

# Managing Growth in Your Township



Land use decisions matter. Can just *a little* new housing change rural character forever? How about that Wal-Mart residents clamor for? A successful industrial park? Of course.

The good news: Many tools exist to help townships manage growth and the impacts of growth on their communities. The bad news: There can be an inverse relationship between the effectiveness of these tools and their political acceptability.

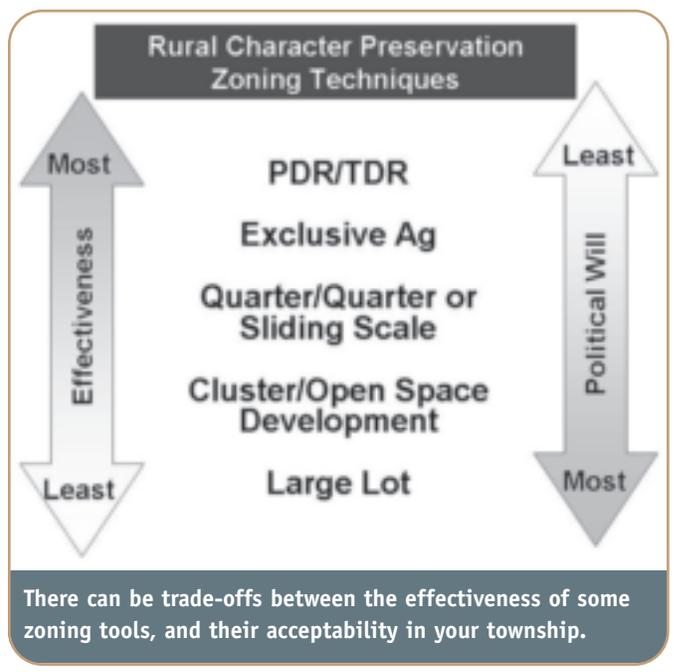
## THE CHALLENGE: KEEPING RURAL CHARACTER RURAL

Almost every township has some form of large-lot zoning, in part because it is easy to imagine and easy to explain. However, large-lot zoning is also one of the tools responsible for sprawl and the destruction of open space and wildlife habitat. In suburbanizing areas, instead of preserving farmland, large-lot zoning can hurt farming. Often unmentioned are the many costs imposed by this solution on the rural setting and its residents. Commuter residents sometimes do not have the time for basic maintenance of large lots and the new lot can end up weedy and unkempt, rather than rural. The desire to “look out my window and not see another house” is sometimes better managed through creative site design.

At the other end of the spectrum is a technique called purchase of development rights (PDR). With PDR, property owners are compensated in exchange for the right to develop their land at a greater intensity or for specific land uses. Are the development rights transferred elsewhere to create higher intensities? Will a conservation easement or other similar tool cause a reduction in taxable value? Will any resale of the restricted land reduce capital gains for the owner? PDR, one of the most effective tools for maintaining

open space and rural character, is riddled with challenges that may make it a politically hazardous venture. Nevertheless, many successful examples of PDR and the transfer of development rights exist around the country.

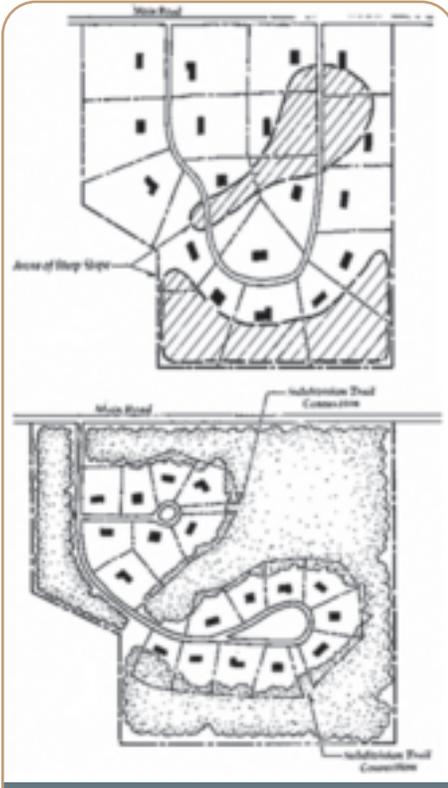
What follows is a review of many of the key tools available to townships to manage growth—whether your goal is to limit or encourage it. While the list is not all-encompassing, it includes many trustworthy examples, and several lesser known ones. Committing to the right strategy for your township, along with a



little patience and perseverance, will help achieve your township's growth management objectives.

### OPEN SPACE PRESERVATION

In Michigan, certain townships are required to have an open space preservation ordinance. Townships with populations exceeding 1,800 and with residential zoning districts requiring minimum lot



Cluster planned unit developments and large-lot zoning can yield the same number of housing units.

sizes of one-third of an acre or more should already have an open space ordinance in place. The ordinance allows residential development with certain conditions. The key provision is that at least 50 percent of the land for this kind of development must be dedicated to open space. Importantly, the open space is permanently protected.

To accomplish this, smaller

lots are clustered in a manner that protects large tracts of land from new housing within the same project. A large open space preservation project may have several clusters, with each cluster facing a size limit. Outside of the clusters of homes, the usable open space and natural features cannot be developed, and they remain protected.

### PLANNED UNIT DEVELOPMENTS

A planned unit development (PUD) is the most common way to achieve the preservation of open space. A PUD is a land development process based on the application of site planning criteria to an entire project—rather than each property within that project—to achieve integration of the proposed land development project with the characteristics of the project area. A township PUD ordinance should include several items:

- It should state clearly what kinds of projects and locations are eligible under this category.

- As with all ordinances, it should list the standards for granting approval of a PUD.
- The application and review standards, along with the person or body responsible for application review, should be clear.

PUD requirements tend to take on the personalities of the townships they serve. Your township's PUD ordinance may lean toward an *open-ended* structure. In these cases, the development standards are set project-to-project and the township retains maximum flexibility. There is risk in having substantially different standards from one PUD to another. The different standards may be fine for one development project but oppressive for another. In the latter case, you may meet the attorney for the developer sooner than you would like!

Having myriad on-the-fly standards may also add confusion for your township's code enforcement personnel. And any new review requests within each PUD can mean having to review *every* PUD agreement in its entirety for its unique requirements and intentions every time—a daunting task with just a single PUD agreement.

Another PUD ordinance structure offers *limited flexibility*. Here, guidelines will establish broad standards for the PUD agreement. These often include minimum lot sizes, setbacks and design standards. Other criteria are established by project. Inconsistency and confusion are reduced in each PUD, but not entirely.

Ordinances offering flexibility within a set of guidelines may be better than those seen as open-ended, but for townships less adverse to risk, another PUD ordinance structure option exists. Many successful PUD ordinances contain specific, detailed development standards. While time-consuming to establish, the pay-off for developer and township alike comes later. Applications and reviews are much easier. Developers know what to expect and are treated equitably from project to project. Further, the township understands what to expect far in advance of any final review. This kind of *structured design* PUD ordinance is well worth the upfront effort.

#### Special PUD Uses

A PUD ordinance is often adopted to help a township force cluster-style residential development. This makes the tool useful for preserving open space and farmland. Sometimes, to coax a PUD approach from a developer, the agreement or ordinance will grant slightly higher densities within the cluster, making it more financially appealing for the builder. The trade-off is an increase in

### Interesting Land Use Impact Facts

1 House = 10 Vehicle Trips per Day

Typical Big Box Retail = 4,800 vehicle trips per day

640 acres of "low density" residential zoning = 812 people

100 acres of industrial zoning = 2,000 employees

people and traffic. If the density increase is modest, the incremental increase in negative impacts could go unnoticed—offset by the benefits of clustered development.

Besides residential PUDs, some industrial parks can also benefit from a PUD approach. Here, a PUD works to assure consistent design and layout, to protect key natural features in an otherwise highly marketable location, or to grant certain flexibility in the uses within the park.

Another special PUD approach may be useful in preserving open space. The difference between this approach, called *noncontiguous PUDs*, and the previous descriptions is the property designated for open space protection is not adjacent to the developed property. It requires two properties under single or dual ownership—one large property is preserved and the second is developed. This is a useful tool when a parcel under consideration for development is not large enough to satisfy the open space requirements. One benefit is that the entire community benefits from the protected open space, instead of just the residents of an adjacent development project. A drawback is that the residents of the newly developed parcels may not have as easy access to the preserved noncontiguous open space.

#### *PUD Approval Methods*

Planned unit developments are either mapped as a separate district on a township's zoning map or not mapped. If it is shown on the zoning map, the PUD is described in the zoning ordinance as a separate district. If the PUD is not mapped, its requirements will overlay the existing zoning designation. The approval process, whether the PUD is mapped or an overlay, requires following the rezoning process from your zoning ordinance.



Planned unit developments are either mapped as a separate district (shown above) in the township zoning map, or not mapped.

Sometimes, a PUD approval is treated as a special land use. In this case, it is part of an existing zoning district, but with additional PUD-related requirements. Approval requires meeting the terms of your township's special land use process.

### SMART GROWTH PRINCIPLES

Smart growth is a zoning approach with many adherents. The concept provides an approach to addressing the complex issues associated with sprawl. Supporters have tried to define the principles that smart growth-based land use plans and projects should incorporate. Their list is wide-ranging:

- Use land resources more efficiently through compact building forms and infill development.
- Locate residences, stores, schools, recreational spaces and other places of activity within walkable distances of each other.
- Encourage a wide selection of housing opportunities.
- Support a variety of transportation opportunities, including walking and bicycling.
- Seek ways to assure coordination of infrastructure with development to minimize public infrastructure costs.
- Protect open space, farmland and natural features by seeking compatibility of development with these important land uses.
- Mix land uses to a reasonable degree, especially those that frequently rely on each other.
- Direct new development toward existing communities.
- Arrive at decisions based on collaboration with residents and other stakeholders.
- Foster distinct, attractive communities with a strong sense of place.

Some dismiss smart growth as nothing more than a marketing gimmick and a catchy phrase. Others consider it a palliative that hides the impacts of sprawl by making it more acceptable through some form of "design camouflage." Still others are convinced that there is no such thing as *dumb* growth, and that the marketplace assures that growth is advantageous and efficient.

Township officials concerned about protecting rural character and open space in their communities may endorse smart growth principles. When smart growth is poorly implemented, it might be considered camouflage, just a phrase or even dumb. When done correctly, smart growth locates dense development where it belongs, respects farmland and open space, and assures that every place will have its own unique character.

Smart growth can be achieved through a *combination* of several approaches. It is never just one tool in one place and a second tool in another. In fact, it works best when multiple jurisdic-

continued on page 21



## Smart Growth Zoning Techniques

### TRADITIONAL NEIGHBORHOOD DEVELOPMENT

Depending on your perspective, traditional neighborhood development (TND) has either been around a few years or for several decades. Sometimes referred to as *neotraditional development*, TND is characterized as having walkable development and mixed land uses, with nearby retail development. TND housing is built closer to streets, which are designed to reduce traffic and encourage safer pedestrian-oriented environments. The housing often includes porches that foster neighbor-to-neighbor interaction and a sense of community. The garage does not dominate the design. In fact, it is typically unseen and located in the rear with access to an alley.

TND can boast adherence to nearly all the smart growth principles listed in the main article. Importantly, it seeks to create compact communities in appropriate locations—not in places that would take away farmland or disturb natural features. And it is a great approach for traditional hamlets or in small village-style settings.

A PUD ordinance in almost any urban or rural setting could encourage TND and, by its compactness and self-containment, minimize negative impacts on the surrounding area. Sometimes, TNDs are implemented through enactment of a special zoning district with mixed-use standards, and extensive street and building design standards intended to establish pedestrian-friendly settings.

### CONTEXT SENSITIVE DESIGN

Context sensitive design (CSD) is an overriding philosophy that says transportation projects should fit the community, rather than forcing the community to accommodate an intrusive roadway. The goal is to balance transportation service needs with an area's character, culture, history and natural features, as well as community

needs. Context sensitive transportation projects are designed to minimize disruption and enhance compatibility with the community. CSD projects are integrated into the community. The Federal Highway Administration embraced the concept about a decade ago, making it a regular part of the projects it funds.

Communities interested in using CSD in transportation or other community infrastructure projects should:

- **Get out on the street.** Experience it from a pedestrian's point of view.
- **Seek out partners.** Develop a shared vision for the project.
- **Get the word out.** Let the community know something is beginning before any formal discussions.
- **Be flexible.** Remember that every environment has its own special conditions.
- **Get started.** Many early steps can be low-cost and help show progress toward the shared vision.
- **Evaluate, refine and phase construction.** Test short-term improvements to see how they are working. Ask users for suggestions about possible improvements or adjustments.
- **Keep the big picture in mind.** Use short-term changes as stepping-stones, keeping in mind the broader livability and environmental concerns of the community.
- **At a minimum, strive to respect building setbacks and valued views along a corridor.** Safe pedestrian and bicyclist travel will be incorporated into the project. Attractive streetscapes should be designed into the project. Curbing, color preference and material selection such as the use of brick are often included. ▶

I was recently part of a CSD effort outside of Michigan that allowed local artists to design a community history wall, which was incorporated into the design of a new bridge. There are few better ways to stand out along a repetitive concrete corridor than to insist that your township's values be incorporated into the roadway design.



A twist on the typical zoning ordinance, form-based code allows the marketplace to determine the mix of uses, but retains control over building design and layout.

## FORM-BASED CODES

One way to achieve smart growth principles in your township's unique places is through a form-based code (FBC). A twist on the typical zoning ordinance, FBC allows the marketplace to determine the mix of uses, but retains control over building design and layout. FBC works to assure a positive relationship with the street and the neighborhood, and encourages pedestrian activity.

FBC requires a significant effort upfront to describe and document existing designs and objectives. The resulting code, while based on certain smart growth principles, will be highly unique to your township.

Rarely would any community replace its existing zoning ordinance entirely with a new form-based code. Instead, the FBC targets specific areas. Even in those locations, FBC is often a hybrid of traditional zoning segmentation and restrictions, along with descriptions of "forms" to be achieved.

—Tom Dabareiner

tions are working towards the same goal. Some of the more well-known techniques are reviewed in the sidebar article at left.

## WHAT'S NEW AND WHAT'S OLD

In the last few years, Michigan lawmakers provided two new tools that townships seeking to manage growth may wish to explore: cooperative planning and conditional rezoning. In addition, there are three tried-and-true growth management techniques in use around Michigan and elsewhere that may be appropriate for townships.

### *Cooperative Planning*

Planners often repeat the adage that "nature and traffic have little respect for political boundaries." Michigan's Joint Municipal Planning Act (MCL 125.135, *et seq.*) seeks to address this. It states that two or more units of government may jointly plan areas of common interest. Of course, there are strings attached.

First, the cooperating governmental units must approve an agreement to form a joint planning commission (JPC). The agreement covers membership and budget sharing. Most importantly, it details the geography covered by the JPC, which can be all or a portion of the participating communities. The commission receives all planning and zoning authority formerly held by the cooperating communities for the area under its jurisdiction. The JPC can adopt a new master plan and zoning ordinance for the area. Where growth management goals for an area are shared by two or more governmental units, cooperative planning may offer a solution. The loss of direct control remains one of the primary drawbacks to the approach.

### *Conditional Rezoning*

When a township approves a rezoning, any use allowed by the zoning ordinance can be constructed on that property. This can result in many inappropriate uses located side by side, when one desirable use ceases operation and the land is sold to another business with very different plans.

Conditional rezoning, under Public Act 577 of 2005, is different and, in some cases, will provide the township with the protections it seeks for parcels neighboring the rezone. Under conditional

rezoning, the allowed uses can be strictly limited to one or a select few of those permitted in the desired district. If all the conditions are not met within a specified timeframe, the property reverts to the previous zoning.

It begins with a *developer-prompted* request to rezone land; the law is very specific that the township cannot initiate the discussion or require conditions. The requested uses, specified by the developer, cannot include any that are otherwise prohibited within the proposed district.

Townships interested in conditional rezoning as a potential tool for managing growth should proceed with caution. Several legal challenges are in the works. However, if the concept sounds attractive, the first step is adopting an implementing ordinance. This action indicates the township’s willingness to consider conditional rezoning requests.

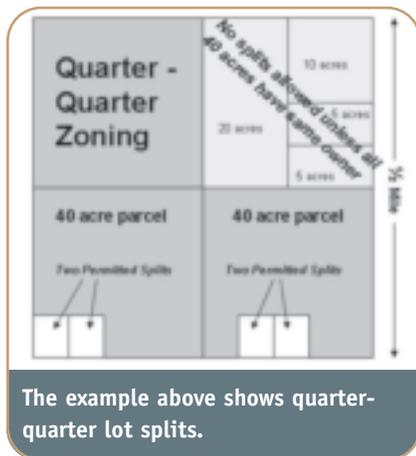
*Exclusive Agricultural Zoning*

Where a viable agricultural base exists and seeks protection from nearby expansion of conflicting land uses, exclusive agricultural zoning has been effective. Conflicting non-farm uses are handled by the special land use process. If approved, these uses are typically limited in size.

Exclusive agricultural zoning works best where little pressure exists for large-scale conversion to residential or other uses. Over time, this scenario may change and, in locations experiencing significant sprawl, the economic pressures to convert land can be enormous.

*Quarter/Quarter or Sliding Scale Zoning*

Under *quarter/quarter zoning*, a limited number of land splits are allowed in every 40-acre land area. “Quarter/quarter” refers to a quarter of a quarter section of land (1/16 of 640 acres, or 40 acres). Accompanying this restriction are both minimum and maximum parcel sizes for the non-farm uses. This approach works best in townships facing moderate growth pressures.



A related tool, *sliding scale zoning*, can be effective in protecting rural character in high-growth townships. Larger parcels are allowed to split into fewer parcels than are smaller parcels. Parcels can split down to a pre-defined minimum size. The “parent” parcel size is determined as of the date specified in the zoning ordinance, to prevent continued parcel splitting.



Under transfer of development rights, a program is established where proposed “donor” sites are prevented from development—typically, to protect an area’s natural features.

*Purchase or Transfer of Development Rights*

Two programs seeing some success around the country are the purchase of development rights (PDR) and the transfer of development rights (TDR). The programs share common objectives, but differ in methodology.

Under TDR, a program is established where proposed “donor” sites are prevented from development—typically, to protect an area’s natural features—with a commensurate level of additional development allowed in the “receiver” sites. Receiver properties must be able to adequately handle the additional amount of development that will place its density beyond that intended by its zoning.

TDR is appealing because no government funds are involved. Donor landowners are paid for the development rights by the receiving landowner. One caution: TDR schemes are very complex, and are appropriate only in certain situations. Third-party review of TDR proposals is almost always required.

More successful across the country are PDR programs. Local governments or nonprofit organizations buy development rights, with or

without a TDR program. The land stays in private ownership, but its use is restricted through a permanent conservation easement or similar legal instrument. Because the easement decreases the monetary value of the property, its property taxes will also be lower, and it is likely that any capital gains resulting from the sale of the land will also be lower.

### ASSESS YOUR OWN TOWNSHIP'S NEEDS

These are just some of the tools available to help creative townships manage growth. Other programs exist that have specific or limited usefulness; agricultural buffers, scenic easements and land trusts are three examples.

In every case, the most important steps are to objectively assess your township's situation and needs, and to involve residents in finding a set of strategies that best match the community. This approach will help provide all with an understanding of the issues and their trade-offs. It will also assure long-term support for the solutions.

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#### **Tom Dabareiner, AICP**

Principal Planner, LSL Planning, Royal Oak  
Dabareiner can be reached at (248) 586-0505  
or via e-mail: [dabareiner@lslplanning.com](mailto:dabareiner@lslplanning.com).

