

E Environment Committee
Meeting date: July 14, 2009

C Community Development Committee
Meeting date: July 20, 2009

ADVISORY INFORMATION

Subject: Empire Township 2030 Comprehensive Plan Update
Tier II Comprehensive Sewer Plan
Review File No. 20596-1

District, Member: District 16, Councilmember Wendy Wulff

Policy/Legal Reference: Minnesota Statutes Section 473.175

Staff Prepared/Presented: Patrick Boylan, Principal Reviewer (651-602-1438)
Phyllis Hanson, Local Planning Assistance Manager (651-602-1566)
Kyle Colvin, Engineering Services Asst. Manager (651-602-1151)

Division/Department: Community Development/Planning and Growth Management
Environmental Services/Engineering Services

Proposed Action

That the Metropolitan Council adopt the attached Advisory Comments and Review Record, and the following:

Recommendation of the Community Development Committee:

1. Authorize Empire Township to put its 2030 Comprehensive Plan Update into effect; and,
2. Adopt the revised forecasts for population, households, and employment for the City, as detailed in Table 1 of the attached Review Record, along with the share of the regional's affordable housing need as detailed in the Housing section of the Review Record.
3. Require the Township to continue to participate in the Council's Plat Monitoring Program
4. Advise the Township:
 - a. That it will need to apply for wastewater connection permits from the Council at the time services are proposed; and,
 - b. Residential land uses adjacent to the Wastewater Treatment Plant are not compatible and the Township is encouraged to reevaluate this guiding.

Recommendation of the Environment Committee:

Approve Empire Township's Tier II Comprehensive Sewer Plan.

ADVISORY COMMENTS

Empire Township 2030 Comprehensive Plan Update and Tier II Comprehensive Sewer Plan

Review File No. 20597-1 – Council Business Item No. 2009-242

The following Advisory Comments are part of the Council action authorizing the Township to implement its 2030 Comprehensive Plan Update ("Update") and approving the Township's Tier II Comprehensive Sewer Plan:

Community Development Committee

1. The Council-adopted *Local Planning Handbook* states that the City must take the following steps:
 - (a) Adopt the Update in final form after considering the Council's review recommendations; and
 - (b) Submit one electronic copy and one hard copy of the Update to the Council. The electronic copy must be organized as one unified document.

A copy of the City Council resolution evidencing final approval of the Update should be submitted to the Council.

2. The Council's *Handbook* also states that local governments must formally adopt their comprehensive plans within nine months after the Council's final action. If the Council has recommended changes, local governments should incorporate those recommended changes into the plan or respond to the Council before "final approval" of the comprehensive plan by the governing body of the local governmental unit. (Minn. Stat. § 473.858, subd. 3).
3. Local governmental units must adopt official controls as described in their adopted comprehensive plans and must submit copies of the official controls to the Council within 30 days after official controls are adopted. (Minn. Stat. § 473.865, subd. 1).
4. Local governmental units cannot adopt any official controls or fiscal devices that conflict with their comprehensive plans or which permit activities in conflict with the Council's metropolitan system plans. (Minn. Stat. §§ 473.864, subd. 2; 473.865, subd. 2). If official controls conflict with comprehensive plans, the official controls must be amended within nine months following amendments to comprehensive plans. (Minn. Stat. § 473.865, subd. 3).

Environment Committee

1. The Council-approved Tier II Comprehensive Sewer Plan becomes effective only after the Update also receives final approval by the Township's governing body. After the Update receives final approval by the Township and the Tier II Sewer Plan becomes effective, the Township may implement its Update to alter, expand or improve its sewage disposal system consistent with the Council-approved Tier II Sewer Plan.
2. A copy of the Town Board Resolution adopting its Update, including the Tier II Sewer Plan, must be submitted to the Council.

Background

Empire Township (Township) is located in central Dakota County surrounded by Rosemount, Coates, Vermillion Township, Caste Rock Township, the City of Farmington and the City of Lakeville (Figure 1).

The *2030 Regional Development Framework* (RDF), as adopted by the Metropolitan Council (Council) in January 2004, identified Empire Township partially as a “developing community” and partially as an “agricultural area” geographic planning area (Figure 2).

The Township submitted its 2030 Comprehensive Plan (Update) to the Council for review to meet the Metropolitan Land Planning Act requirements (Minn. Stat. 473.175) and the Council’s 2005 Systems Statement requirements.

Rationale – Standard of Review & Findings

1. Does the proposed Update conform to Regional Systems Plans?
2. Is the Update consistent with Metropolitan Council policies?
3. Is the Update compatible with plans of adjacent governmental units and plans of affected special districts and school districts?

Conformance with Regional Systems Plans:

- | | |
|---|-----|
| 1. Regional Parks | Yes |
| 2. Transportation including Aviation | Yes |
| 3. Water Resources Management
(Wastewater Services and Surface Water Management) | Yes |

Consistent with Council Policy Requirements:

- | | |
|---|-----|
| 1. Forecasts | No |
| 2. Housing | Yes |
| 3. 2030 Regional Development Framework and Land Use | Yes |
| 4. Individual Sewage Treatment Systems (ISTS) Program | Yes |
| 5. Water Supply | Yes |

Compatible with Plans of Adjacent Governmental Units and Plans of Affected Special Districts and School Districts

1. Comments were received from Lakeville and Farmington concerning Empire’s forecasts, recent annexation areas, and mapping issues.

Known Support / Opposition

There is no known opposition.

REVIEW RECORD

Empire Township 2030 Comprehensive Plan Update

STATUTORY AUTHORITY

The Metropolitan Land Planning Act (MLPA) requires local units of government to submit comprehensive plans and plan amendments to the Council for review and comment (Minn. Stat. § 473.864, Subd. 2). The Council reviews plans to determine:

- *Conformance with metropolitan system plans,*
- *Consistency with other adopted Plans of the Council, and*
- *Compatibility with the Plans of other local jurisdictions in the Metropolitan Area.*

The Council may require a local governmental unit to modify any plan or part thereof if, upon the adoption of findings and a resolution, the Council concludes that the Plan is more likely than not to have a substantial impact on or contain a substantial departure from metropolitan system plans (Minn. Stat. § 473.175, Subd. 1).

Each local government unit shall adopt a policy plan for the collection, treatment and disposal of sewage for which the local government unit is responsible, coordinated with the Metropolitan Council's plan, and may revise the same as often as it deems necessary. Each such plan shall be submitted to the Council for review and shall be subject to the approval of the Council as to those features affecting the Council's responsibilities as determined by the Council. Any such features disapproved by the Council shall be modified in accordance with the Council's recommendations (Minn. Stat. § 473.513).

CONFORMANCE WITH REGIONAL SYSTEMS

Regional Parks

Parks and Trails

Reviewer: Jan Youngquist, CD – Regional Parks System Planning, (651-602-1029)

The Update conforms to the *2030 Regional Parks Policy Plan*. The Update acknowledges the regional parks system facilities in Empire Township, which include Vermillion Highlands (Empire Wetlands) Regional Park, the Vermillion River Greenway Regional Trail Search Corridor and the Vermillion Highlands Greenway Regional Trail Search Corridor.

Transportation

Roads and Transit

Reviewer: Elaine Koutsoukos, MTS – Systems Planning (651-602-1717)

The Update conforms to the *2030 Transportation Policy Plan (TPP)*. The transportation element addresses all the applicable transportation and transit requirements of TPP adopted in 2004.

There are no metropolitan highways located within the Empire Township and there are no planned improvements to the transportation system in Empire Township before 2030.

Empire Township lies within Transit Market Area IV. Service options for Market Area IV include dial-a-ride, volunteer driver programs, and ridesharing. General public dial-a-ride service is provided by Dakota Areas Resources and Transportation for Seniors (DARTS).

Advisory: The TAZ-allocation element is inconsistent with data found in the Systems Statement for Empire Township. However, the data provided in the Update for TAZs is consistent with growth figures throughout the Update. See "Forecasts" section below.

Aviation

Reviewer: Chauncey Case, MTS – Systems Planning (651-602-1724)

The Update conforms with the *Aviation* policies in the *2030 Transportation Policy Plan*.

Water Resources Management

Wastewater Service

Reviewer: Kyle Colvin, ES – Engineering Services, (651-602-1151)

The Update is in conformance with the *2030 Water Resources Management Policy Plan (WRMPP)*. The Update summarizes the Township's vision for the next 20 years or to year 2030. It includes forecasts that are consistent with the Council's recommended forecasts for population, households, and employment.

The Metropolitan Council Environmental Services currently provides wastewater treatment services to the Township. Wastewater generated within the Township is conveyed to and treated at the Metropolitan Council's Empire Wastewater Treatment Plant in Empire Township. The Township of Empire is served by interceptor 7103. The Update projects that the Township will have 2,820 sewered households and 260 sewered employees by 2030. The Metropolitan Disposal System with its planned scheduled improvements has or will have adequate capacity to serve the Township's growth needs.

The Update provides sanitary flow projections in 5-year increments. The rationale, for the projections, is given in the Update and determined appropriate for planning for local services.

The sanitary sewer Plan, as submitted, identifies potential future connections points to the Council's interceptor system. Although the Council has no issue with providing the Township with future wastewater services, the exact connection points for this service are not approved at this time. The Township will need to apply for wastewater connection permits from the Council at the time services are proposed.

The Update identifies an area south of 190th Street West, and east of Biscayne Avenue for future residential land use. This area is immediately adjacent to the Council's existing Empire Wastewater Treatment Plant (WWTP). Residential land uses in close proximity to the WWTP would not be compatible and the Township is strongly encouraged to re-evaluate the proposed residential land use in this area.

Empire Township is not currently a community that has been identified as impacted by wet weather occurrences. The Update however does include an I/I reduction plan which includes inspection and regular maintenance of the sanitary disposal system. The Township has adopted ordinance provisions to eliminate the connection of foundation drains, sump pumps, roof drains, and other sources of I/I to the sanitary sewer system.

Tier II Comments

Council staff reviewed the Update’s Tier II Sewer Element against the Council’s requirements for Tier II Comprehensive Sewer Plans for developing /agricultural area communities, and found it complete and consistent with Council polices. The Council’s approval of the Tier II Plan becomes effective upon the Township’s adoption of the Update. At that time, the Township may alter, expand or improve its sewage disposal system consistent with the approved Tier II Sewer Plan. A copy of the Township Council Resolution adopting the final Update needs to be submitted to the Metropolitan Council for its records.

Surface Water Management

Reviewer: Judy Sventek, ES – Water Resources Assessment (651-602-1156)

The Update conforms with the WRMPP for local surface water management. Empire Township lies within the Vermillion River watershed. The Vermillion River Joint Powers Board’s watershed management plan was approved by the Board of Water and Soil Resources (BWSR) in 2005. Empire Township was part of a joint partnership that prepared a local water management plan (LWMP) for 12 rural communities in the Vermillion River Watershed in 2008. Empire Township adopted the Dakota County Rural Collaborative Local Water Management Plan as its required LWMP in October 2008.

The LWMP was found to be consistent with Council policy and the Council’s WRMPP. The Township’s LWMP fulfills the Council’s requirements for local surface water management plans.

CONSISTENCY WITH COUNCIL POLICY

Forecasts

Reviewer: Dennis Farmer, CD - Research, (651-602-1552)

The Update is inconsistent with Council policies for forecasts. The Update proposes Township-preferred forecasts which differ from Metropolitan Council forecasts. The document lists these forecasts, which are shown in the table below.

The Plan Update originally submitted in May 2009 contained forecasts for the entire city, but lacked forecasts for sewered population, households and employment. Sewered-area forecasts are required by the Council. On June 10, 2009, the Township’s consultant provided supplemental materials which included the necessary sewered-area forecasts (attached as Figure 5). The final version of the Update needs to incorporate these sewered-area forecasts within the body of the document.

The plan presents Township-preferred forecasts which exceed Council forecasts in 2020 and 2030. These forecasts are based upon the township’s anticipation that 718

net residential acres will be added to the MUSA, and assumptions about the timeline of development within the MUSA. The Township’s revised forecasts are presented in the table below.

Table 1: Empire Township’s Preferred Forecasts

		2010	2020	2030
Population	Sewered	2,050	5,040	7,980
	Unsewered	450	560	520
	Total	2,500	5,600	8,500
Households	Sewered	700	1730	2820
	Unsewered	150	200	180
	Total	850	1,930	3,000
Employment	Sewered	140	190	260
	Unsewered	160	200	220
	Total	300	390	480

Council staff find the Township’s forecast revisions reasonable, and recommends that the Council revises the Township’s official forecasts.

Advisory Note: In the discussion of forecasts, the *Sanitary Sewer Plan* states that the Township’s revised population of 8,490 people is based upon an “optimum” growth rate by 2030. Earlier in the document, however, the Update uses the 8,490 population as its expected forecasted growth (Table 12, page 19). The term “optimum” development is used to describe higher forecasts which are based upon available land within the MUSA, and which exceed the city’s growth expectations. The document needs to be consistent in distinguishing its expected forecasts and its optimum growth projections.

The city’s preferred forecasts raise the affordable housing needs calculation to 147 housing units.

2030 Regional Development Framework and Land Use

Reviewer: Lisa Barajas, CD – Local Planning Assistance, (651-602-1895)

The Update is consistent with the *2030 Regional Development Framework (RDF)*, based on the revised materials concerning land use and densities received on June 10, 2009, and June 11, 2009 from the Township’s planning consultant. The RDF designates the Township as both a Developing community and an Agricultural community. Areas within the designated MUSA in the southwestern part of the Township are considered Developing, while the remainder of the Township outside of the MUSA is designated as Agricultural.

**Table 8
Existing Land Use Acreages**

<u>Category</u>	<u>Gross Acres</u>	<u>Wet/Flood</u>	<u>Net Acres</u>	<u>Net %</u>
Agriculture/Vacant	10,841.42	1763.39	9078.03	44.9
Single Family Residential	1,196.67	220.28	976.39	4.8
Multiple Family Residential	15.16	0.81	14.35	0.1
Commercial	158.78	13.67	145.11	0.7
Industrial	1,118.94	182.57	936.37	4.6
UMore Park/WMA	4,528.48	542.85	3,985.63	19.7
Public/Institutional	638.54	305.44	333.10	1.6
Park/WMA/AMA	1512.11	959.55	561.56	2.8
Utility	10.09	-	10.09	0.1
Railroad	48.83	4.78	44.05	0.2
Right-of-way	134.23	6.45	127.78	0.6
Wetland/Floodplain	-	-	3,999.79	19.8
TOTAL	20,212.25	3,999.79	20,212.25	99.9%

Source: Dakota County GIS; Resource Strategies Corporation

Source: Empire Township Comprehensive Plan, Table 8, page 9

Developing Community Policies

The RDF directs Developing communities to accommodate growth, support centers along corridors, encourage connected land use patterns, and encourage the development of communities where shopping, jobs, and a variety of housing choices co-exist by design. Developing communities are also expected to accommodate sanitary sewer residential growth at a net density of at least three (3) units per net acre. The Update contains policies to establish densities of three units per acre in new developments with access to public utilities, require staging of new residential development to be consistent with utility staging plans, and has guided commercial and industrial land uses in areas with convenient access to transportation networks.

The Township currently has 534 gross acres within the MUSA and is planning to add another 1,092 acres by 2030. By 2030, the Township will have 1,465 gross acres guided for Mixed Residential use within the MUSA. Due to the existing large parcel in the area, the Township has adopted ordinances that require a 70%-30% mix (70% = attached housing; 30% = detached housing) within the development, rather than guiding separate areas for different residential density ranges. Detached housing is required to have a minimum lot size of 15,000 square feet (maximum density of 3 units per acre), and attached housing is allowed a maximum density of 6 units per acre.

The Mixed Residential future land use category continues the use of that ordinance proposing to increase the amount of attached housing. This would change the detached to attached ratio to 60%-40% to allow for higher densities for conventional subdivisions, and even higher densities in subdivisions using the planned unit development (PUD) provisions. The resulting average net density of the attached and detached housing areas is 3 units per acre. Recent subdivision data submitted for the

Township using the new ordinance included the Providence Townhomes with a net density of 9.1 units per net acre.

Agricultural Community Policies

The RDF directs Agricultural communities to maintain agricultural land uses through 2030, preserve prime agricultural lands, and preserve land for efficient expansion of post-2030 regional urban infrastructure. Agricultural communities are expected to limit residential development and to maintain densities of no more than 1 housing unit per 40 acres. The Update contains a goal of preserving agriculture as a long term land use within the Township, minimizing the development of non-farm residential uses in the agriculture district, and to prohibit development that requires public services and utilities in the agricultural area.

Outside of the Metropolitan Urban Services Area (MUSA), the Township is designated as Agricultural. The primary existing use in this area is agricultural, comprising 45% of the land within the Township. A significant portion of this part of the Township is under public ownership, including UMore Park, the Empire Wastewater Treatment Facility, the Vermillion Highlands Wildlife Management Area (WMA) in the center of the Township. The Township has guided this area as Agriculture with a maximum density of one unit per 40 acres. Extractive uses are also guided as a Mining Overlay Area in the northern and eastern parts of the Township. The Township’s policies for the Agricultural planning area are consistent with the RDF.

**Table 13
Future Land Use Acreages**

<u>Category</u>	<u>Gross Acres</u>	<u>Wet/Flood</u>	<u>Net Acres</u>	<u>Net %</u>
Agriculture	10,592.57*	1,669.84	8,922.73	44.1
Mixed Residential	1,464.78	307.98	1,156.80	5.7
Neighborhood Commercial	5.15	-	5.15	0.0
Highway Commercial	6.15	-	6.15	0.0
Light Industrial	269.97	0.17	269.80	1.3
Alternative Energy Industrial	45.23	-	45.23	0.2
UMore Park	1,695.23	114.79	1,580.44	7.8
Public/Institutional	619.93	305.28	314.65	1.6
Park/Open Space	722.24	256.27	465.97	2.3
WMA	4,031.54	1233.45	2,798.09	13.9
Utility	0.11	-	0.11	0.0
Railroad	48.83	4.78	44.05	0.2
Right-of-way	137.80	6.45	131.35	0.7
OAA	572.72	100.78	471.94	2.3
Wetland/Floodplain	-	-	3,999.79	19.8
TOTAL	20,212.25	3,999.79	20,212.25	99.9%

* Includes 5920 acres of Mineral Extraction Overlay & >1000 acres current permitted operations

Source: Dakota County GIS; Resource Strategies Corporation

Source: Empire Township Comprehensive Plan, Table 13, page 22

Advisory Comments

The Township needs to continue to participate in the Council's Plat Monitoring Program as a part of their effort in achieving a net density of at least three (3) units per acre within the MUSA.

The Update makes the statement in the Natural Resources Section H on page 33 that there are "no lakes, rivers, or streams in the City." However, Figure 3 on page 13 clearly identifies the location of two intermittent Vermillion River tributaries within City boundaries. The Update should be modified to correct this inconsistency.

Housing

Reviewer: Linda Milashius, CD – Livable Communities, (651-602-1541)

The housing element fulfills the affordable housing planning requirements of the Metropolitan Land Planning Act.

The Update acknowledges the city's share of the region's 2011-2020 affordable housing need as 100 units. However, based on the growth projections shown in the submitted Update, that number will increase to 147 units (see "Forecasts" section above). The Update needs to be revised before final adoption of the Update to reflect this change.

To provide opportunities to meet this need, the Update indicates that approximately 437 acres of land will be available through 2020 within the Mixed Residential land use area, with a development density range of 3-6 units per net acre. When calculating the region's affordable housing need, the Council based its analysis of land needed to accommodate that need at a minimum of 6 units per acre. Although encouraging development at this density does not guarantee that affordable housing will be built, it does provide one of the best means for encouraging it to happen.

The Township has been notified that the proposed Land Use plan, which sets a minimum residential development density at 3 units per net acre, will not provide the opportunities needed for the township to address its share of the regions affordable housing need. The plan provides the implementation tools and programs the township will use to promote opportunities to address its share of the region's housing need. The Update indicates the township will work with Minnesota Housing, and the Dakota County Community Development Agency Development Agency (CDA), which offers a number of services to assist in the creation and preservation of affordable housing. The CDA partners with local communities to develop and manage housing choices for seniors, low- and moderate-income families and minorities. Empire Township is a participant in the Local Housing Incentives Account program of the Livable Communities Act.

Individual Sewage Treatment Systems (ISTS) Program

Reviewer: Jim Larsen, CD – Local Planning Assistance, (651-602-1159)

The Update is consistent with the 2030 WRMPP for ISTS. The Update indicates there are approximately 195 ISTS in operation serving residences and businesses in the Township.

The Township has adopted Dakota County ISTS Ordinance #113, which is consistent with MPCA Rules and Council policy requirements. Dakota County maintains maintenance management recordkeeping and ISTS owner notification for the

Township, and the Township is responsible for review, permitting, inspections of new and existing ISTS, and enforcement of maintenance management requirements. Violations, complaints, and potential system repairs are referred to the Building Official for enforcement. If the Building Official cannot remedy violations and corrections through normal enforcement procedures, the matter is turned over to the Township Attorney for prosecution.

Water Supply

Reviewer: Sara Smith, ES – Water Supply Planning, (651-602-1035)

The Update is consistent with the Council's 2030 Water Resources Management Policy Plan. The Council encourages the city to continue to promote the efficient use of water through water conservation education.

Resource Protection

Historic Preservation

Reviewer: Patrick Boylan, CD – Local Planning Assistance, (651-602-1438)

The Update contains a section on Historic Preservation as required by the MLPA.

Solar Access Protection

Reviewer: Patrick Boylan, CD – Local Planning Assistance, (651-602-1438)

The Update contains a section on Solar Access Protection as required by the MLPA.

Aggregate Resources Protection

Reviewer: Jim Larsen, CD – Local Planning Assistance, (651-602-1159)

The Update contains adequate information on aggregate resources protection as required by the MLPA. It identifies, consistent with *Minnesota Geological Survey Information Circular 46* information, the presence and location of significant aggregate resource deposits within the Township. There are currently six separate ongoing mining operations in the Township. Approximately 6000 acres of the Township's 10,000 acres of land designated for agricultural land use is also designated Mineral Extraction Overlay area.

PLAN IMPLEMENTATION

Reviewer: Patrick Boylan, CD – Local Planning Assistance, (651-602-1438)

The Update includes a description of:

- Capital Improvement Program Yes
- Zoning Code Yes
- Subdivision Code Yes
- ISTS Codes Yes
- Housing Implementation Program Yes

The Update contains a description of zoning categories, a CIP summary and a description of the Township's implementation tools.

COMPATIBILITY WITH PLANS OF ADJACENT GOVERNMENTAL UNITS AND PLANS OF AFFECTED SPECIAL DISTRICTS AND SCHOOL DISTRICTS

The Township submitted the 2030 Comprehensive Plan Update to adjacent local units of government, school districts, counties and special districts for comment in June 2008. Comments were received by the cities of Lakeville and Farmington:

- Lakeville: land use maps should show recent annexations.
- Farmington: the forecast numbers are not consistent with the Township's Systems Statement; and, the City wants to work with the Township on trail connections.

Overall, no compatibility issues with plans of adjacent governmental units and plans of affected special districts and school districts were indicated.

DOCUMENTS SUBMITTED FOR REVIEW:

- Empire Township 2030 Comprehensive Plan, dated May 29, 2009
- Comprehensive Plan Transmittal form
- Supplemental Information on sewered forecasts and mixed residential zoning districts, received June 10, 2009
- Supplemental Information on implementation and residential land use mix ratios, received June 11, 2009
- Supplemental Information on water supply, received June 12, 2009

ATTACHMENTS

- Figure 1: Location Map Showing Regional Systems
- Figure 2: 2030 Regional Development Framework Planning Areas
- Figure 3: Existing Land Use
- Figure 4: 2030 Planned Land Use
- Figure 5: June 10, 2009 forecast data

**Figure 1. Location Map Showing Regional Systems
Empire Twp.**

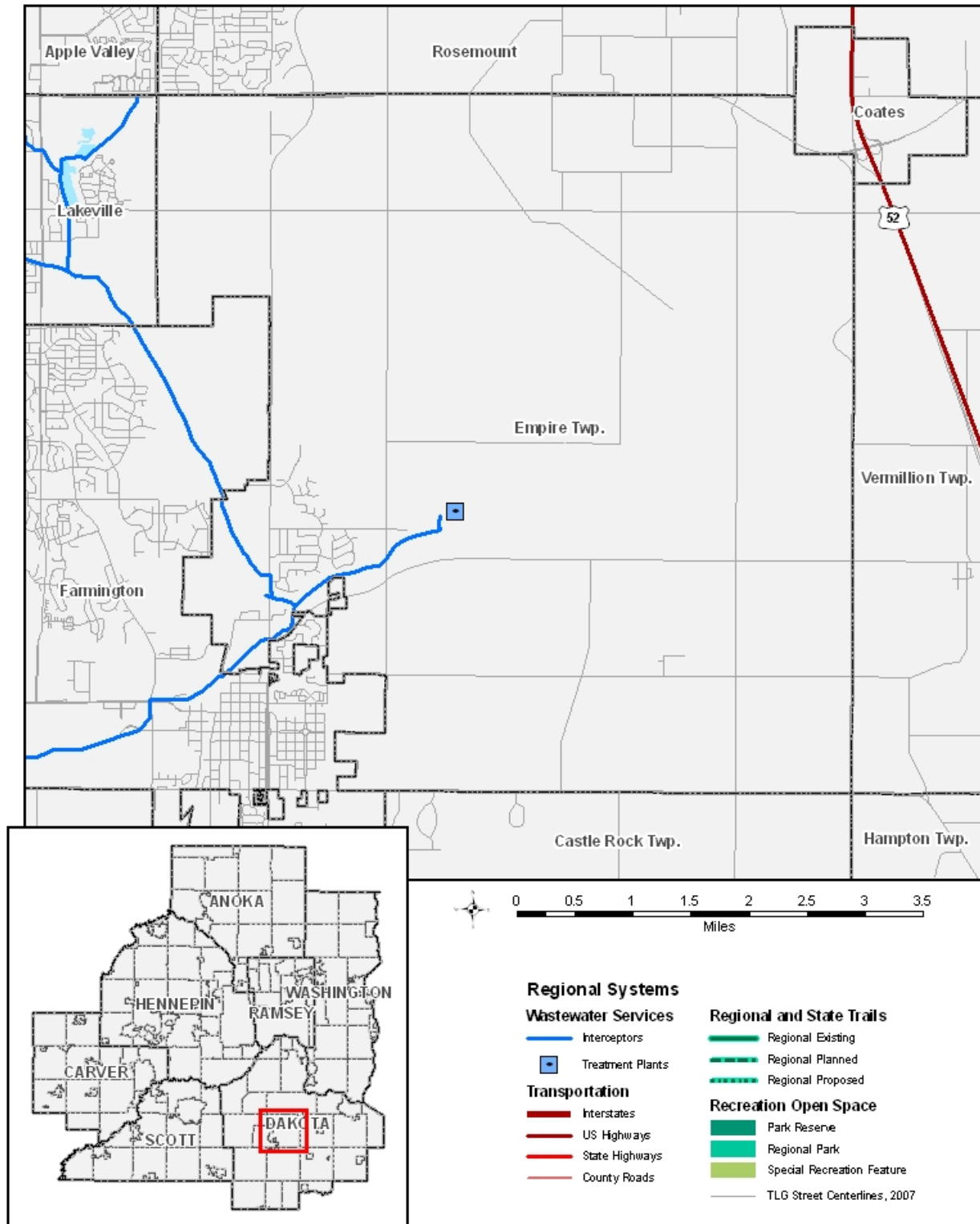


Figure 2. 2030 Regional Development Framework Planning Areas
Empire Twp.

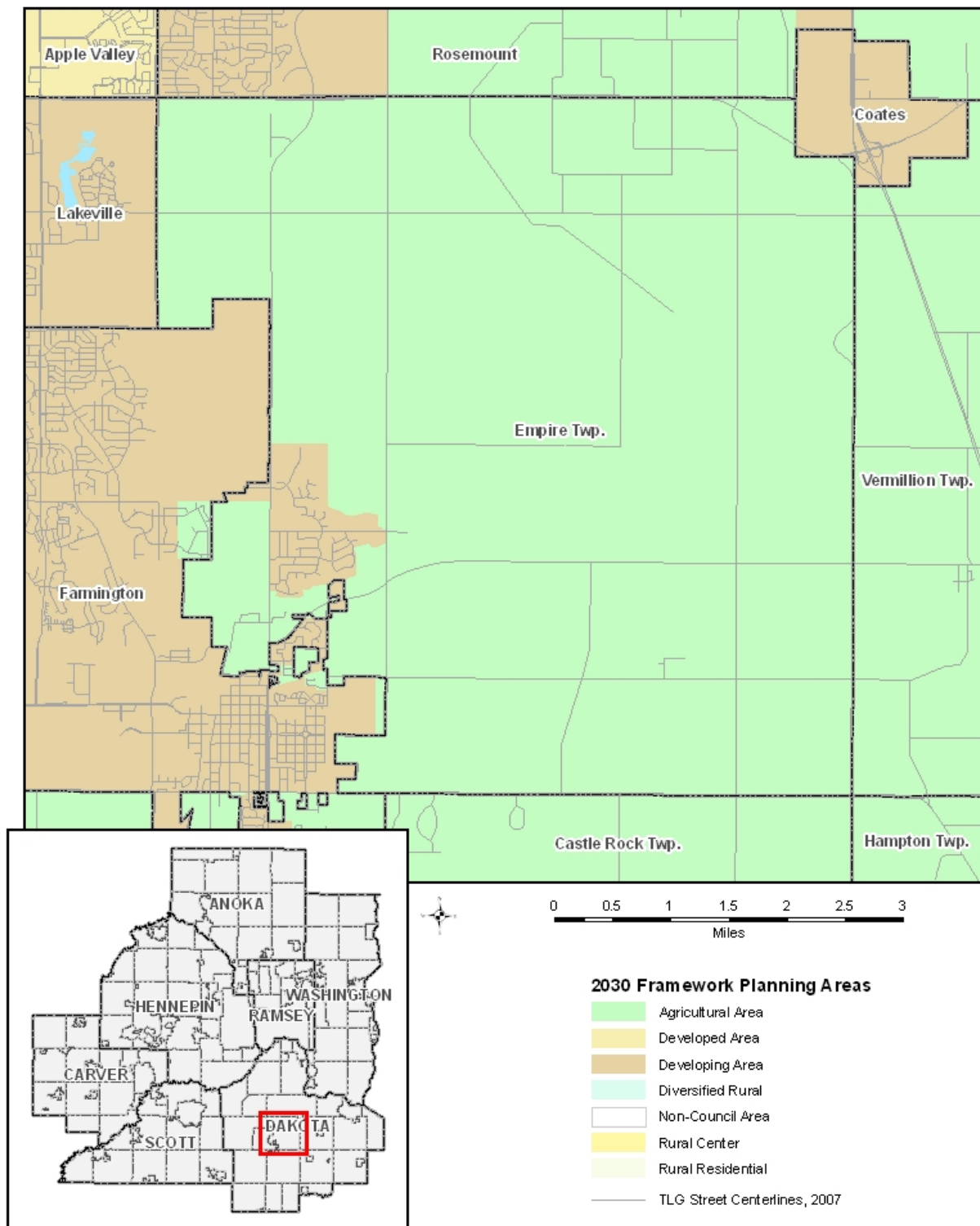


Figure 3: Existing Land Use

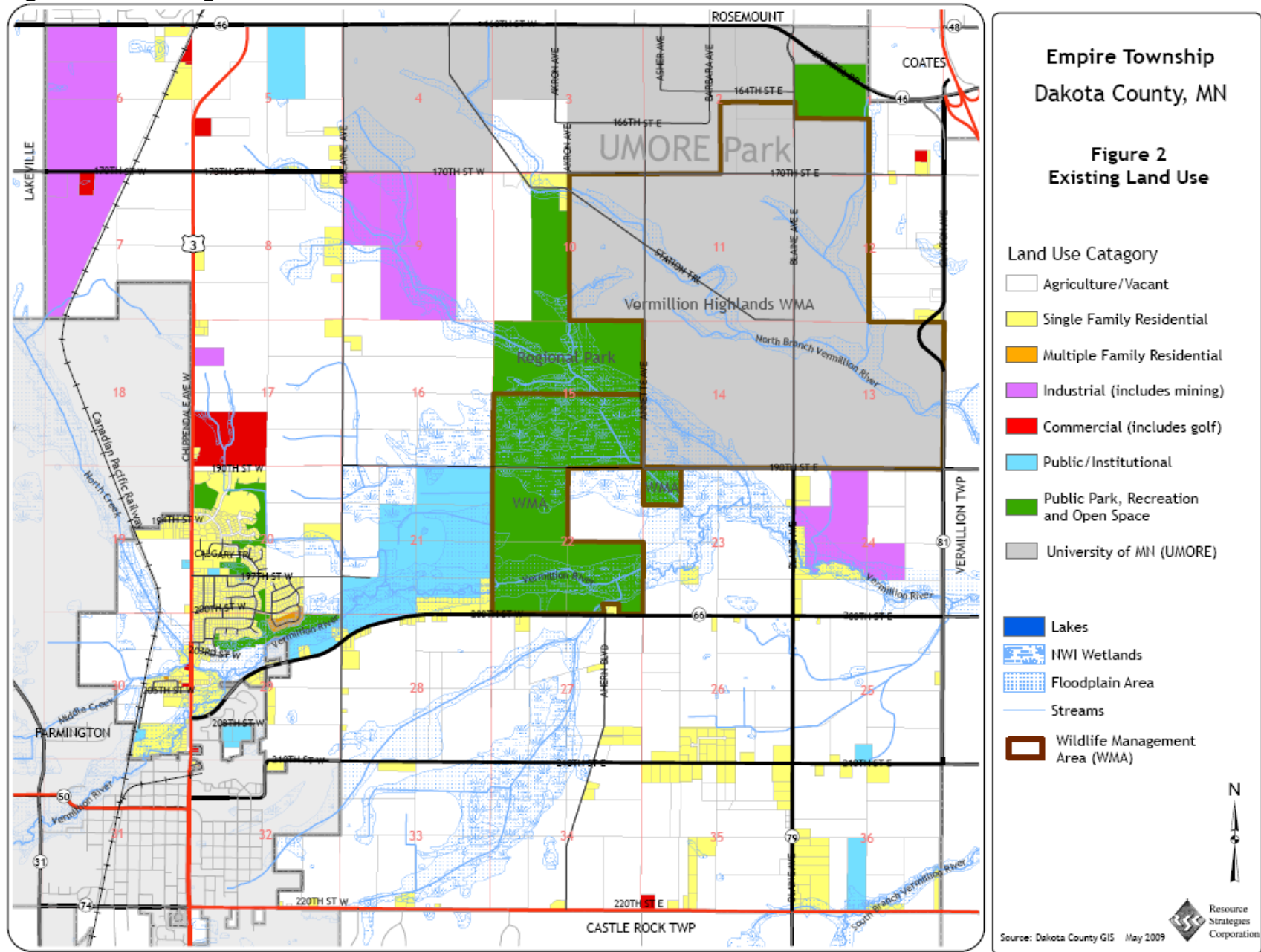


Figure 4: Future Land Use

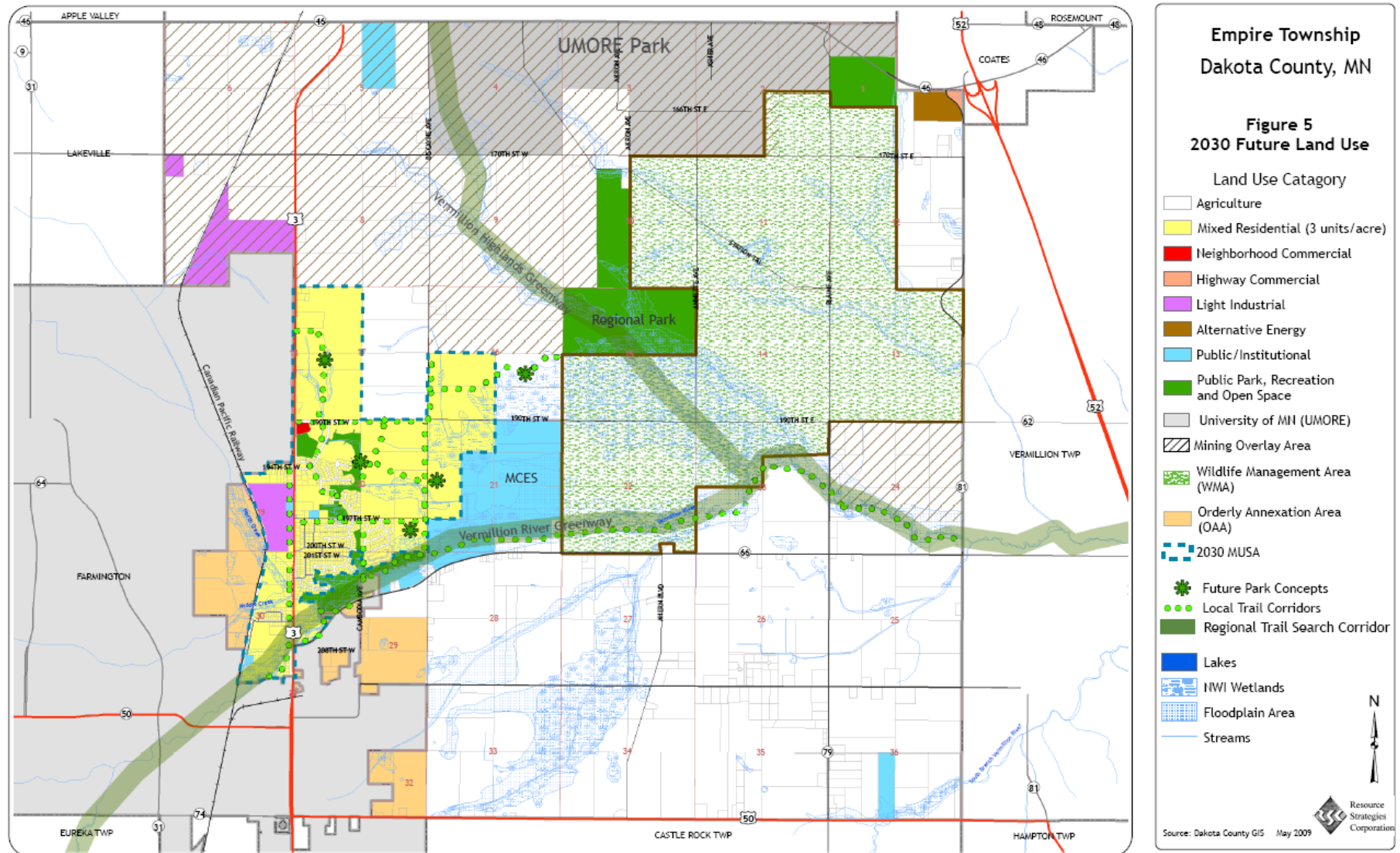


Figure 5: June 10, 2009 forecast data

Estimate of sewered forecasts:

Sewered Forecasts	2010	2020	2030
Households	700	1730	2820
Population	2,050	5,035	7,980
Employment	140	190	260

The Sewer Plan statement (page 5, section IIC, third sentence) will be revised to read:

“Table 11 of the 2030 Comprehensive Plan shows the optimum growth potential within the existing MUSA and MUSA expansion areas through 2030.”