grand Traverse Bay Region Development Guidebook* (Grand Traverse County Planning Department (Randall Arnet's planning principles)) and promote its use.
 2. To create a uniform set of sign codes for the Traverse City region.
 3. Provide incentives for development following the *Guidebook's* principles (grants, loans, create a system to speed up zoning approval).
 4. Peer-review of site plans to help a business comply with the *Guidebook* principles; peer pressure.
 5. Provide technical assistance to municipalities and businesses in the Grand Traverse area: natural features inventories, master planning.

If a community has nothing but 10 acre, or smaller, parcels left, then it is too late for "cluster zoning" with PUD or neo-traditional development techniques.

When building a road, by-pass, etc., the municipality and county must understand it is where development will occur. If it is commercial or industrial, it is also where the community must invest money for infrastructure; water sewer, high phase electric, and storm drainage. Money from state or federal governments to pay for these things no longer exist. If a community does not make the infrastructure investment, meaningful long term commercial/ industrial development will not occur.

Wexford is within Detroit's and Traverse City's areas of economic influence (and to a lesser extent Grand Rapids and Chicago). Wexford's sphere of influence (economic hinterland) is north east part of Lake County, most of Missaukee County, the north part of Osceola County, and all of Wexford County except the north of the Big Manistee River.

Convenience shopping centers in Wexford County are Mesick, Buckley, Manton, and Cadillac West. Hamlet shopping exists at Boon, and Gartlett's Corner (M-55 and M-37).

In all zoning ordinances, there are inadequate provisions to deal with design, parking placement, service road, traffic flow, landscaping of commercial areas. (See also discussion on parking, above, page 333.) Following guidelines generally advocated by the *Grand Traverse Development Guidebook* should be considered. (Haring adopted a zoning amendment in 2000 simply indicating development should use the *Design Guidebook* as a guide for standards. The *Guidebook* was not written as standards – it was written as a plan. In Michigan, mixing the function of a plan with that of a regulatory ordinance is not legal. Strong consideration of adopting zoning language dealing with these issues which was developed by the Clam Lake Downtown Development Authority (DDA) should be by all municipalities.

See also the discussion on setbacks, above, on page 346. However, the issue of setbacks is also covered in the *Design Guidebook* and in some cases should be zero (e.g. central business district). See also the discussion on mixed use village zoning (under residential, above) which talks about modern zoning providing for "neo-traditional" development patterns. For more detail on this zoning approach, see Appendix C12 on page 423.

Articles 60-69 for industrial zoning districts with each zoning district organized from least intense to most intense. There are four industrial parks in the County with over a total of 370 acres available for manufacturing. The industrial parks are:

- Buckley Industrial Park, Buckley
- Cadillac Industrial Park, Cadillac (c1970s)

- Guy VanderJact Industrial Park, Cadillac (c1980s)
- Manton Industrial Park, Manton
- James E. Potvin Industrial Park (under development), Cadillac (2000)

This should be more than adequate (especially with adjacent room to expand) for the foreseeable Wexford County industrial growth. However, there is a provision in Michigan's Zoning Enabling laws which requires

A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a county in the presence of a demonstrated need for that land use within either the county or surrounding area within the state, unless there is no location within the county where the use may be appropriately located, or unless the use is unlawful.³³⁴

Similar language exists in the township zoning enabling act³³⁵ and city/village enabling act.³³⁶ However, it does not make common sense for Springville, Cedar Creek, and Haring each to have commercial and industrial zoning districts, and those districts drawn on the zoning map to accommodate every possible lawful land use that may come

³³⁴Sec. 27a. of P.A. 283 of 1943, as amended, being the County Zoning Act, M.C.L. 125.227a.

³³⁵Sec. 27a. of P.A. 284 of 1943, as amended, being the Township Zoning Act, M.C.L. 125.297a

³³⁶Sec. 12 of P.A. 207 of 1921, as amended, being the City and Village Zoning Act, M.C.L. 125.592

along. Another advantage to base zoning on a county plan is to be able to have that plan document the "demonstrated need for that land use" is provided for (and the need satisfied) "within either the county or surrounding area." For example, industrial areas exist, and more than satisfies the need for industrial development. Thus, rural townships with their own zoning do not need to provide for every

possible type of lawful land use.

The following is a summary, or simplification, of the pros and cons for this issue. It is presented in an attempt to clarify and synthesize the points of debate for consideration in making policy decisions on this topic. Source materials for this discussion are from.

<u>For Industrial town center (not strip development along highways)</u>	<u>For Industrial strip development along highways (not town center)</u>
The issues here are similar to that found for commercial, see page 347.	The issues here are similar to that found for commercial, see page 347.
<u>Other Points concerning Industrial</u>	
Wexford County has good roads, schools, labor force (not excellent ones). The ace card the county does have is its cultural and natural environment. This attracts the tourist to the area. What attracts a tourist to the area is also the most effective tool the county has to attract new potential employers.	
Economic Development Strategies do not work over night, but take decades of continued commitment.	
The county's number of people employed is now higher than it has been in the past 15 years. Growth has been in non-wage/salary labor force, construction, retail, finance/insurance/real estate, service sectors. Decline has been in manufacturing; transportation, communications, utilities, wholesale trade.	
The number of unemployed has remained about the same. Of the unemployed, there is a certain number which are "chronic unemployed" with no intention of going to work; another segment who are unemployed as a result of periodic layoffs; a third segment which are seasonal work force fluctuations; a fourth segment which come to Wexford from southern Michigan while collecting unemployment; and a fifth segment which truly are under-employed or unemployed.	
The zoning in Wexford County collectively has 0.5% of the county land area in industrial. Land in Wexford County actually used for industrial is 0.26%, of the county's land area. The remainder of the industrial land is vacant. That is compared to 0.84% used for industrial, state-wide.	
Zoning, as practiced in northern Michigan, is a formula for urban sprawl: creating a waste of land.	
A better alternative is to conduct a "natural features" inventory of the property; locate the buildings (homes, commercial structures) based on site-specific resource basis (rather than drawing the lots first); then draw the parcels to accommodate the placement of the buildings.	
If a community has nothing but 10 acre, or smaller, parcels left, then it is too late for "cluster zoning" with PUD or neo-traditional development techniques.	
When building a road, by-pass, etc., the municipality and county must understand it is where development will occur. If it is commercial or industrial, it is also where the community must invest money for infrastructure; water sewer, high phase electric, storm drainage. Money from state or federal governments to pay for these things is not as prevalent as it was in the 1960s and 1970s. If a community does not make the infrastructure investment, meaningful long term commercial/ industrial development will not occur.	

Articles 70-79 for overlay districts. Wexford's zoning has three overlay districts: Clam Lake DDA overlay district, Wexford County Airport overlay district, and Lake Mitchell Overlay Zone. Springville, Cedar Creek, and Haring do not have any overlay districts.

The "Clam Lake Corridor Overlay Zone," (§13.1 *et. seq.*) should be repealed and replaced with zoning districts which are specifically written for this area of Wexford

County according to a recommendation being formulated by the Clam Lake DDA. It would be simpler to incorporate the design standards directly within the respective zoning district. The overlay district creates confusion about the list of permitted uses and possible special uses. It would be simpler to address those lists of uses directly in underlying zoning districts, using language developed by the Clam Lake DDA.

The airport overlay zone is applied only to the Wexford County Airport, and only in Wexford County zoning. It should also be a part of Haring Township's zoning (and Cadillac City's). It should also be applied by the county to the small air field at the corner of W 30 Road (Coates Highway) and M-37. Airport zoning should (according to recommendations of the Michigan Department of Transportation Bureau of Aeronautics) should deal with height limitations around the runways and should deal with incompatible land uses within a certain proximity of an airport. What zoning is in place in the county only addresses height issues.

At the time of its development, the Lake Mitchell Overlay was "state of the art" for inland lake protection. It may or may not still be. Many advances have taken place in the understanding of lake protection since this overlay zone was developed. However a review of that material against current science should be done.

None of the zoning reviewed has overlay districts in connection with wellhead protection. Part of the wellhead protection of public water system wells uses an overlay zone as part of the protection program to prevent future problems. Wellhead protection areas often cross political boundaries – necessitating close cooperation between different municipalities. See discussion on page 122 (starting on page 120), of this report on the importance of wellhead protection as part of groundwater pollution prevention.

Articles 80-89 for permit process and procedures.

Article 80 for nonconformities. Wexford's sections on nonconformities (§3.9, §3.10, and §3.11) with an 18-month period to be considered discontinued, with restrictive expansion (almost none) of nonconforming buildings, no provisions on replacing damaged buildings, and nonconforming parcels may have lessor setbacks. Springville's section on nonconformities (§11.02) has a 12-month period to be considered discontinued, with a 30% possible expansion (in value) of nonconforming buildings, and no provisions for damaged buildings and nonconforming parcels. Cedar Creek's section on nonconformities (§701) has a 12-month period to be considered discontinued, with almost no possible expansion of nonconforming buildings, replacement of damaged buildings if the damage is less than 60% of its value, and no provisions for nonconforming parcels. Haring's section on nonconformities (§201) has a 12-month period to be considered discontinued, with almost no possible expansion of nonconforming buildings, total replacement of damaged buildings can be done within 12 months of the damage, and requires a nonconforming parcel to remain at the same size, or become larger, and considers adjacent parcels/lots to be one parcel for purposes of zoning. Haring is the only zoning to allow substitution of one nonconforming use with another nonconforming use (§201.4.(b)).

Provisions on nonconformities are required to be a part of zoning by Michigan Statute. Statute requires ability to

continue a use after it is not allowed by a new/amended zoning; must provide for completion, restoration, reconstruction, extension, or substitution of nonconforming uses within reasonable terms (e.g. time, limit of extent of expansion, etc.); and may create different classes of nonconformities with different requirements for each. A zoning authority may also choose to acquire (purchase, condemnation, etc.) nonconforming uses.

The lack of provisions for ability to expand nonconforming uses should be of concern to Wexford, Cedar Creek, and Haring. Wexford and Springville should be concerned about the inability to replace damaged buildings. Wexford, Springville, and Cedar Creek should be concerned about lack of the ability for substitution of nonconforming uses. These three issues should be corrected.

Article 82 for administration of the Ordinance. Normally zoning is administered by a zoning administrator (as an individual or an office). Except for Cedar Creek, each zoning reviewed establishes a zoning administrator (Wexford §7.1 and §7.2; Springville §12.01 and §12.02; Haring §701.1). Cedar Creek creates a building inspection (§1001 and §1101). It is not appropriate to establish an office and procedure of the State Construction Code within a zoning ordinance. One could also argue Cedar Creek does not have zoning administration as a result. This should be corrected.

It is common for these provisions of zoning to rely on the government to create a job description for the zoning administrator (e.g. not putting such material in the zoning ordinance), to have provisions dealing with conflict of interest, and to prohibit elected officials, members of the planning commission, zoning board, and appeals board from acting as the zoning administrator. None of the ordinances reviewed include these provisions.

Article 83 for permit procedures. Permit procedures, in varying degrees of detail, are found in each with the exception of Cedar Creek (Wexford §7.3 and §7.5; Springville §12.03 through §12.05; Haring §702). It is common in contemporary zoning for a site plan to be required for all zoning permit applications (except maybe the most minor (e.g. temporary dwelling, fence, sign only)). Only Haring's zoning does this. It is common in contemporary zoning to require the zoning application to reflect all other applicable permits (except construction, mechanic, electrical, plumbing) have been applied for and received and the site plan shows the related work as approved. None of the zoning reviewed does this. Both these issues should be considered as possible corrections.

Article 85 for conditional uses procedures. None of the ordinances reviewed use conditional uses. (Springville has what its ordinance calls a list of possible conditional uses in some of its zoning districts, but there are no listed conditions to meet – rendering them in essence permitted uses. This should be corrected.)

Article 86 for special uses procedures. Special use permit procedures, in varying degrees of detail, are found in each, with the exception of Cedar Creek (Wexford §10.0

through §10.7; Springville §11.05; Haring §501 through §505 and §706). It is common in contemporary zoning for a site plan to be required for all special use permit applications. It is common in contemporary zoning to require the zoning application to reflect all other applicable permits (except construction, mechanic, electrical, plumbing) have been applied for and received and the site plan shows the related work as approved. None of the zoning reviewed does this and should be considered as a possible change. Other important clauses include an ability to check an application for completeness before starting the review process (not in Springville or Haring), hearing notice requirements (not in Springville or Haring), decision process (not in Springville), standards, possible conditions of approval, performance security (not in Springville), amending the permit (not in Wexford, Springville, or Haring), transfer of the permit (not in Wexford, Springville, or Haring), expiration of the permit (not in Springville or Haring), and enforcement of the permit (not in Springville).

With a county ordinance, consideration should be given to providing notice of the hearing to the government where the land of the special use permit application is located and governments within one mile of that location. Many contemporary ordinances include the notification to governments within one mile of the land where the special use permit might be located.

Wexford's zoning does not include a statement that any specific standards or the General Provisions and respective zoning district requirements must be complied with.

Article 88 for planned unit development procedures. Planned Unit Development (PUD) procedures and processes vary greatly with many possible "proper" ways to handle this process. A PUD can be handled as a zoning amendment, special use permit, or both. Wexford County PUD is an amendment (§6.1). Springville and Cedar Creek do not allow PUD at all. Haring handles PUDs as a zoning amendment (§402).

Articles 90-99 for Ordinance administration.

Article 94 for site plan review process. Site plan review should be a part of the permit review and approval, or special use permit review and approval. A separate process, from the permit, for site plan review could be seen as excessive red tape. A zoning ordinance should also specify once the site plan is approved, the site plan must be followed when the property is developed. This section should focus on the level of detail and content of a site plan review. Some zoning ordinances have different site plan requirements for different levels of complexity of the proposed uses. None of the zoning reviewed here does this. Cedar Creek does not require the use of site plans at all. This is a major deficiency which should be corrected. Overall the required content of site plans are weak, especially for the more complex land uses, and PUDs (Wexford §11.3, Springville §11.05-B(2) and §12.03-A, Haring §206.2 and §702.2(c)).

Article 96 for appeals board. State enabling statute requires that a zoning board of appeals exist. Each of the ordinances reviewed here do so (Wexford §8.1 through §8.4, Springville §13.01 through §13.04, Cedar Creek §1201 through 1209, Haring §703 and §505).

The Wexford County Ordinance fails to fix the number of members on the Appeals Board (§8.1), and does not list the case-law required standards for regulation (dimension) variances and use variances (§8.3(c)). The definition of "variance" implies use variances will not be considered, but then introduces case law's "unnecessary hardship" as possible standards to use – thus confusing the issue (§2). These points should be corrected.

Article 98 for Ordinance amendment, validity, enforcement and penalties. Recent changes to zoning enabling acts allow for civil infraction form of zoning enforcement. This is far more effective. Only Cedar Creek zoning does not have this form of enforcement in place, using instead criminal sanctions or direct law suit (§1301 through §1501). The others use civil infraction system for enforcement (Wexford §7.6, Springville §14.01, Haring §704).

With a county ordinance, consideration should be given to providing notice of any proposed zoning amendment to the government where the land is being rezoned and governments within one mile of that location. Text amendments should include notice to all governments in the county. Many contemporary ordinances include the notification to governments within one mile of where land is proposed for rezoning. Statute requires townships to have their zoning amendments reviewed by the county planning commission prior to adoption. Cities and villages should consider providing notification of the hearing on all amendments to the County Planning Commission.

Cedar Creek does not have any provisions for amending its zoning ordinance. (For such provisions in the other ordinances see: Wexford §12.1 through §12.3, Springville §15.01 through §15.02, Haring §705.).

Zoning for Coordination and Streamlining

Wexford County also has a patchwork of permit systems to handle development, such as new subdivisions, site-condos. Some parts of the county cover their bases with these topics, other parts of the county have no system at all. This is a function suited for county-coordination. The county should consider adopting a land division, subdivision, site-condo, and road access ordinance for this purpose. This can be all one ordinance and would provide coverage where it does not exist and supplement (not replace) local ordinances already in place.

Concerning use of special use permits, site plan review, sending notices to other governments can all be issues which are politically sticky, or suspect by various government leaders. There are a number of facets to these issues.

The following is a summary, or simplification, of the

pros and cons for these issues. It is presented in an attempt to clarify and synthesize the points of debate for consideration in making policy decisions on this topic. Source materials for this discussion are from: Mr. Mark A. Wyckoff, President of Planning and Zoning Center; MSPO Michigan's Trend Future *Institutional Structure For Land Use Decision Making in Michigan*; "Explanation of Planning and Zoning Law in Michigan"; "County Planning in Michigan...The Sleeping Giant" *Planning & Zoning News*; "Toward Integrated Land Use Planning" *Planning & Zoning*

News; "Land Use in America, Past Experience and Future Goals" *Planning & Zoning News*; *Model Zoning Administrator Office Manual*. Michigan State University Extension, Wexford County; "Land Use Regulations, Special Land Uses" and "Land Use Regulations, Planned Unit Development/Clustering" and "Land Use Regulations, Site Plan Review" Chapter Four of *MSPO Community Planning Handbook*.

<u>For Subdivision, One-stop-shopping, Special use permits, Homestead tax, coordination changes</u>	<u>Against Subdivision, One-stop-shopping, Special use permits, Homestead tax, coordination changes</u>
Planning/Zoning Acts & Intergovernmental Coordination	
There should be further --stronger-- coordinating and oversight functions of county planning to accomplish "integrated land use planning."	There is not much to say on this topic (see "other points which do not belong in the above two categories", page 305). Any change requires legislative action to amend or re-write the planning and zoning enabling statutes. That is beyond the scope of this planning process.
Subdivisions	
There should be maximum flexibility in subdivisions so one (developer or landowner) can establish what s/he wants in the subdivision.	
Wexford County should prepare and adopt a Subdivision and Condominium Ordinance, written with the maximum amount of flexibility, minimum standards, and no control over deed restrictions, etc. of a subdivision.	The Wexford County does not have a subdivision ordinance and should not adopt one.
Permits: One Stop Shopping	
To have one location to obtain all needed permits is better customer service.	"One stop shopping" is not one-day service.
Whenever possible to combine into local zoning (for one permit) state programs (such as Natural Rivers, etc.)	Paperwork must be complete, in detail, up-front. Many people do not want or are not capable of doing so.
It may be possible to start one-stop-shopping by use of networked computers rather than any one municipality giving up their turf/jurisdiction/local inspector.	Implementing such a program will cost a lot (to hire staff, to buy, set up and program computers, to have office space).
Special Use Permits/Planned Unit Development/site plan review	
Special Use Permits (including Planned Unit Developments (PUD)) are a very powerful and flexible tool.	Because Special Use Permits are designed for and often involve controversial and troublesome land uses, there can be controversy, delay, and frustration over the process.
	People often do not want, or are not capable of, creating the paperwork and site plans necessary for a smooth Special Use Permit/PUD review.

<u>For Subdivision, One-stop-shopping, Special use permits, Homestead tax, coordination changes</u>	<u>Against Subdivision, One-stop-shopping, Special use permits, Homestead tax, coordination changes</u>
Special Use Permits/PUD are an important tool in zoning. Their value, possible flexibility, possible innovative application, etc. far out-weigh the negatives. With out Special Use Permits/PUD clustering, open space protection, alternatives to commercial strip zoning would not exist. They should not be eliminated.	
<u>Other Points concerning Subdivision, One-stop-shopping, Special use permits, Homestead tax, coordination changes:</u>	
Planning/Zoning Acts & Intergovernmental Coordination	
Lack of state-wide land use planning coordination in Michigan has resulted in a number of serious, functional, long term resource problems in the state:	
<ul style="list-style-type: none"> * Subdivision Control Act's four 10.1 acre parcels in ten years issues, * Farmland Preservation Act (part 361 of PA 451 of 1994, as amended, (being the Farmland and Open Space Preservation part of Michigan Natural Resources and Environmental Protection Act; M.C.L. 324.36101 <i>et. seq.</i> (formerly P.A. 116 of 1974, M.C.L. 554.701 <i>et. seq.</i>)) resulting in "farm," not "agricultural land" preservation, and preservation only where development pressure does not exist. * Public land ownership patterns, without any thought given to where public ownership should occur and where public lands should be divested. * Existing state planning and zoning acts where coordination is poorly defined, not well coordinated, and a disagreement between desire for "home rule" and "no state interference." 	
Township Planning: Mainly use P.A. 168 of 1959, as amended, (being the Township Planning Act, M.C.L. 125.321 <i>et. seq.</i>). This act requires the township planning commission to "consult, in respect to its planning, with representatives of adjacent townships; with the county planning commission..." (§6.(2)). This act also requires the proposed plan be referred to the county planning commission for its approval (§8.) [mandatory, not advisory]. The County Planning Act is also to be considered. Also the Village/City Planning act should be considered in as much as it allows a village/city to plan territory outside the village/city.	
Township Zoning: Mainly use P.A. 184 of 1943, as amended, (being the Township Rural Zoning Act, M.C.L. 125.271 <i>et. seq.</i>). This act requires "the zoning ordinance shall be based upon a plan" (§3.). This act also requires the zoning ordinance to be submitted to the county zoning/planning commission "for a review and recommendation" (§10.) [advisory only]. Because zoning is based on a plan, and because the plan must be approved by the county, the county planning act should also be considered.	
Village/City Planning: Mainly use P.A. 285 of 1931, as amended, (being the Municipal Planning Act, M.C.L. 125.31 <i>et. seq.</i>). This act permits a city/village to also plan for areas outside their political boundary which "bear relation to the planning of the municipality" (§6.). The county Planning Act is also to be considered, but to a lesser extent than a township would have to.	
Village/City Zoning: Mainly use P.A. 207 of 1921, as amended, (being the City or Village Zoning Act, M.C.L. 125.581 <i>et. seq.</i>). There is no reference to zoning being based upon a plan (although some case law does require it). City and village zoning is probably the most autonomous (lack of coordination).	
County Planning: Mainly use P.A. 282 of 1945, as amended, (being the County Planning Act, M.C.L. 125.101 <i>et. seq.</i>). This act requires "coordination of all related plans of the departments of subdivisions of the government concerned" (§4a.(1)(c)) and "Intergovernmental coordination of all related planned activities among the state and local governmental agencies concerned" (§4a.(1)(d)) and It shall be the function of the county planning commission to make a plan for the development of the county, which plan may include planning in cooperation with the constituted authorities for incorporated areas in whole....The county planning commission may serve as a coordinating agency for all planning committees and commissions within the county (§4.)	

County Zoning: Mainly use P.A. 183 of 1943, as amended, (being the County Rural Zoning Act, M.C.L. 125.201 *et. seq.*). This act requires "the zoning ordinance shall be based upon a plan" (§3.) This fact book is created for the development of a plan which would be that zoning plan or the "plan" referenced in the County Planning Act.

County Planning coordination –without any clear or absolute power in statute– is one of persuasion. The process is to have representatives from each municipality in the county and representatives from major interest groups in the county. Goal is to produce a final product –a county plan– which everyone wants to buy-into.

A land use plan becomes the county's statement of policy and guiding principles for inter- and intra- government coordination (County, Road Commission, State of Michigan (DNR), United States (USFS) and municipalities). One use is when the County Planning Commission is reviewing (advisory) township zoning ordinances and village/city plans and when acting on (mandatory) approval of township plans. It is not enough to find lack of coordination along a township political boundary. One should also determine which municipality is "out-of-step" –is causing the conflict. The Land Use Plan establishes the goals and objectives and general land use plan map which is used for this purpose.

A County Planning Commission's duties, as set out in statute include:

- * to make studies, investigations, surveys relative to the economic, social, and physical development of the county;
- * to formulate plans and recommendations for the most effective economic, social and physical development of the county;
- * to cooperate with all state, federal and local governments and public agencies and seek coordination of their programs in the county;
- * to consult with adjacent counties to avoid conflicts in overall county plans;
- * to coordinate programs of all planning committees and commissions in the county;
- * to review county public works proposals;
- * to exercise such powers as may be necessary to fulfill its functions and carry out the purposes of the act;
- * to prepare long range development plans regarding the pattern and intensity of land use, the provision of public facilities, and long range fiscal plans for such development;
- * to program capital improvements based on urgency, together with financing plans for the improvements to be constructed in the earlier years of the program;
- * coordination of all related plans of the departments or subdivisions of the government concerned;
- * intergovernmental coordination of all related planned activities among the state and local governmental agencies concerned;
- * authorization to apply for, receive and accept grants from any governmental agency, or from the federal government;

A specific Planning Commission's role and duties are not the same from county to county. Duties also change from time to time. The role of County Planning depends on what tasks and duties are assigned to the department by the respective county. Some duties are advisory, some require mandatory approval, some are regulatory functions.

*** Advisory only:**

- Township Zoning review (coordination)
- City/Village Plan review (coordination)
- Capital Improvement Plan adoption/review (coordination)
- Capital Improvement projects (land purchase/sale, infrastructure)
- Studies, investigations, surveys, etc.
- Adoption/amend certain county ordinances
- Groundwater protection site plan review service
- Solid Waste planning (advisory to Solid Waste Council) (if delegated to the Commission by the County Board)
- Planning Department budget

*** Mandatory Approval; direct authority:**

- Adoption of County Plans.
- Township Plan approval (coordination).
- Act as the Geographic Information System (GIS) agency (if delegated to the Commission by the County Board).
- Selection of Planning Department staff, consultants.
- Planning Department staff, work priority, office procedure.

*** Regulatory functions:**

- Address administration, address changes, 9-1-1 Master Street Address Guide manager (if delegated to the Commission by the County Board).
- Subdivision and Condominium Control Ordinance administration (lots splits, land divisions, plat reviews)
- Solid Waste Plan implementation (reciprocal agreements)
- Soil Erosion and Sedimentation Control Act board of appeals (if delegated to the commission by the County Board)
- Remonumentation policy committee (if delegated to the commission in the Remonumentation Plan by the County Board)

The above is not a complete list.

Interjurisdictional Coordination Ethic

The following is paraphrased from the *Leelanau General Plan* and is germane here:

The interjurisdiction coordination ethic recognizes that land use and infrastructure decisions of each governmental unit have, over time, an impact on the character of the entire county (indeed, on the entire region). In addition, citizens increasingly recognize they primarily live in a geographic region, instead of merely a single jurisdiction as did our ancestors. For example, people who live in community A may shop in community B. They may go to school in community C, be entertained in community D, and work in communities E and F. They may do all of this in the same day. All citizens are citizens of a single jurisdiction, of a county and of a region. Each has a stake in the future of the local unit of government in which they live, in the county, and in the region. Businesses and industries also share this same stake.

If the mutual goals of this *Plan* are to be achieved, it will take the coordinated efforts of all units of government working together to achieve them.

Subdivisions

Subdivisions in Wexford are handled in an uncoordinated fashion with no county ordinance. Some municipalities have local ordinances, others have it as part of zoning, and most do not have anything.

A County Subdivision and Condominium Ordinance could allow for maximum flexibility and minimum of regulation: coordinated simultaneous review done within 45 days, allows for division of lots, local zoning if stricter applies, deed restrictions if stricter applies; otherwise 15,000 square foot lot (12,000 square foot if public water and sewer is available), 75+ feet wide lots, 100+ feet deep lots, 1:3 width to depth ratio; can use Planned Unit Development pursuant to local zoning (including clustering open space preservation, etc.);

Additional (from state statute) regulation in Wexford County include requiring "as-built" engineering plans; review of any division involving a new road, easement, private road, etc.; uninhabitable areas, natural areas.

Permits: One Stop Shopping

Currently to build a single family home in Wexford one must obtain six to eight permits from up to four different locations. Even more permits (and locations) are required if the project involves water, wetlands, inland lakes and streams.

An inspector --building inspector-- should never be department head or a supervisor. That individual should always answer to another day-to-day supervisor (not a board, not an administrator). There should be a "boss" the public can complain to, and a boss which can over-rule an inspector. There should always be an easy inexpensive appeals process.

To accommodate sharing of zoning administrators between municipalities; ease for the public, real estate agents, developers, economic development efforts by having only one set of procedures to use there should be some standardization. The standardization of zoning codification, permit procedure, zoning forms are major steps in this direction. Also there should be similar general provisions (regulations which generically are applied everywhere).

These ideas make it easier for economic development, but do not diminish the local control for a community. They also make it easier for the public, as the same rules and procedure are then used in each municipality. Thus one does not have to remember how it is done in community A versus the differences in community B.

Special Use Permits/Planned Unit Development/site plan review

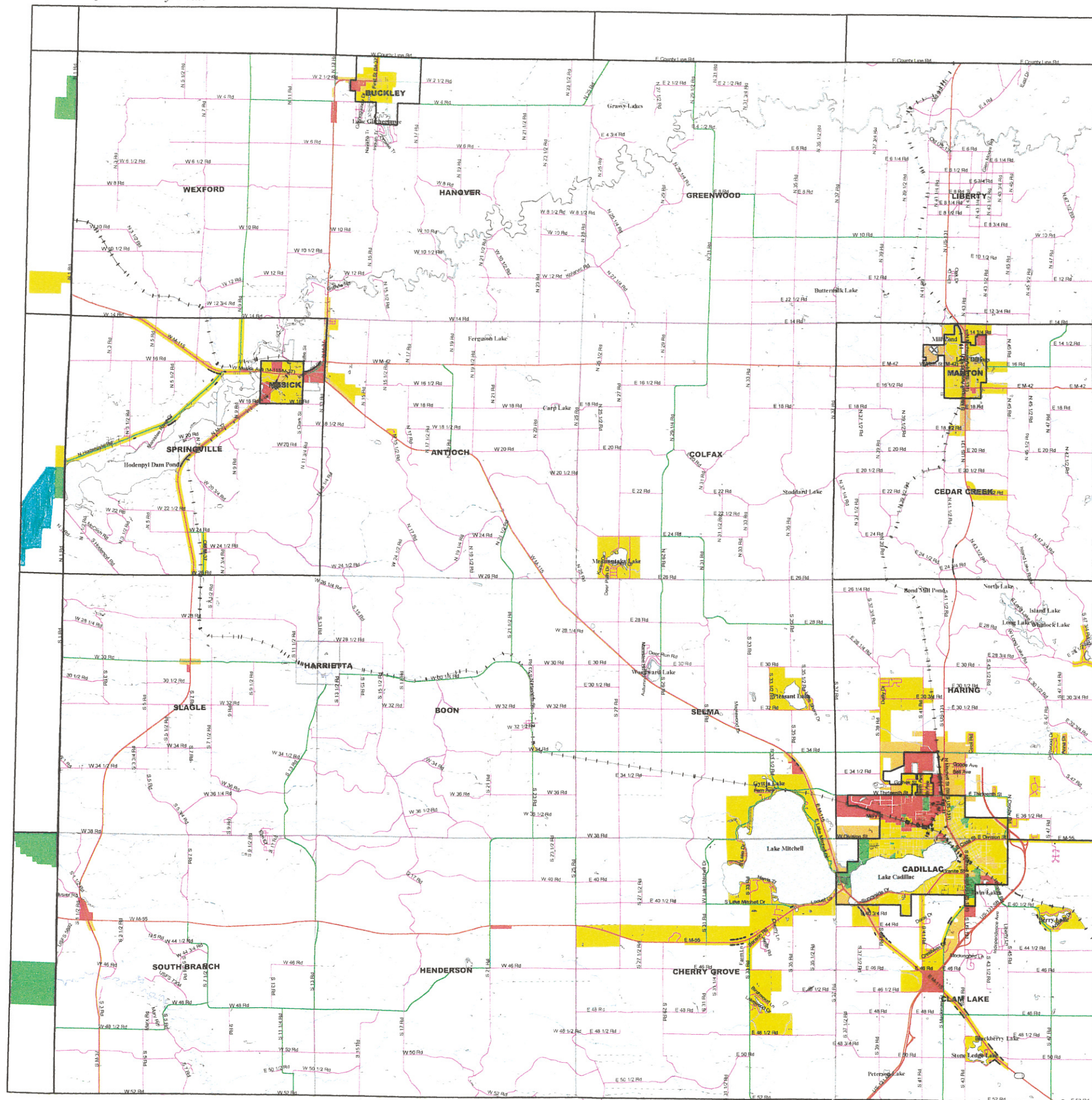
In zoning, there are uses by right. In a zoning district, a list of those land uses which are automatically approved when a permit is applied for.

Also there are special uses. In a zoning district, a list of those land uses which may, or may not, be permitted depending on its higher impact on neighbors, infrastructure, mitigation (screening, buffer, traffic).

Also, there are PUDs. A PUD can be handled as a zoning amendment. Most often a PUD is a special use permit. A PUD is a very flexible type of special use permit: clustering, village unit in its self, golf course with open space and housing in combination, environmental protection (wetland, river) while at the same time a person can get the same number of units/lots/etc. on their land.

For all the above, each involves a site plan. A site plan is a powerful tool. For a special use permit and PUD, it requires a detailed drawing of the property and development. The permit approval is, in the final form, approving a specific drawing. This is easy, as it is drawn, and people can see what is proposed.

Site plan review is the principle tool used for a county-wide system of groundwater protection in Wexford County.



Composite Zoning Map

- Transportation
 - State Highway
 - County Primary
 - County Local
 - City Major
 - City Minor
 - Not Act 51 Certified
 - Railroads
- Composite Zoning
 - CONSERVATION
 - RESOURCE PRODUCTION
 - RURAL
 - RESIDENTIAL
 - MIXED RESIDENTIAL/NON-RURAL
 - COMMERCIAL
 - INDUSTRIAL
 - OTHER
 - NONE

SOURCE: A composite of several sources: Wexford County, Manton City, Buckley Village, Mesick Village, Haring Charter Township, Cedar Creek Township, Springville Township zoning maps; City of Cadillac zoning digitized by the City of Cadillac Geographic Information System (GIS); Source material combined using generalized zoning district categories developed by the Northwest Michigan Council of Governments (Valerie Beversdorf) for use with Geographic Information System (GIS) by the Northwest Michigan Council of Governments and Wexford County GIS by Mike Green.

