

Chapter 13

LOCAL AND PENINSULA LAND USE ISSUES

INTRODUCTION

This chapter advocates continuance of the traditional practice of most land use decisions being made at the local level of government, however, it also acknowledges the appropriate role of county policy makers in issues of greater than local concern. This chapter sets the stage for Chapter 14 which proposes a new institutional structure for land use decisions in Leelanau County.

LOCAL AND PENINSULA LAND USE ISSUES

As previous working papers (and chapters in this plan) have documented, the continuation of "business as usual" as it relates to land use decisions on the Leelanau Peninsula will result in continued environmental degradation, loss of rural character, higher public service costs and a future with far fewer choices available to our children and our children's children. There is a better way. It is built upon a common vision of the future, and consensus on a means for achieving that future. Fundamentally it relies on agreement between local and county policy makers as to their respective roles and responsibilities in planning for and managing change.

At the root of this collaborative approach is the recognition that all land use issues can be characterized as falling on a continuum representing the degree to which they have local and/or area-wide impacts associated with them. This continuum is represented below with issues of local concern on one end and issues of greater than local concern on the other.

The current legal structure for land use decisions in Michigan places authority for most land use decisions with the local unit of government (if the local unit wishes to exercise

this authority). This is usually exercised through local comprehensive (land use) plans and zoning regulations as authorized by several enabling statutes. In some areas, counties make these decisions if local governments choose not to exercise their authority, as with county zoning.

Other land use decisions are made at the county or state level. Examples include decisions on prisons, landfills, and hazardous waste facilities. In some cases authority can be shared or transferred between state and county or local governments, as with the administration of dune, high risk erosion, wetlands, or natural river zoning provisions. In each of these examples, a separate state statute defines the respective procedures and responsibilities of the decision making entities.

At the local level, there is a greater opportunity for input in the democratic processes associated with land use decisions. Local officials are also likely to have a far greater familiarity with particular properties and land uses than are government officials far away. As such, as a general principle, land use decisions should continue to be made at the level of government closest to the people. There are, however, at least three obvious instances in which this principle is not valid.

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The first and most obvious, is evident where exclusively local decisions prevent consideration of broader public concerns. This is most apparent in a situation where a community is attempting to be exclusionary, as in prohibiting the establishment of low cost housing (like a mobile home park) or is attempting to prevent the creation of a needed public facility like a

prison or recycling station. Obviously, if every local government took the same position, affordable housing, prisons, or recycling stations would never be established anywhere.

Second, this principle also fails where a local government does not have the fiscal, administrative, human, legal, and/or other necessary resources to adequately administer local regulations. Without trained personnel, and the fiscal resources to pay them, and to defend attacks on local regulations, then unequal treatment and inconsistent application of regulations will occur. This undermines the legal validity of local regulations and may ultimately result in their being set aside by the courts. This will prevent achievement of the public policy objectives the regulations are intended to implement.

A third problem is evident when seemingly innocuous individual land use decisions cumulatively add up to a very serious and negative result. A current example is the combined effect of the many new lots being established on 1-20 acres across the peninsula. Any one or two lots is neither a problem nor an issue. But the combined effect is resulting in significant loss of productive farm and forest land, of wildlife habitat, and of the natural rural character of the peninsula (see Working Papers #5 and #10).

Thus, while most land use decisions are made, and should remain being made at the level of government closest to the people affected (city, village, or township), if efforts are not made to improve, enhance, and coordinate local land use decisions, the result will be continued loss of quality of life across the entire peninsula. This **General Plan** advocates an improved institutional relationship between the townships and villages and the county, as well as improved support services from the county to local governments, relating to planning and zoning programs. Chapter 14 describes this improved institutional relationship, and some of the proposed new services that should be initiated to implement the plan. These proposals were developed with broad public input via the General Plan Steering Committee and

were first documented and presented in Working Paper #12.

Chapter 15 presents a brief description of the key processes and priority initiatives that must be taken to successfully implement this plan. They largely fall within the authority or ability of the county to initiate. However, many will not be successful unless supported by and implemented with the support of the village and township officials in the county.

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It should be apparent that most of county-level initiatives are related to dealing with issues of greater than local concern. This focus is taken in order to supplement and enhance local government capabilities to make the bulk of land use decisions (i.e. those which have purely local impacts), while also helping to ensure continuous coordination, communication, and cooperation with county policy makers on issues of greater than local concern. Success of this **General Plan** will be measured in terms of the degree to which future quality of life on the peninsula is at least retained, if not enhanced by instituting these measures.