

**C** Community Development Committee  
For the Metropolitan Council meeting of August 27, 2008

**ADVISORY INFORMATION**

**Date Prepared:** April 22, 2008

**Subject:** Development Ordinances in Diversified Rural Area

**Proposed Action:**

That the Metropolitan Council:

1. Direct staff to obtain proposed residential development ordinances from communities in the Diversified Rural area so the Metropolitan Council can review those ordinances for consistency with Council policies and metropolitan system plans.
2. As part of the comprehensive plan and plan amendment review processes, remind communities that residential development ordinances implemented within the Diversified Rural planning area must be consistent with the Council policy to accommodate growth in a flexible, connected, and efficient manner.
3. Advise communities identified as having a Long Term Service Area by the *2030 Water Resources Management Policy Plan* that existing or proposed development ordinances and other official controls (e.g., cluster, open space, and density bonus provisions) that allow deviation from the Council's density policies are inconsistent with metropolitan system plans and therefore prohibited by Minnesota Statutes sections 473.858 and 473.865.

**Summary of Committee Discussion / Questions:**

At the Community Development Committee meeting of April 21, 2003, Local Planning Assistance Manager Phyllis Hanson presented the report and proposed actions to the Committee. The Committee asked how and when this information will be distributed to the communities. Hanson explained the next steps and that staff was working on guidelines and parameters for flexible residential development ordinances in the Long-Term Wastewater Service Area to assist communities in developing acceptable ordinances.

The Committee voted unanimously to recommend approval of the proposed actions (6-0).



# Community Development Committee

Business Item

Item: 2008-94

Meeting date: April 21, 2008

ADVISORY INFORMATION	
<b>Date:</b>	March 28, 2008
<b>Subject:</b>	Development Ordinances in Diversified Rural Areas
<b>District(s), Member(s):</b>	All
<b>Policy/Legal Reference:</b>	Metropolitan Land Planning Act (Minn. Stat. § 473.175)
<b>Staff Prepared/Presented:</b>	Phyllis Hanson, Manager, Local Planning Assistance 651-602-1566 Guy Peterson, Community Development Div. Dir. 651-602-1418
<b>Division/Department:</b>	Community Development / Planning & Growth Management

## Proposed Action

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3. Advise communities identified as having a Long Term Service Area by the *2030 Water Resources Management Policy Plan* that existing or proposed development ordinances and other official controls (e.g., cluster, open space, and density bonus provisions) that allow deviation from the Council's density policies are inconsistent with metropolitan system plans and therefore prohibited by Minnesota Statutes sections 473.858 and 473.865.

## Background

The Diversified Rural Area Study Group was formed to provide direction on implementing the *2030 Regional Development Framework* (RDF) policies for Diversified Rural Areas. The topic focus was the role of flexible residential development ordinances, such as cluster ordinances and density bonuses, in the Diversified Rural Area, particularly in areas located in the Long-Term Service Area for regional wastewater. Staff undertook a study to review existing cluster and density bonus ordinances in Diversified Rural communities to better evaluate their impact on planning and development, and to determine whether application of the ordinances results in development at densities that are consistent with the Council's adopted policy plans (see attached report).

Communities in the Diversified Rural area have a wide range of flexible residential development ordinances with diversity of names for those ordinances. Commonly used names include open space design, rural preservation, rural density bonus, cluster development, and urban reserve. The common thread among these residential ordinances is that they allow for flexibility in the lot size, layout, and design standards of the underlying zoning district, whether it be increased density, preservation of open space, reduction in minimum individual lot sizes, provisions for shared on-site sewage treatment systems, or some combination of these and other similar provisions. For the purposes of this report and the attached study, these ordinances are referred to as 'flexible development ordinances,' with a focus on those ordinances regulating residential development.

## Flexible Development Ordinance Study

There are 51 communities wholly or partially designated as Diversified Rural, with 22 of them having flexible development ordinances *and* being located within the long-term service area (LTSA) for regional wastewater treatment. The staff reviewed the flexible development ordinances in these communities and assessed the

consistency of those ordinances with Diversified Rural policies. Staff reviewed the flexible development ordinances, calculating allowable gross and net densities based on meeting the requirements and satisfying criteria to receive bonus density units. The ordinances were also reviewed to ascertain the resulting type of development pattern allowed when following the specific ordinance requirements.

- Eleven of the 22 subject communities allow and promote future development in the required open space areas within a development. These communities also require build-out plans or ghost platting of the open space areas as a part of project approval, with the idea of extending urban services to these areas at some point in the future. Nine of these communities are located in Scott County, with the other two being in Washington County. In both counties, if common septic systems are used, then developments are allowed a minimum lot size of about half an acre, allowing net densities to increase to 2 units per acre.
- Many of the flexible development ordinances allow or encourage the use of community septic systems, in place of individual sewage treatment systems (ISTS). The use of a community septic allows individual lots to be small and also increases the feasibility of future connection to wastewater infrastructure due to the use of a single point, despite the net density of the development. Overall development patterns in the vicinity, as well as the layout of the subdivision itself, could reduce that feasibility.
- Minimum open space requirements vary across the region. Some of the subject communities do not have a minimum requirement for open space, while others require up to 75% of the total project area, usually found in districts with conservation purposes. For those communities that require open space, generally 50-60% of the total project area is required to be preserved. Also, many Hennepin County communities require that some portion of the useable or buildable land be set aside as permanently preserved open space. In Washington County, the Cities of Hugo, Forest Lake, and Lake Elmo employ similar regulations.

### Flexible Development Types

There are four general categories of flexible development types: open space preservation, future urbanization, large-lot with open space parcel, and large lot without open space parcel.

#### Future urbanization (A)

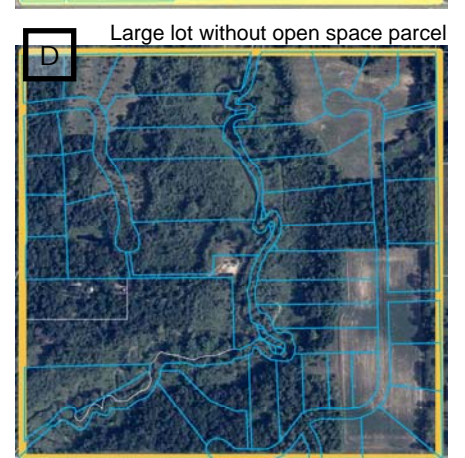
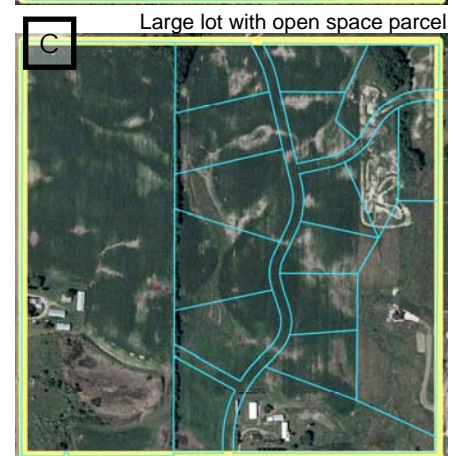
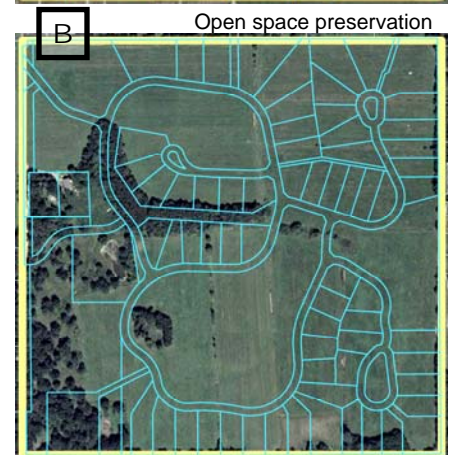
The future urbanization development usually groups homes on a small portion of the project parcel, while setting aside a large parcel or parcels for future urbanization. Build-out plans are commonly required for the future urbanization parcel(s) and streets are often placed for future connections.

- Potential to be used for open space preservation, but not main focus
- Most suitable for allowing future urbanization

#### Open space preservation (B)

The open space preservation style requires that specified natural and cultural features be permanently preserved in a separate open space parcel or parcels, which often are rounded irregular shapes, while the houses are grouped on the ‘developable’ portions of the project property.

- Most effective in the preservation of open space
- Often precludes future urbanization



### Large lot with open space parcel (C)

The large lot with open space parcel type sets aside a rectilinear tract of land (usually a quarter or half of the project parcel), while developing the remainder of the project parcel with large lots. These lots typically are about 1.5 acres or larger using on-site sewage treatment systems.

- Potential to be used for open space preservation
- Not suitable for future urbanization

### Large lot without open space parcel (D)

The large lot without open space parcel development style grants density bonuses, but still allows private lots to consume the whole of the project parcel. In some cases, natural resource features are preserved through a conservation easement that falls over and across the private properties in the subdivision. This development style requires an active easement holder that can ensure the long-term maintenance of the open space parcel to effectively preserve open space.

- Could be effective at preserving open space, if active maintenance of open space parcel in place
- Precludes any future urbanization

## **Rationale**

The *2030 Regional Development Framework* (RDF) identifies 51 communities as wholly or partially falling into the Diversified Rural planning area. The RDF calls for communities in these areas to:

1. Accommodate growth not to exceed forecasts and clustered development not to exceed 1 unit per 10 acres.
2. Plan development patterns that will protect natural resources. Preserve areas where post-2030 growth can be provided with cost-effective and efficient urban infrastructure and accommodate growth without requiring the provision of regional urban services.
3. Protect the rural environment. Locally oversee the management and maintenance of alternative wastewater treatment systems such as community drainfields to avoid the environmental and economic costs from failed systems.
4. Adopt conservation subdivision ordinances, cluster development ordinances, or environmental protection provisions in land use ordinances.
5. Promote development practices and patterns that protect the integrity of the region's water supply.

Many communities have adopted flexible development ordinances applicable to areas within the Diversified Rural planning area, but not all of these ordinances are consistent with Council policies. Many allow gross densities greater than 1 unit per 10 acres and allow the development to use the land in a manner that would preclude accommodation of post-2030 growth and hinder the extension of future wastewater treatment. In many cases, flexible development ordinances result in what essentially is large-lot development, but with more residential units than would otherwise be permitted under conventional subdivision standards.

The variations in the flexible development ordinances often reflect the intent for the community adopting the ordinance. Some communities have stated that the preservation of expanses of undeveloped land as the goal, while others contend with landscapes that abound with natural resources, and still others have established a primary goal of accommodating future growth. However, the adopted ordinances result in a wide range of potential land use pattern outcomes that are not always consistent with Council policies and that will make it difficult, if not impossible, to provide future wastewater treatment in long-term service areas because of the residential densities that the ordinances permit: densities that are substantially below the minimum density necessary for an efficient and cost-effective treatment system, but also considerably greater than densities low enough to accommodate post-2030 growth.

## **Funding**

Not applicable.

**Known Support / Opposition**

Not applicable.

**DATE:** March 28, 2008  
**TO:** Phyllis Hanson  
**FROM:** Lisa Barajas  
**SUBJECT:** Flexible Development Ordinances in Diversified Rural Areas

There are 51 communities in the Metropolitan Area that are partially or entirely designated as Diversified Rural. Of these 51 communities, more than half of them (28) either currently are within the Metropolitan Urban Service Area (MUSA) or have been identified for potential future service in the Council’s Long Term Wastewater Service Area (LTSA) map contained in the *Water Resources Management Policy Plan*. Further, of these communities, twenty-two (22) communities have some type of flexible development ordinance in place.

Communities in the Diversified Rural area have a wide range of flexible residential development ordinances with diversity of names for those ordinances. Commonly used names include open space design, rural preservation, rural density bonus, cluster development, and urban reserve. The common thread among these residential ordinances is that they allow for flexibility in the lot size, layout, and design standards of the underlying zoning district, whether it be increased density, preservation of open space, reduction in minimum individual lot sizes, provisions for shared on-site sewage treatment systems, or some combination of these and other similar provisions. For the purposes of this report, these ordinances are referred to as ‘flexible development ordinances,’ with a focus on those ordinances regulating residential development.

This memorandum will discuss the flexible development ordinances that are in place in each of these communities and their potential impacts on plans for future wastewater treatment extension. Summary findings are presented, followed by a discussion of ordinances in each of the communities grouped by their respective counties.

### Background

According to Council policy, communities in the Diversified Rural area are expected to preserve areas where post-2030 growth can be accommodated with cost-effective and efficient urban infrastructure. The Council’s plans for the long-term development of the regional wastewater system are premised in part on contiguous sewered development at a density of three units per acre or greater (2030 *Regional Development Framework*, p. 32; *Water Resources Management Policy Plan*, p. 54).

The Diversified Rural planning designation contains 51 cities and townships, thirty-two (32) of which employ some variation of an open space ordinance in their communities. Not all of these communities are presently served, or planned to be served, with municipal wastewater treatment. At this time, 28 of these communities are designated for future wastewater service, and 22 of these have a flexible development ordinance.

The variations in these flexible development ordinances differ among

	MUSA or LTSA	Flexible Development Ordinance	Future Development in OS	Density Bonus Allowed
<b>Table 1. Diversified Rural Communities Flexible Development Ordinance Summary</b>				
<small>Diversified Rural Communities not listed in this table are neither in MUSA/LTSA nor do they have open space ordinances</small>				
Afton		●		
Baytown Twp.	●	●	●	●
Belle Plaine Twp.	●	●	●	●
Blakeley Twp.	●	●	●	●
Burns Twp.	●	●		
Cedar Lake Twp.		●	●	
Columbus	●			
Corcoran	●	●		●
Denmark Twp.		●		
East Bethel	●			
Forest Lake	●	●		
Greenfield	●			●
Grey Cloud Island Twp.		●		
Hassan Twp.	●	●		●
Helena Twp.	●	●	●	●
Hugo	●	●		
Independence	●	●		●
Jackson Twp.	●	●	●	●
Lake Elmo	●	●		
Lakeland Shores		●		
Laketown Twp.	●			
Louisville Twp.	●	●	●	●
Marine on St. Croix		●		
May Twp.		●		
Medina	●	●		
Minnetrissa	●	●		
New Market Twp.	●	●	●	●
Oak Grove	●	●		
Orono	●	●		
Sand Creek Twp.	●	●	●	●
Scandia		●		
Spring Lake Twp.	●	●	●	●
St. Francis		●		
St. Lawrence Twp.	●	●	●	●
St. Paul Park	●			
Stillwater Twp.	●	●	●	●
West Lakeland Twp.		●		

communities to reflect their original intent for adopting the ordinance. Some communities wish to preserve expanses of undeveloped land, while others have landscapes that are restricted by limiting features, and still others have planned to accommodate future growth.

For the purposes of assessing the potential impacts on future wastewater services, this memorandum will focus on the communities that are currently served, or will be served, by the regional wastewater system AND have adopted flexible development ordinances. There are twenty-two (22) communities that meet both criteria in the Diversified Rural area.

## **Summary Findings**

- Eleven of the communities allow and promote future development in the preserved open space areas, with the extension of urban services in mind when requiring build-out plans or ghost platting of open space areas at the time of project approval. Nine of these communities are located in Scott County, with the other two being in Washington County. In both counties, if common septic systems are used, then developments are allowed a minimum lot size of about half an acre, allowing net densities to increase to 2 units per acre.
- The Diversified Rural communities within the long-term service area in Carver County and in Dakota County do not use an open space / cluster ordinance.
- The communities in Anoka County that have open space ordinances (Burns Township and Oak Grove) allow residential net densities ranging from one (1) unit per 1.5 acres to one (1) unit per 2.5 acres.
- Most Hennepin County communities allow net densities in their flexible residential developments ranging from one unit per acre to one unit per 6.4 acres. The City of Medina only allows clustering of units in areas already served by wastewater infrastructure, requiring gross densities of at least three units per acre. The City of Orono requires municipal wastewater connections to developments that exceed two units per gross acre, but their open space provisions do not allow maximum densities greater than 1 unit per 2 acres in the Diversified Rural area.
- Scott County seeks to plan for future urbanization of areas in the path of development. Their flexible development ordinance calls for future development in the open space parcels in two of the open space districts, while allowing net densities of up to 2.18 units per acre in the developed portions. The Scott County flexible development ordinance is most suitable for future extension of wastewater services, although it does not currently provide for densities of at least three units per acre.
- Washington County has a number of zoning districts that allow flexible development, and seeks to encourage these types of development through the granting of automatic density bonuses, in addition to earned density bonuses. The county's ordinance allows for future urbanization in the open space parcel only in the Transition district, which is limited in area in the long-term wastewater service area. In all other districts, the maximization of allowable density bonuses results in net densities of roughly one unit per 1.5 acres, with variations depending on the district. The use of community septic systems reduces the minimum lot size required to half an acre, resulting in a net density of two (2) units per acre.
- Many of the flexible development ordinances allow or encourage the use of community septic systems, rather than individual septic treatment systems. The ability to connect a group of homes to future wastewater infrastructure through a single point may be feasible, despite the net density of the individual developments. Overall development patterns in the vicinity, as well as the layout of the open space subdivision itself, could reduce that feasibility.
- Minimum open space requirements vary across the region. Some communities do not have a minimum requirement for open space, while others require up to 75% of the project area, as is typically found in districts with conservation purposes. For those communities that do call for open space, 50 to 60% of the total project area is typically required. In addition, many Hennepin County communities require that some portion of the useable or buildable land be set aside as permanently preserved open space. In Washington County, Hugo, Forest Lake, and Lake Elmo employ similar regulations.

## **Anoka County**

In Anoka County, one community is currently served with regional wastewater (Columbus), while three others are

in potential future service areas. Of these four, Burns Township and Oak Grove employ flexible development ordinances.

### Burns Township

The flexible development ordinance applies to nearly the entire township, as nearly the entire township is zoned Rural Residential Agriculture (RRA), except water bodies and a recently adopted commercial node district.

Within the RRA district, the maximum residential density allowed under conventional subdivision is one (1) unit per five (5) acres. The township's ordinance does not allow bonus densities, so the overall gross density remains at 1/5. The township requires that 50% of the total project area be set aside as open space, and also requires a minimum lot size of one acre for each unit, resulting in a net density of one unit per acre.

### Oak Grove

Oak Grove has a Planned Unit Development ordinance, which allows the clustering of residential units in all five of their zoning districts (A, SFR, LG-1, LG-2, & LG-3), which constitute the bulk of the city's total area. The LG districts are located around Lake George in the north-central part of the community and are unlikely to be redeveloped as they are already subdivided at relatively high densities.

The ordinance does not specify standards for calculating densities under the PUD overlay district; it does state that wetlands and areas within 75 feet of a wetland must be designated as open space and conveyed to the city via conservation easement. A key provision allows up to a 40% variance from the underlying zoning district standards for an approved PUD. The ordinance further requires that the minimum lot size is one buildable acre, unless served by a collector wastewater system and deemed appropriate at the discretion of the city council.

The city does not allow density increases or bonuses, but does allow for decreasing the minimum lot size within the development, using the aforementioned 40%-variance allowance. Thus, the greatest gross density allowed is 1 unit per 2.5 acres, while the greatest net density allowed varies at the discretion of the city council.

At this time, there are six areas within the city that have rezoned to the PUD overlay district. One (The Ponds) is a 400-acre development that uses quarter acre lots, but also includes an 18-acre golf course and 40 acres of park land. The other five have used the 2.5-acre density with the 1.5-acre minimum lot size.

With the allowable quarter-acre lots, it would be feasible to extend sewer to these areas. The city only allows these densities when served by a collector wastewater system (shared septic system), and at this point, only when associated with a golf course type development. In the other developments, with 1.5-acre lots on individual septic, the lots are likely too large to efficiently provide sewer infrastructure to them in the future.

### **Carver County**

Laketown Township is the only community in Carver County that is classified as Diversified Rural. Neither the county nor the township has a flexible development ordinance.

### **Dakota County**

The townships are the implementing land use authority, and none of the townships utilizes a flexible development ordinance of which we are aware. The Cities of Miesville, New Trier, and Randolph are responsible for the zoning within their municipal boundaries; however, none of the three cities use a flexible development ordinance.

### **Hennepin County**

There are seven communities in Hennepin County that are designated as Diversified Rural. All seven of these communities, including the Cities of Corcoran, Greenfield, Independence, Minnetrista, Medina, Orono, and Hassan Township, are within the long-term wastewater treatment service area. All but the City of Greenfield have flexible development ordinances in place as well.

The City of Medina only allows flexible residential developments in areas currently served by sewer/water, and does not currently have plans to allow this type of development in areas without municipal services. Their ordinances call for any open space (PUD) development to have densities consistent with the comprehensive plan,



which guides the residential districts at densities of at least three units per acre.

Of the remaining five communities that flexible development ordinances, none of them allows future growth in portions of development projects set aside as open space. Each of those communities has a minimum open space requirement ranging from 20% to 50% of the total project area, with several of the communities requiring that a minimum amount of the open space be developable or ‘usable.’ Ordinance and density summaries for these communities in Hennepin County are contained in Table 2. The potential minimum net density (gross density less the minimum open space requirement) would result in densities that, in many cases, may not be conducive to future sewer extension, either.

#### Minimum Lot Sizes & Potential Net Densities

Several of the Hennepin County communities contain provisions requiring minimum lot sizes for units within the development.

	Conventional Density	Bonus Allowed	Open Space Requirement	Max Gross Density	Net Density
<b>Table 2. Hennepin County Community Comparison</b>					
Corcoran	1/10	50%	50%	1/6.67	1/3.33
Hassan Twp* – AG	1/10	30%	40%	1/7.69	1/4.6
Hassan Twp – RE-5	1/5	30%	30%	1/3.85	1/2.69
Hassan Twp – RE-4	1/4	30%	30%	1/3.07	1/2.15
Independence	1/5	50%	50%	1/4	1/1.7
Minnetrista	1/10	25%	20%	1/8	1/6.4
Orono** - RR-1A	1/5	0%	50%	1/5	1/2.5
Orono - RR-1B	1/2	0%	50%	1/2	1/1
* Hassan Twp allows open space development in three different zoning districts, as described above.					
** Orono allows cluster-style development in all of their residential districts. The Diversified Rural area in this city contains the RR-1A and RR-1B zones, which are detailed above.					

- In Corcoran, the minimum lot size is 1.5 acres of contiguous developable land, making it possible to achieve a net density of one (1) unit per 1.5 acres in ideal situations.
- Hassan Township differentiates between urban and rural open space developments, with the urban developments presumably either being served by a community wastewater treatment system or being located within an urban land use designation in their comprehensive plan – the ordinance is not clear on the distinction. In rural open space developments, a minimum lot size of 2.5 acres in AG districts and 1.5 acres in the RE districts is required. In the urban developments, a minimum lot size of one (1) acre is required in AG, while 30,000 square feet is required in the RE districts. The greatest net density in the latter district would be about 1.45 units per acre.
- Independence requires a minimum lot size of 1.5 acres of contiguous developable land within cluster developments, allowing their net density to be one unit per 1.5 acres in ideal development conditions.
- Minnetrista does not specify minimum lot size standards for units within an open space development. Rather, the ordinance states that “specifications and standards for lots shall be at the discretion of the city council.” A council that is not supportive of higher densities would be unlikely to approve lot sizes resulting in net densities greater than that described in the table above.
- In districts outside of the Diversified Rural portion of the city, Orono requires a minimum lot size of 15,000 square feet for a single-family home, resulting in a potential net density of 2.9 units per acre. In the Diversified Rural portion, (RR-1A and RR-1B zoning districts), the minimum lot size required is one acre and half and acre respectively. RR-1B districts could develop in a manner that results in two (2) units per acre for a net density.

#### Greenfield

The City of Greenfield does not have an open space development ordinance, but they do have density bonus provisions for the Agricultural district. Under these provisions, a property owner is allowed one lot for the first 2.5 acres of land and an additional lot for each additional 11 acres of land being subdivided. An additional lot is also granted for each half mile of new paved public streets within the subdivision. The city also has adopted an Off-Site Road Paving Density Bonus policy, which grants the city council discretion to award additional lots to a development beyond what is detailed. It is unclear at this time how many additional lots may be granted. The ordinance also requires a minimum lot size of 2.5 acres, presumably resulting in a potential net density of one (1) unit per 2.5 acres in the developed portion of the lot.

## Scott County

Scott County administers zoning for the townships within the county, with Blakely, Belle Plaine, St. Lawrence, Jackson, Louisville, Sand Creek, and New Market Townships all being designated as Diversified Rural and within long-term wastewater service areas. Scott County has adopted flexible development ordinances, which apply to the Urban Expansion Reserve Cluster District (UER-C), the Rural Residential Reserve Cluster District (RR-1C), and the Rural Residential Single Family District (RR-2).

### UER-C District

According to the county's ordinance, the UER-C is intended to preserve land in those areas of Scott County identified in its Comprehensive Plan for logical future extension of urban land uses served by public utilities. This zoning district is intended to preserve these areas of the county in very low rural development densities or clustered residential developments that may be compatibly integrated with future urban development. As shown on the County's 2020 Land Use Plan, the Urban Expansion Areas are limited to those areas within a fair distance from existing cities in the county.

In review of the County's Zoning Map, last updated October 1, 2005, it appears that the UER-C has been used in limited cases, scattered throughout the study area except for in Spring Lake and Blakeley Townships. The UER-C district allows development to occur at a base density of 1 unit per 10 acres, with the possibility of receiving density bonus points through the satisfaction of performance standards for that district. If the development is served by individual sewage treatment systems (ISTS), the project may earn a 50% bonus, while developments served by community sewage and well systems earn a 100% bonus.

This district also requires that at least 70% of the overall project area be set aside as open space, and that at least 60% of the developable land on the property be set aside as open space, to accommodate future development of that land at urban densities. These open space requirements, along with the possibility of earning density bonuses could ultimately permit a development to be built at a gross density of one (1) unit per five (5) acres and a net density of at least one (1) unit per 1.5 acres.

### RR-1C District

Chapter 41 of the Scott County Zoning Ordinance describes the Rural Residential Reserve Cluster District (RR-1C), stating that the purpose of this district is to reserve the land for future higher density rural residential development when support services and infrastructure can be provided. Further, the ordinance states that the development of land in this district should maintain a low density rural environment in a cluster subdivision design until such time as the need for additional rural residential development is approved. The open space areas developed under this zoning district are meant to accommodate future development at such as needed.

The county's land use plan designates land as Rural Residential in Sand Creek, Helena, Spring Lake, and New Market Townships in our study area. All of these townships presently contain areas zoned as RR-1C, but these areas are dispersed and likely driven by developer request in areas already zoned for Rural Residential development (RR-1).

The RR-1 district requires that 60% of the developable land within a project be set aside as open space. The minimum amount of required open space is also 60% of the total project area. If the project meets the performances standards outlined in Section 80-8 and 80-9 of the ordinance, the project could earn a density bonus of 50% for projects served by ISTS and 100% for projects with community treatment systems. Assuming that a

<b>Table 3. Scott County Flexible Development Ordinance - Zoning District Summary</b>			
	<b>UER-C</b>	<b>RR-1C</b>	<b>RR-2</b>
Conventional Density	1/10	1/8	1/2.5
Bonus Allowed	100%	100%	45%
Open Space Requirement	70%	60%	30%
Max Gross Density	1/5	1/4	1/1.73
Net Density	1/1.5	1/1.6	1/1.21
Future Urbanization	●	●	
<b>Current Zoning by Township*</b>			
Belle Plaine	●		
Blakeley			
Helena	●	●	
Jackson	●		●
Louisville	●		●
New Market	●	●	●
Sand Creek	●	●	●
St. Lawrence	●		

\* Cluster zoning districts currently contained in each Township.

developer only sets aside the minimum required open space and receives that maximum density bonus, the potential gross density is one (1) unit per four (4) acres. The potential net density would be at least one (1) unit per 1.6 acres.

### RR-2 District

The Rural Residential Reserve District (RR-2) is shown in areas that are subject to increased levels of rural residential development. This zoning classification is largely located in the eastern part of the county mostly in areas designated as Staged Growth Areas in the county's land use plan. In our study area, Staged Growth Areas are contained in Spring Lake and New Market Townships, but RR-2 zoning can be found in Louisville and Sand Creek Townships as well.

Cluster developments are allowed in the RR-2 district, but as higher residential densities are allowed, the open space required as part of the development is not intended for future urbanization. The ordinance requires that at least 30% of the land in a project be set aside as permanent open space, and that a project may earn up to a 45% density bonus for meeting performance standards. The potential gross density for a given project is one (1) unit per 1.73 acres, with a potential net density of at least one (1) unit per 1.2 acres.

### Implications

Section 80-9 of the ordinance contains minimum lot sizes for lots within an open space development in all three of the zoning districts described above. In all three districts, if the development is served with on-site treatment systems, the minimum lot size required is one (1) acre of non-hydric soils. If the development utilizes community treatment systems, then the minimum lot size drops to 20,000 square feet for the UER-C and RR-1C districts, and to 24,000 square feet for the RR-2 district.

Two of the zoning districts (UER-C and RR-1C) plan for future development within the open space parcel as part of the project. The net densities shown in Table 3 above may be suitable for sewer extension at a future date, given the aforementioned minimum lot size requirements. Also, one should note that the net densities described in Table 3 above assume that the project developer will only set aside the minimum open space required and nothing more. The development could be done at higher net densities, while still maintaining the overall gross density listed in the table, if the developer were to use the minimum lot size required for developments served by community septic (20,000 square feet).

So, for a 40-acre development in the UER-C district, assuming that the development uses community septic and meets all ordinance performance standards, the property could be developed at a net density of 2.18 units per acre using only 3.67 acres of the overall project and reserving the remaining area for future development (see Table 4 for calculations). While this net density does not meet the minimum Council policy net density for sewer areas, it may not necessarily prohibit future sewer extension. Because the 20,000-square-foot minimum lot size applies to the RR-1C district if served by community septic, the 2.18 units per acre net density would also apply.

Base Density Units	4 units
Community Septic 100% Bonus	8 units
Minimum Lot Size	20,000 square feet
Total Developed Area	160,000 ft <sup>2</sup> (3.67 acres)
Gross Density	1/5 acres
Net Density	2.18 units/acre

## **Washington County**

The majority of the communities in Washington County fall into the Diversified Rural planning designation. For the purposes of this study, to review those within long-term wastewater treatment areas, there are six communities in particular on which this section focuses: Baytown Township, Forest Lake, Hugo, Lake Elmo, St. Paul Park, and Stillwater Township.

### Baytown & Stillwater Townships

Washington County maintains land use control jurisdiction over both of the townships, and the county has adopted a flexible development as part of its development code. Specifically, the county ordinance allows open space development, via approved conditional use permit, in all nine residential districts. For the purposes of this study, this report will focus on the five districts that are contained in Baytown and Stillwater Townships: A-4, Rural

Residential (RR), Single Family Estate (SFE), Transition (TZ), and Conservancy.

### *Common Provisions*

For all nine zoning districts that allow cluster developments, the county allows an automatic 100% increase in the number of units over that which would be allowed under a conventional subdivision. The county explains that this increase is provided to encourage developers to use the open space design ordinance rather than the conventional subdivision. Beyond this initial density increase, a development may qualify for additional density bonuses, up to 20% beyond the base density, by meeting or exceeding standards, which include creating an endowment that would cover the costs of open space maintenance, providing public access to open space and recreational facilities in the development, providing affordable housing, and reusing historical buildings and structures. It is unlikely, yet possible, that a single development would achieve all four of these standards to receive the additional bonus density. This study assumes that the maximum allowable number of units has been achieved.

Also common across all zoning districts is the minimum lot size requirement. Lots which contain on-site septic treatment must be at least 32,670 square feet (0.75 acre), while lots with off-site septic treatment are required to be at least 21,780 square feet (0.5 acre). The ability to use smaller lots allows the development to have a smaller overall footprint, and thereby a higher net density. The minimum lot size applies to all districts, resulting in a net density of two (2) units per acre in a relatively small development envelope.

In all residential districts, however, the open space set aside as part of the development must remain permanently as open space, except in the TZ district. The TZ district plans for future urbanization of the open space within a development, requiring a build out plan for future development within that space.

### *A-4 District*

Stillwater Township is largely zoned A-4, which has a conventional density of 1 unit per 10 acres, while comparatively smaller portions of Baytown Township are zoned A-4. The conventional density is consistent with the Diversified Rural planning area designation, but the allowed density increases are not. With a minimum open space requirement of 60% of the gross project acreage, along with the allowable maximum density increases, a development in this district could have a net density of at least one (1) unit per 1.7 acres and a gross density of one (1) unit per 4.2 acres.

### *Rural Residential (RR) District*

About half of Baytown Township is zoned Rural Residential, while Stillwater Township does not contain any parcels in this zoning district. The RR district has a conventional density of one (1) unit per five (5) acres, and allows a gross density of 1 unit per 3.33 acres through the maximization of density increases. Using the minimum amount of open space required, a net density could be at least one (1) unit per 1.3 acres.

### *Single Family Estate (SFE) District*

The SFE district allows the highest gross and net densities out of the residential districts within Baytown and Stillwater Townships, with a gross density of one (1) unit per 1.9 acres and a net density of at least 1.4 units per acre. Both townships contain this zoning designation, but in Stillwater Township, the extent is limited to those areas along the St. Croix River. In Baytown Township, a large portion of the northwest corner of the township is zoned SFE, but most of this area has already been subdivided. Another block of parcels bordering the City of Bayport in the east are also zoned SFE, but only few of the parcels remain available for development.

### *Transition (TZ) District*

Both townships have TZ districts, but both are very limited in their extent, located adjacent to the Cities of Stillwater and Bayport. In Stillwater Township, the TZ district is contained almost entirely south of Highway 96, and area designated for future annexation in the 1996 Orderly Annexation Agreement between the city and the township. Many of the parcels remaining in the township have already been subdivided. In Baytown Township, the TZ district is confined to two large parcels lying on the west side of Stagecoach Trail North and bounded by CSAH 14 to the north and the Union Pacific Railroad right-of-way to the south.

This district plans for future urbanization of the open space within the development, requiring that at least 70% of the gross acreage be designated as open space. Along with the allowable density increases, a development in this district would have a gross density of one (1) unit per 5.6 acres and a net density of at least one (1) unit per 1.7 acres.

### Conservancy (C) District

The Conservancy (C) District is only found in Stillwater Township in areas around Lake McGuire and along two other streams. The purpose of this zoning district is to protect valuable or sensitive natural resource areas through the promotion of development that is sensitive to environmentally sensitive features. This district requires the highest percentage of open space (75%) and is located in areas that may otherwise be considered undevelopable due to landscape features such as steep slopes and wetlands. Presumably due to the sensitivity of the land in this district, this district has the lowest allowable density increases resulting in a gross density of one (1) unit per 17 acres and a net density of one (1) unit per 4.2 acres.

### Implications

In all of the districts discussed here, except the Conservancy District, the allowable gross densities are well above the 1-per-10 density for the Diversified Rural area. The minimum required lot size of half an acre for lots with off-site septic reduces the difficulty of future sewer extension to these areas, but these areas do not meet the policy guideline of at least 3 units per acre for sewered development. The use of community sewage treatment systems may ease this difficulty by providing a single hook-up point for a group of residential units.

In addition, the only district that allows future urbanization of open space areas, the TZ district, is limited in area, while the Rural Residential and A-4 districts comprise the majority of the area within these townships. Neither one of these districts allows for future development with in the open space. In all districts, no more than 50% of the required open space can consist of undevelopable land.

	A-4	Rural Residential (RR)	Single Family Estate (SFE)	Transition (TZ)	Conservancy (C)
Conventional Density	1/10	1/5	1/2.5	1/10	1/20
Base Density Increase	100%	25%	12.5%	50%	0%
Bonus Density Points beyond Base	20%	20%	20%	20%	20%
Open Space Requirement	60%	60%	60%	70%	75%
Max Gross Density	1/4.2	1/3.33	1/1.9	1/5.6	1/17
Net Density	1/1.7	1/1.3	1.4/ac	1/1.7	1/4.2
Future Urbanization in OS	NO	NO	NO	YES	NO
<b>Current Zoning by Township*</b>					
Baytown Township	●	●	●	●	
Stillwater Township	●		●	●	●

### Forest Lake

The City of Forest Lake has adopted a PUD Ordinance, which applies to three zoning districts: Conservancy, Agriculture, and Rural Residential. In all three districts, no density increases are allowed, and open space is required to be maintained in perpetuity. Without density increases, the city’s ordinance simply allows the standard number of units to be apportioned to a smaller piece of the overall project parcel.

The city’s comprehensive plan indicates that the southwest portion of the city, currently zoned Agriculture, is to be maintained for future urban residential use. As such, this portion of the Agriculture district is limited to a 1-per-20-acre residential density. The ordinance, however, does not contain provisions for open space that address this goal of future urbanization in the district, but rather requires that open space be preserved permanently as open space. The remaining portion of the Agriculture district, in the southeast portion of the city, has an allowable gross density of one (1) unit per ten (10) acres and a net density of 1 unit per 4.5 acres when the required open space (55% of project area) is removed from the calculation.

The Rural Residential district, located in the northeast portion of the city, has been designated as such due to its relative inaccessibility for future service extension as well as the level of environmental sensitivity in the area. A large portion of this district has already been subdivided in such a way as to limit the extension of services and to limit the possibility of re-subdivision at higher densities. There are some remaining undeveloped parcels within this district that could be developed using the open space design, but with the abundance of wetlands within this district, it is unlikely that these lands would be capable of supporting densities higher than that for which they are planned. The open space ordinance allows a gross density of one (1) unit per five (5) acres, with a net density of one unit per 2.25 acres once the required open space area (55% of project area) are removed.

The Conservancy District is the most limiting district for development, being restricted to lands that encompass

particularly environmentally-sensitive features. The Hardwood Creek Wildlife Management Area, Hardwood Creek, smaller wetland complexes, and part of the Lamprey Pass Wildlife Management Area are contained within this zoning district. Clustering of houses is allowed in these districts, but at low densities (1 unit per 20 gross acres) to promote the community's goals.

In all three districts, lots within an open space development are required to have a 60,000-square-foot minimum lot size when septic treatment is contained on-site. This provision would allow a net density of one unit per 1.37 acres. For lots that are served by off-site septic treatments systems, lots can be as small as 25,000 square feet, resulting in a potential net density of 1.74 units per acre. The city also requires that no more than 50% of the required open space be undevelopable land, which removes developable land from the potential for future development. This could be cumbersome for areas that have been targeted for future urban services, such as the southwest corner of the city.

### Hugo

Section 1195.150.1 of Hugo's Land Use Regulations describes their Rural Preservation Program, which applies to the Agricultural (AG) and Rural Residential (RR) zoning districts in the city. Each of these districts allows a conventional residential density of one (1) unit per ten (10) acres. These districts are found in the eastern half of the community, covering the majority of the area outside of the MUSA boundary, also designated as Diversified Rural.

The Rural Preservation Program does not have separate density provisions for the RR and AG district, and allows an extra unit per ten (10) acres as a base density in both districts. By meeting various performance standards, a development may earn density bonuses, but are limited to a gross density of three (3) units per ten (10) acres (Section 1195.150.1, Subdivision 6B), or one unit per 3.33 acres.

The city's ordinance does not require a minimum lot size for units within an open space development, and actually provides a bonus for projects that have a *maximum* lot size of half an acre. The city allows for the use of shared septic systems, so presumably, a ten-acre development project could place three units on one acre (or less) of the project, thereby meeting the minimum density requirements for future sewer service.

Hugo also contains a Future Urban Service district, in which the Rural Preservation Program is not applicable. Rather, the land within this district must maintain densities of one (1) unit per ten (10) acres, with no provisions for additional density increases. This district is adjacent to the northern edge of the MUSA and extending north to the city boundary and east to the east side of Oneka Lake.

### Lake Elmo

Lake Elmo utilizes an Open Space Preservation Ordinance to allow for the clustering of houses in its Agricultural (A), Rural Residential (RR), and Residential Estate (RE) districts. All three of these zoning districts are contained outside of the area designated for future sewered development, coverings most of the city that is not already developed (like the northwest corner) or contained within the regional park. The ordinance specifically prohibits clustering in the area they designate as the "I-94 Holding District." Some properties north of the Holding District have already been developed under the open space ordinance, and have been rezoned to OP/OS.

Allowable densities range from one (1) unit per 2.5 acres in the RE district, to 1 unit per 10 acres in the RR district, to 1 unit per 40 acres in the A district. Lake Elmo's ordinance does not specify criteria or standards for granting density bonuses, but it does allow up to 18 units per 40 gross acres of buildable land (1 unit per 2.22 acres). The ordinance also requires that 50% of the total buildable project area be preserved in perpetuity as open space. Coupling these requirements results in a net density of at least one unit per 1.11 acres, potentially higher depending on the amount of buildable land within the project parcel.

The ordinance also contains provisions for minimum lot sizes, requiring at least one acre for lots served by ISTS and half an acre for lots served with communal drainfields. If served with a communal drainfield and if the allowable gross density is maximized, a project could have a net density of two (2) units per acre. This net density does not meet the Council policy of at least three (3) units per acre.