

## Appendix H: Land Use

### H-1: History of Annexations and Detachments

Over the years the Town of Middleton has been reduced in size due to annexations by the cities of Madison and Middleton. Most of the northeastern corner of the original township has been annexed by the City of Middleton. Much of the eastern one-half of the southern portion of the original township has been annexed by the City of Madison. Per the 2002 Intergovernmental Agreement and the 2003 Cooperative Plan between the Town and the City of Madison, the City will eventually annex all areas south of Blackhawk Road and east of Pope Farm Park and Pioneer and Meadow Roads. All land within this area that has not already been annexed by the City by the year 2042 will become part of the City at that time.

The Town also has an intergovernmental agreement in place with the City of Middleton. This agreement was signed in 1994. The City of Middleton agreed not to exercise its extraterritorial jurisdiction “west of a line running from the point between Sections 4 and 5 on the northern border of the Town, to the point between Sections 32 and 33 on the southern border of the Town.” The Town agreed to make development and land use decisions for all areas subject to the City’s extraterritorial jurisdiction in accordance with the Town’s Land Use Plan of 1994. For additional information, refer to Section 8: Intergovernmental Cooperation.

For additional information regarding these agreements, refer to section H-3 of this appendix, and Section 8: Intergovernmental Cooperation of this Plan.

### H-2: Existing Land Use

An understanding of the Town’s *existing* land use pattern is important before planning a *future* land use pattern. Information from Dane County (e.g. mapping and aerial photography) was utilized along with spot field checks and consultation with Town staff.

Table H-1 provides a summary of existing land uses in the Town of Middleton. Map H.1 in Appendix A provides a visual depiction of the existing distribution of land uses in the Town. The map and table depict the land uses in the Town during the year 2005. The land use categories are established by Dane County. *Note: Several changes in land use and infrastructure have occurred within the Town since 2005 that are not reflected by this summary.*

**Table H-1: Existing Land Uses in the Town of Middleton (Year 2005)**

Land Uses	Acres	Percent
Agricultural	3,821.1	36.4%
Commercial-Sales	30.2	0.3%
Commercial-Service	68.5	0.7%
Under Construction	6.6	0.1%
Industrial	155.56	1.5%
Institutional	73.66	0.7%
Recreational	278.5	2.7%
Single-Family Residential	2,462.85	23.4%
Transportation	598.14	5.7%
Utilities	3.96	0.04%
Vacant Land	1,481.33	14.1%
Water	25.38	0.2%
Woodland	1,499.27	14.3%
<b>Total</b>	<b>10,504.94</b>	<b>--</b>

Source: Dane County Land Information Office (Access Dane)

At the time of the land use inventory, the Town consisted of approximately 10,500 acres. According to the Dane County inventory, at approximately 36 percent of the Town’s land area, agricultural uses made up the largest land use category. Typical agricultural uses in the Town include the farming of corn and alfalfa and tree farming. The amount of land within the Town that is used for agricultural purposes has declined as residential development increases. As the cities of Madison and Middleton continue to grow westward, it is expected that there will be continued pressure for additional residential development within the Town. The next largest land use categories were single-family residential (approximately 23 percent) and vacant land and woodland (both approximately 14 percent). Commercial uses cover only a small portion of the land area within the Town, at approximately one percent combined for all commercial uses.

### H-3: Existing Land Use Plans and Regulations

The Town of Middleton is influenced by a variety of land use regulations exercised by different jurisdictions. Current land use regulations directly affecting the Town of Middleton include the following:

## **Town of Middleton Land Division and Subdivision Regulations**

All subdivisions and certified surveys in the Town of Middleton must conform to the Town's Land Division and Subdivision Code (Title 11 of Town Ordinances). The Land Division and Subdivision Code sets forth technical requirements for plats and certified surveys, required lot sizes, specifies required improvements and design standards and provides for park and public land dedications.

*Note: As of December 2008, updates to Title 11 are under consideration by the Town Board.*

Title 11 of the Town Ordinances establishes a transition area between the Town and the City of Madison. This transition area lies south of Old Sauk Road and east of a line one-half mile west of and parallel to Pioneer Road and Pioneer Road extended southward. In effect, this transition area is bounded on the west by the western section lines of Sections 20, 29 and 32. This transition area is subject to the Intergovernmental Agreement and the Cooperative Plan between the Town and the City discussed later in this appendix and in Appendix G. The ordinance establishes a set of requirements for cluster subdivisions within the transition area. For further information, refer to Title 11 of the Town of Middleton Ordinances.

## **Tumbledown Neighborhood Plan**

The Tumbledown Neighborhood Plan was drafted in 2005. This Plan is a set of future land use recommendations for a neighborhood near the Tumbledown Trails Golf Course, bordered by Mineral Point Road to the north, Pioneer Road to the east and Valley View Road to the south. The neighborhood is bound on the western side by the Cherrywood subdivision. The Tumbledown planning area consists of approximately 517 total acres. The recommendations of the Tumbledown Neighborhood Plan are incorporated in the future land use map that is part of this Comprehensive Plan.

## **Dane County Land Division Regulations**

~~All subdivisions and certified surveys must comply with the Dane County Land Division Ordinance. In those instances where the Dane County Land Division Ordinance and the Town of Middleton Land Division and Subdivision Ordinance differ, the applicant must comply with the more restrictive regulation.~~

## **Town of Middleton Land Division Regulations**

~~All subdivisions and certified surveys must comply with the Town of Middleton Land Division Ordinance only. The Dane County does not have authority to regulate land divisions in the Town of Middleton.~~

### Dane County Comprehensive Plan

Dane County now takes into consideration the Dane County Comprehensive Plan when reviewing plat applications and requests for zoning changes. It is anticipated that this Comprehensive Plan will be adopted by Dane County and incorporated into the County Comprehensive Plan.

### Town of Middleton Comprehensive Plan

The Town of Middleton takes into consideration its Comprehensive Plan when reviewing plat applications and requests for zoning changes. Dane County must adopt this Comprehensive Plan without change. If interpretation or policy clarification is needed, it will be done by the Middleton Town Board and not Dane County Zoning and Land Regulation (ZLR) Committee.

### **Extraterritorial Zoning and Plat Review Jurisdictions**

Incorporated cities and villages in Wisconsin have the ability to exercise extraterritorial zoning and plat review powers for unincorporated areas within certain distances of their municipal boundaries. First, second (i.e. Madison) and third class cities (i.e. Middleton) and villages can exercise these powers within a three-mile radius, while fourth-class cities and villages can exercise these powers within one and one-half miles.

Where the boundaries of multiple extraterritorial jurisdictions overlap, the jurisdictional boundaries are divided on a line all points of which are equidistant from the boundaries of each municipality concerned. No more than one municipality shall exercise extraterritorial power over any one area. The Cities of Madison and Middleton have historically used Blackhawk Road (extended westward) as an informal boundary between their respective extraterritorial jurisdictions.

The City of Madison formerly had extraterritorial jurisdiction extending three miles from the City border, covering much of the Town of Middleton. As part of the 2002 intergovernmental agreement, the City shall not exercise extraterritorial jurisdiction west of the boundary line of the agreement for zoning, official mapping or otherwise. The City does retain extraterritorial jurisdiction over several other areas of Town territory. For further detail, refer to the *Intergovernmental Agreement* between the City of Madison and the Town of Middleton, dated March, 28, 2002. See also the *Final City of Madison and Town of Middleton Cooperative Plan* dated September 29, 2003. Additional information regarding these agreements is also available in Section 8: Intergovernmental Agreement. The boundary established by this agreement is depicted on Map H.4 in Appendix A.

The City of Middleton retains extraterritorial jurisdiction over portions of the Town. There is a less comprehensive boundary agreement between the Town of Middleton and the City of Middleton. Under this 1994 agreement, the City of Middleton agreed not to exercise its extraterritorial jurisdiction west of a line established by the agreement. For additional information, refer to the *Intergovernmental Cooperation Agreement between the Town of Middleton and the City of Middleton*, dated

May 12, 1994. Additional information is also available in Section 8: Intergovernmental Cooperation. The boundary established by this agreement is depicted on Map H.4 in Appendix A.

**Dane County Zoning, Shoreland and Floodplain Management/Soil Erosion Control Regulations**

All proposed development in the Town of Middleton must comply with the Dane County Code of Ordinances including Zoning (Chapter 10), Shoreland and Floodplain Management (Chapter 11) and Soil Erosion Control (Chapter 14). The zoning designations for the Town, as of July 2008, are depicted on Map H.2 in Appendix A.

**Dane County Shoreland and Floodplain Management/Soil Erosion Control Regulations**

All proposed development in the Town of Middleton must comply with the Town of Middleton Zoning Code, and the Dane County Code of Ordinances including, Shoreland and Floodplain Management (Chapter 11) and Soil Erosion Control (Chapter 14). The zoning designations for the Town, as of July 2008, are depicted on Map H.2 in Appendix A. ACT 178 prohibits Dane County shoreland zoning authority from being used to place conditions or restrictions on land outside of shoreland areas.

## Central Urban Service Area Delineation

The Madison Metropolitan Sewerage District (MMSD), the Dane County Planning Division and the Wisconsin Department of Natural Resources (WDNR) have adopted the Regional Development Guide for Dane County. The Central Urban Service Area delineation, which is a key part of the Regional Development Guide, regulates the areas that may be served by public sanitary sewer. Extensions of public sanitary sewer service beyond the approved Central Urban Service Area boundaries require an amendment of the Regional Development Guide and the Central Urban Service Area Boundary. The Central Urban Service Boundary, as of September 2008, is depicted on Map H.4 in Appendix A.

## H-4: Land Supply and Demand

According to Dane County, at the time of the 2005 land use inventory, there were approximately 1,481 acres of “vacant land”, 3,821 acres of “agricultural land” and 1,499 acres of “woodland” within the Town. This land is scattered throughout the Town, with the greatest concentration near the Black Earth Creek corridor. Due to environmental constraints and ordinances, not all of these lands are suitable for residential, commercial or industrial development.

A review of the local Multiple Listing Service (MLS) provided a snapshot of local real estate trends. In May 2008, there were approximately 85 single-family homes for sale in the Town, with the cost of these homes ranging in price from \$249,900 to \$3,500,000.

## H-5: Waste Disposal and Contaminated Sites

Identification of brownfield sites is an important consideration in forming an appropriate land use plan, in fostering economic development, and in ensuring a clean and healthy environment. Cleanup and redevelopment of brownfield sites can return abandoned or underutilized properties to the tax rolls and to productive use. Redevelopment of brownfield sites also contributes toward optimal use of existing infrastructure.

To identify brownfield sites, a number of sources were used:

- Wisconsin Department of Natural Resources (WDNR) Bureau of Remediation and Redevelopment Tracking System (BRRTS)
- Environmental Protection Agency’s (EPA) Superfund Listing
- Local knowledge

As an initial step in identifying brownfield sites, the BRRTS database was searched to identify contaminated sites within the Town. The WDNR maintains the BRRTS database that catalogs all contaminated properties known to the WDNR and other activities related to the investigation and cleanup of contaminated soil or groundwater in Wisconsin. As of July, 2008 there were fifteen sites in the BRRTS database located within the Town of Middleton.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) is a Federal policy created to address abandoned hazardous waste sites. The Federal Environmental Protection Agency administers the Superfund program to carry out CERCLA policy. The Superfund process involves steps taken to assess sites, place them on the National Priorities List, and establish and implement appropriate cleanup plans. The Refuse Hideaway Landfill is the only site within the Town included on the Superfund list of sites. Refer to Appendix D for further detail regarding the Refuse Hideaway Landfill.

## **H-6: Development Factors**

There are a number of physical conditions that limit or restrict land development within and around communities. Existing development or structures can limit future development potential. Other physical factors include conditions that favor a particular use (such as agriculture), or environmental features that make construction more difficult. Examples of these are soils classified as prime farmland, steep topography (having a slope greater than 20 percent), and hydric soils. Physical features such as these do not necessarily prevent development from occurring; however, they may pose significant challenges. However, delineating land as wetland can prohibit development from taking place.

Future growth within the Town of Middleton is limited by several factors. One such factor is the prevalence of steep topography in certain areas of the Town. These steep slopes are most prevalent along the Black Earth Creek Corridor and in the area of the glacial terminal moraine in the southwestern portion of the Town. Development is also limited in areas identified as 100- year floodplains. These floodplains are concentrated primarily along Black Earth Creek and near the Pheasant Branch Creek in the northeastern corner of the Town. Wetlands within the Town, as identified by the Wisconsin Department of Natural Resources, are concentrated almost entirely along the Black Earth Creek Corridor. Map H.3 depicts environmental factors throughout the Town that may affect or limit land uses.

## **H-7: Land Use Conflicts**

Conflicts often develop over time when certain land uses are located inappropriately, or adequate buffering is not provided between conflicting land uses. Sometimes industrial or commercial land uses have characteristics including noise, dust, odors and truck traffic that can potentially be viewed as a nuisance by surrounding residents. The Town of Middleton is not immune to these types of conflicts, some of which are discussed in this section.

## H-8: Land Use Forecasts

### Population Forecast

Table H-2 summarizes the population projections from the Wisconsin Department of Administration (DOA) for the Town of Middleton over the length of this Comprehensive Plan. The number of new residents is projected in five-year increments. Thirty additional residents are projected in the Town between the most recent estimate (2007) and the earliest population projection (2010). The DOA projects a population for the Town of 7,027 by the year 2025. The DOA's average projected annual increase of approximately 95 new residents was utilized to project a year 2030 population of 7,500 residents for the Town

**Table H-2: Town of Middleton Population Estimates and Projections**

Year	Population	Change
2000 Census	4,594	--
2005 Estimate/Projected*	5,350	+756
2007 Estimate	5,578	+228
2010 Projected	5,608	+30
2015 Projected	6,057	+446
2020 Projected	6,526	+469
2025 Projected	7,027	+501
2030 Projected ‡	7,500	+473

Source: Wisconsin Department of Administration (DOA)

\* 2005 population figure is the final estimate from DOA.

‡ 2030 projection was calculated using the average projected rates of increase between 2010 and 2025.

### Housing Forecast

Nationally, the average household size has been on a steady downward trend for a number of decades. This trend is also evident throughout much of Wisconsin and in the Town of Middleton. According to the U.S. Census, the average household size for the Town of Middleton fell from 3.2 residents per household in the year 1990 to 2.9 residents per household in the year 2000. It is anticipated that this trend will continue throughout the planning period.

Table H-3 shows the anticipated number of households over the 20-year planning period in five-year increments. Having established the number of households that will be in the Town, it is necessary to determine the number of housing units that will be needed. The number of housing units will exceed the number of households in that a certain share of the housing units will be vacant at any point in time. A unit may be vacant because it is not considered a primary residence, because it is for rent or for sale, or it is simply not occupied. For the purpose of this projection, an occupancy rate of 96.7 percent is assumed based on the occupancy rate derived from the 2000 U.S. Census data. It is projected that by 2030 the Town will need to accommodate an additional 839 housing units over the year 2007 estimated total of 1,903.

**Table H-3: Town of Middleton Household and Housing Unit Estimates and Projections**

Year $\Phi$	Households	Housing Units $\text{£}$
2000 Census	1,572	1,610
2005 Projected	1,780	1,824
2007 Estimate $\ddagger$	1,857	1,903
2010 Projected	1,973	2,022
2015 Projected	2,145	2,198
2020 Projected	2,323	2,380
2025 Projected	2,500	2,562
2030 Projected	2,676	2,742

Source: U.S. Census and Wisconsin DOA

$\Phi$  Household projections are those made by the Wisconsin DOA in 2004.

$\ddagger$  2007 household estimate calculated using the average projected increase in households between 2005 and 2010.

$\text{£}$  To project the estimated number of housing units, an occupancy rate of 96.7% is assumed.

## Employment Forecast

The Town of Middleton is predominantly residential, with only small pockets of commercial and industrial land uses. In turn, many of these commercial and industrial areas are located in Town islands or other areas designated to be annexed to the City of Madison by intergovernmental agreement. The Town of Middleton does not anticipate being an employment center over the length of this Plan. Any anticipated growth in commercial and industrial areas is planned to be located primarily in existing commercial and industrial areas and along the U.S. Highway 14 (USH 14) corridor. Therefore, it is not pertinent to this Plan to forecast employment growth for establishments within the Town.

## Land Use Forecast

The land area needed to accommodate new housing was calculated by multiplying the number of additional housing units needed over the next twenty years by an average lot size of 2.16 acres. This figure is based upon the average size of Town lots with residential uses according to the 2005 Dane County existing land use inventory (approximately 2.16 acres). With an additional 839 housing units forecast to be needed, the future land use map should provide a minimum of approximately 1,812 acres for residential development before infrastructure is taken into account. This value was then adjusted upward by 30% to account for infrastructure (e.g. roads) and by 10% to allow consumers a choice between various housing developments. As a result, a minimum of approximately 2,537 acres will be necessary to address new residential uses forecast to occur over the next twenty years.

It should be noted that these forecasts are intended for planning purposes only. It is important to stay abreast of actual development levels and update these forecasts as more current information becomes available and to account for actual development activity and shifts in the housing market.

## H-9: Future Land Use Map

Through the Town Ordinances and the zoning powers ~~exercised by Dane County~~, the Town of Middleton has the ability to guide future growth in a manner that enhances its residents' quality of life and is consistent with its long-term vision. However, misguided or inappropriate use of these tools can lead to undesirable results, including unnecessary land use conflicts, inefficient service delivery, a decreased quality of life and other potential problems.

The future land use map included as Map H.4 in Appendix A, and is intended to illustrate the Town of Middleton's vision and guide the Town's future growth over the next 20 years and beyond. It will serve as a guide for the Plan Commission and Town Board when making land use, zoning and infrastructure related decisions. The map will also provide direction for property owners and developers when making decisions about the future of their property in the Town. The future land use map uses six land use categories. The majority of these categories generally

correspond to classifications defined by the **Dane County** Town Zoning Ordinance. In many cases, similar zoning classifications have been consolidated into broader land use categories for the purposes of the future land use map. The future land use categories do not have the authority of zoning classifications. However, the future land use map is intended to be used as a guide when making land use decisions.

As noted elsewhere in this document, it will be important to periodically review and update this Plan, and accompanying future land use map, to ensure that local development preferences are maintained.

The Town of Middleton drafted the Tumbledown Neighborhood Plan in 2005. This Plan provides recommendations for future development in the vicinity of the Tumbledown Trails Golf Course. The recommendations and concept plan of the Tumbledown Plan have been incorporated into the Future Land Use Map of this Comprehensive Plan.

The City of Madison has adopted numerous neighborhood development plans for neighborhoods throughout the City. Seven of these plans include land currently located within the Town of Middleton. Per the 2002 Intergovernmental Agreement, all areas covered by these plans will be annexed to the City of Madison by the year 2042. The land use plans of each of these neighborhood development plans have been adapted and incorporated into the future land use map of this Comprehensive Plan. As of July 2008, the following City of Madison neighborhood development plans cover areas currently within the Town of Middleton:

- Blackhawk
- Elderberry
- Junction
- Pioneer
- Midtown
- Raymond

The Town's Future Land Use Plan is shown in Map H-4 in Appendix A and descriptions for the various future land use districts are provided in Table H-4.

As shown on Map H-4, the majority of the Town is intended to remain a mixture of agricultural and low-density residential development. The largest land use category is the Residential and Agricultural district, which is intended to protect the semi-rural character of the Town. A total of approximately 7,434 acres are included in the Residential land use category. It is important to remember that this category is intended to allow for a mixture of residential, institutional, mixed use, and research and development. agricultural . It is not intended that all areas covered by the Residential category be developed for residential uses. Commercial development is planned for existing commercial locations and along the USH 14 corridor. The future land use map designates approximately 604 acres for commercial uses, and approximately 8 acres as mixed use. The total acreages designated for each future land use category are outlined in Table H-5.

**Table H-4: Future Land Use Map Districts**

Land Use District	General Description
<p><b>Residential (Includes Institutional, Mixed Use, and Research and Development)</b></p>	<p>This district is based upon a consolidation of districts zoned for residential or agricultural uses by Dane County. The uses allowed in this district are intended to mirror in large part those allowed Dane County’s A-1 zoning district, including conditional uses. Permitted uses may include residential uses, utility services, agricultural uses, parks and trails. Others include institutional, mixed-use, and research and development, which are described below. Other conditional uses may be allowed per Town of Middleton <del>and Dane County</del> ordinances. This district supports residential uses at densities specified by Town Ordinance. For lands that will remain in the Town of Middleton per the intergovernmental agreement with the City of Madison or for the foreseeable future, this district is intended to allow densities similar to those that currently exist within the Town. For those lands covered by City of Madison neighborhood development plans, the Residential and Agricultural district may include a mixture of low to high densities.</p>
<p>Institutional</p>	<p>This includes governmental and institutional uses. Examples include schools, churches and government facilities.</p>
<p>Mixed Use</p>	<p>This includes areas designated by City of Madison neighborhood development plans for a mix of residential, commercial and/or industrial uses. Mixed-Use districts are planned only for areas that will be annexed by the City of Madison per intergovernmental agreement.</p>
<p>Research and Development</p>	<p>This includes areas designated by the City of Madison Pioneer Neighborhood Development Plan for a mixture of offices, business incubators, public uses and utilities, public transit, parking and other uses similar to the City’s Research Park Specialized Manufacturing District (RPSM).</p>

<b>Commercial</b>	This district is intended to recognize existing commercial enterprises and to provide room for future commercial uses. Commercial development is characteristically located adjacent to a main thoroughfare. Typical uses include small retail stores, restaurants and offices of various types.
<b>Recreation</b>	This district includes privately-owned recreation lands.
<b>Open Space</b>	This district recognizes federal, state, county and town lands that are managed as parkland and for forestry, resource protection, wildlife management and other uses consistent with the mission of the controlling agency. Lands dedicated as private outlots or conservation areas are also included in this category. These lands may or may not be open to the public.

**Table H-5: Future Land Use Category Acreages**

Future Land Use Category	Total Acreage	Percent
Residential (Includes Institutional, Mixed Use, and Research and Development)	7,434.7	77.6%
Commercial	604.2	6.3%
Open Space	1,353.8	14.1%
Commercial Recreation	191.2	2.0%
<b>Total</b>	<b>9,583.9</b>	<b>100%</b>