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Department of Natural Resources
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Melvin W. Wendt Citizen Member

SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION STAFF

Special acknowledgement is due Mr. David A. Schilling, Senior Specialist, and Mr. William J. Stauber, AICP, Principal Planner, for their contributions to the preparation of this report.

COMMUNITY ASSISTANCE PLANNING REPORT NUMBER 215

AN ENVIRONMENTALLY SENSITIVE LANDS PRESERVATION PLAN FOR THE TOWN OF NORWAY SANITARY DISTRICT NO. 1

Prepared by the

Southeastern Wisconsin Regional Planning Commission

P. O. Box 1607 Old Courthouse 916 N. East Avenue

Waukesha, Wisconsin 53187-1607

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June 1996

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SOUTHEASTERN WISCONSIN REGIONAL PLANNING

COMMISSION

916 N. EAST AVENUE

P.O. BOX 1607

WAUKESHA, WISCONSIN 53187-1607

TELEPHONE (414) 547-6721 TELECOPIER (414) 547-1103

Serving the Counties of KENOSHA

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June 21, 1996

TO: The County Executive and Members of the County Board of Supervisors of Racine County

The Chairman and Members of the Town Board of the Town of Norway

The Chairman and Members of the Commission of the Town of Norway Sanitary District No. 1

The Chairman and Members of the Board of Commissioners of the Wind Lake Management District

The Regional Planning Commission is pleased to provide to you this report, setting forth a plan for the preservation of environmentally sensitive lands in the Town of Norway Sanitary District No. 1. The plan was prepared in response to a request submitted by the Racine County Planning and Development Director on behalf of both Racine County and the Town of Norway in 1992. The work was carried out under the direction of a Technical Coordinating and Advisory Committee consisting of representatives of the Town of Norway, the Town of Norway Sanitary District No. 1, Racine County, the Wisconsin Department of Natural Resources, the U. S. Army Corps of Engineers, and the Wind Lake Management District, together with concerned citizen members.

The Town of Norway Sanitary District No. 1 encompasses a variety of important natural resources, including three large lakes and associated shorelands and floodlands, large areas of wetlands, and woodlands and other upland natural resources. The planning study was undertaken to address conflicts which had arisen between Federal and State regulations precluding the filling and development of environmentally sensitive lands and County zoning and past platting activity which would permit development of such lands. The study was intended to resolve these conflicts, carefully balancing the need to protect environmentally sensitive areas and the rights of private property owners.

The plan identifies environmentally sensitive lands to be preserved and others which should be allowed to be developed, with care taken to minimize any adverse environmental impacts. The plan recommends acquisition in the public interest of certain of the lands recommended for preservation, including all 62 of the undeveloped residential lots which substantially consist of wetlands but which very likely cannot be developed under State and Federal wetland regulatory programs. The recommended public acquisition by County and local agencies is intended to result in an integrated, manageable system of open space reserves in the area. The recommended acquisition would, moreover, serve to mitigate the potentially harsh impacts of State and Federal wetland regulatory programs on owners of undeveloped platted lots in the area where development is restricted.

The plan also recommends changes to conservancy zoning as applied under the County zoning ordinance in order to protect the resource features recommended for preservation as well as to ensure consistency between County conservancy zoning, County floodplain and shoreland zoning, and State and Federal regulations which affect the area.

The Regional Planning Commission is pleased to have been of assistance to the County, Town, and Lake and Sanitary Districts in this important planning project. The Commission, of course, stands ready to assist the County, Town, and Lake and Sanitary Districts in implementing the plan over time.

Sincerely,

Kurt W. Bauer Executive Director (This page intentionally left blank)

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Chapter I

INTRODUCTION

BACKGROUND AND NEED FOR THE PLANNING PROGRAM

The Town of Norway Sanitary District No. 1 is located in the northwestern portion of the Town of Norway in Racine County. The sanitary district, identified on Map 1, is characterized by an outstanding variety of important natural resources, including three large lakes and associated shorelands and floodlands; large areas of wetlands; and woodlands and other upland natural resources. Certain Federal and State agencies are charged with the responsibility of protecting such important natural resources. Such protection is complicated by the fact that certain areas of these resources have been platted for urban residential development. Increasingly, conflicts have arisen between the application of Federal and State regulations attendant to the protection of such environmentally sensitive lands and the provisions of county and local zoning ordinances which would permit urban residential development of certain such lands. In some cases, the Federal and State regulations effectively prohibit the building of houses on parcels that are zoned residential, that have been platted with public approval in past years, and that have already been provided with access to public sanitary sewer service.

On December 12, 1991, the Southeastern Wisconsin Regional Planning Commission convened an intergovernmental agency staff meeting at the request of the Racine County Planning and Development Director. The purpose of the meeting was to discuss the conflicts which have arisen between the application of Federal and State regulations regarding the protection of environmentally sensitive lands and the existence of county and local zoning ordinances which would permit the development of such lands. On February 6, 1992, the Racine County Planning and Development Director, on behalf of both Racine County and the Town of Norway, requested that the Regional Planning Commission undertake a special study. This study would attempt to resolve the complex issues involved in the preservation of environmentally sensitive lands in that portion of the Town of Norway encompassed by Norway Sanitary District No. 1 and its immediate environs. The study would also identify and

attempt to resolve conflicts between the general joint county-town zoning ordinance and the county floodland-shoreland zoning ordinances as applied to the study area.

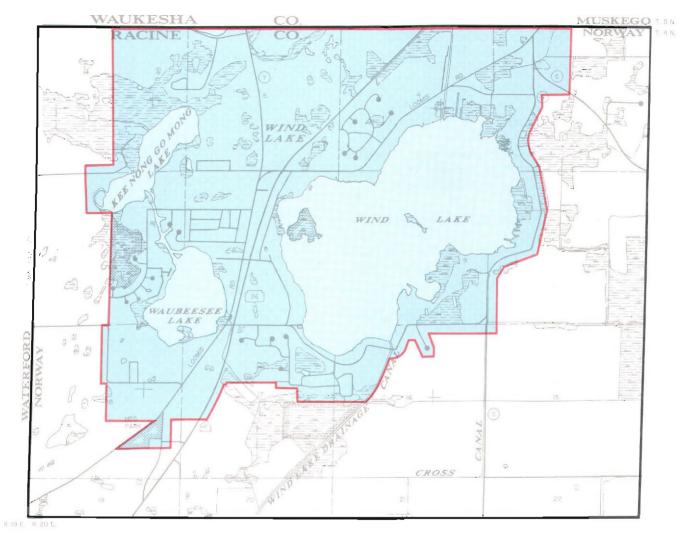
The study was conducted under the guidance of a Technical Coordinating and Advisory Committee consisting of representatives of the Town of Norway, Racine County, the Wisconsin Department of Natural Resources, the U. S. Army Corps of Engineers, and citizen members. The membership of this Advisory Committee is presented in the inside front cover of this report. The Advisory Committee meetings held during the course of the study provided the primary basis for the expression of public agency and private interest concerns regarding the preservation or development of natural resources within the study area.

PURPOSE OF THE STUDY

The purpose of the study is to identify how best to preserve the environmentally sensitive lands in the study area while at the same time ensuring that individual landowners are treated equitably. The plan prepared under this program identifies the areas which should be preserved and protected to maintain important natural resources, either through public land use regulation, public acquisition, or private conservancy agency acquisition, and identifies those areas within the study area which may be developed for urban uses.

The plan is intended to guide the concerned local units and agencies of government in the provision of basic urban services and facilities, including public sanitary sewer service; to guide local, county, State, and Federal units and agencies of government in the exercise of their respective natural resource protection responsibilities; to guide public agencies in the acquisition of important natural resources; to ensure that individual landowners of platted lots are treated equitably; and to provide a framework within which private interests can formulate plans for additional development in the area. It should be noted that the results of this study are intended to

Map 1
TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1992





be used in the completion of the sewer service area refinement plan for the Wind Lake area.

SCHEME OF PRESENTATION

Following this introductory chapter, Chapter II of this report sets forth a descriptive analysis of the study area, including a summary of historic urban development and population growth in the Wind Lake area, and describes the existing land use, land ownership, natural resources, and environmental corridors in the study area. Chapter III describes the Federal, State, county, and local regulatory framework applicable to land use decision making in

the study area. Chapter IV describes the application of the regulatory framework to the existing natural resources in the study area. This chapter identifies all environmentally sensitive lands, noting those lands where current Federal or State regulations effectively preclude development and identifies those resources generally protected by Federal and State regulations and by county and town zoning. Chapter V describes the recommended preservation plan for environmentally sensitive lands. Chapter VI sets forth the public and private actions required to implement the plan. Chapter VII presents a summary of the major findings and recommendations of the study.

Chapter II

INVENTORY FINDINGS

INTRODUCTION

Any study on the use and management of the environmentally sensitive lands of an area requires consideration of the overall characteristics of the area. Thus, this chapter presents a general description of the Town of Norway Sanitary District No. 1. It provides information on the historical development of the District, including information on population, urban development, and sanitary sewerage; information on land use and land ownership; and definitive data on the existing natural resource features of the District. In addition, this chapter presents a summary of the land use development and natural resource preservation recommendations for the District prepared and presented in previous planning programs.

GENERAL DESCRIPTION OF THE DISTRICT

The limits of the Town of Norway Sanitary District No. 1 in 1992 were selected as the study area boundary. As shown on Map 1, the Town of Norway Sanitary District No. 1 is located in the northwestern portion of the Town of Norway, Racine County, and encompasses an area of 4,205 acres. The District is characterized by an outstanding variety of important natural resources, including three large lakes, Wind, Waubeesee, and Kee Nong Go Mong (Long) Lakes, and associated shorelands and floodlands: large areas of wetlands; and woodlands and other natural resources. The area of Wind Lake is 890 acres, while those of Waubeesee and Kee Nong Go Mong Lakes are 145 acres and 103 acres, respectively. Together these lakes encompass 1,138 acres, or about 27 percent of the area of the District. Urban residential and related uses have been developed on the lands surrounding the lakes. Vehicular access is provided to the District via STH 36, CTH G, CTH S, and CTH Y.

In addition to the Town of Norway Sanitary District No. 1, governmental units and agencies of government operating in the District include the Wind Lake Management District, the Town of Norway, and Racine County. A town sanitary district is a special-purpose unit of government created by the Town Board and governed by sanitary district commissioners. Such districts may be created pursuant

to Section 60.71(1) of the Wisconsin Statutes for the purpose of constructing storm sewers, drainage improvements, sanitary sewers, or a system of garbage or refuse disposal. The Town of Norway Sanitary District No. 1 was established in 1969 to provide a sanitary sewerage system to serve development around Wind, Waubeesee, and Kee Nong Go Mong Lakes in the Town of Norway, as well as Denoon Lake in the City of Muskego. The construction of the sewerage system and sewage treatment plant was completed in 1978.

A public inland lake protection and rehabilitation district, also known as a lake management district, is a special-purpose unit of government created to undertake a lake protection and rehabilitation program. The Wind Lake Management District was established in September 1985. As shown on Map 2, the Wind Lake Management District encompasses 1,854 acres, including 964 acres of land and 890 acres of surface waters of Wind Lake. The entire Wind Lake Management District lies within Town of Norway Sanitary District No. 1. Lake management districts have not been established for Waubeesee and Kee Nong Go Mong Lakes.

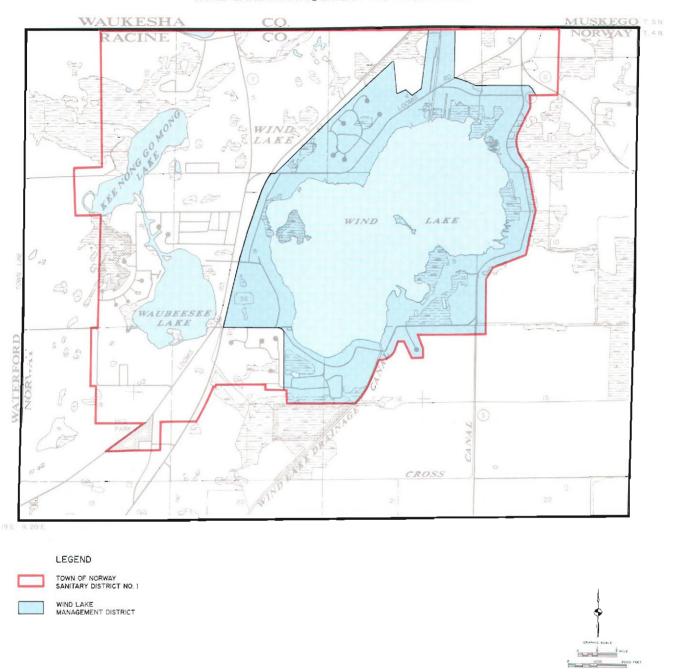
HISTORICAL DEVELOPMENT IN THE WIND LAKE AREA

General information on the historical development of the Wind Lake area will be helpful to the understanding of the problem of preserving the environmentally sensitive lands in the Town of Norway Sanitary District No. 1 while providing opportunities for residential and urban development. Accordingly, this section presents information on recent and existing population levels in the District, on historical urban growth and land platting activity, and on the provision of sanitary sewerage facilities.

Population

The resident population of the Town of Norway, as determined by the U. S. Bureau of the Census in 1990, was 5,493 persons. This represents an increase of 874 persons, or 19 percent, over the 1980 population of 4,619 persons. The estimated 1990 resident population of the District was 3,980 persons, or about 72 percent of the population of the

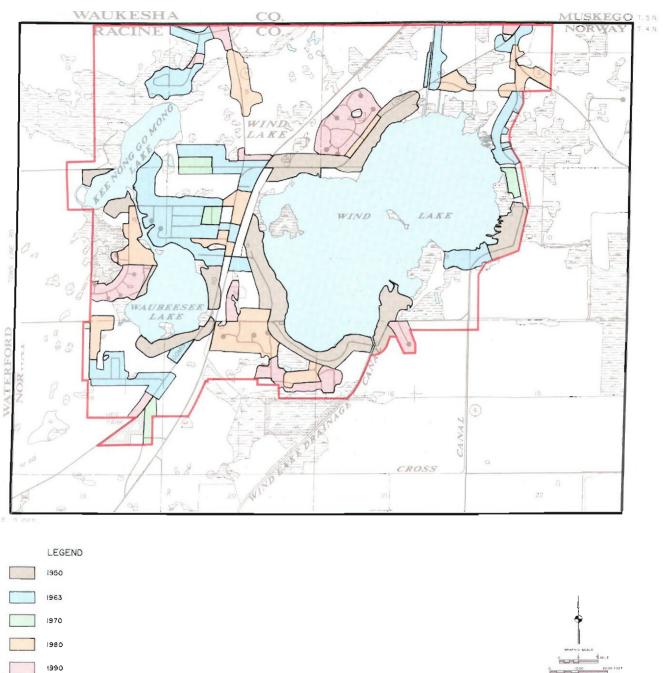
Map 2
WIND LAKE MANAGEMENT DISTRICT: 1992



Town. Between 1970 and 1980, the population in the District increased by about 150 persons, or 5 percent, over the estimated 1970 population level of 2,930. Between 1980 and 1990, the population in the District increased by about 900 persons, or 29 percent, over the estimated 1980 population level of

3,080. The average household size in the District in 1990 was about 2.98 persons per household, compared to about 3.27 persons per household in the District in 1980, and about 3.76 persons per household in the District in 1970. Based on U. S. Bureau of the Census information, it is estimated

Map 3
HISTORIC URBAN GROWTH IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1950-1990



that there were 99 seasonal housing units accommodating about 300 seasonal residents in the District in 1990, an estimated 154 seasonal housing units accommodating about 500 residents in the District in 1980 and an estimated 95 seasonal housing units accommodating about 360 residents in the District in 1970.

Source: SEWRPC.

Historical Urban Growth

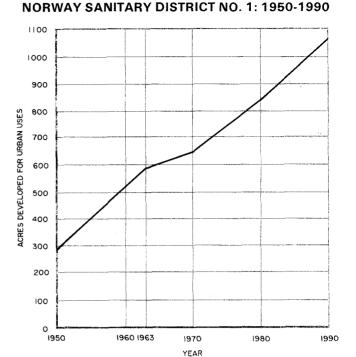
The distribution of lands devoted to urban uses in the Town of Norway Sanitary District No. 1 in 1950 and selected succeeding years is shown on Map 3. In 1950, urban land uses consisted generally of residential and recreational development surrounding the three major lakes in the District and encompassed 286 acres, or about 9 percent of the land area of the District. In the years after 1950, large areas of land in locations scattered throughout the District were developed for urban uses. As shown on Map 3 and indicated in Figure 1, by 1963 an additional 297 acres of land throughout the District, a 104 percent increase over the 1950 urban development area, were developed for urban uses. By 1970, an additional 61 acres of land, a 10 percent increase over the 1963 urban development area, were developed for urban uses; by 1980, an additional 198 acres, or a 31 percent increase over the 1970 area, were developed for urban uses. Finally, by 1990, an additional 218 acres, or 26 percent over the 1980 area, were developed for urban uses. Thus, by 1990. a total of 1.060 acres, or about 35 percent of the land in the District, were developed for urban use.

In addition to the lands already developed for urban use, lands which have been subdivided into small parcels less than five acres are generally considered available for, and committed to, urban development. Map 4 shows those areas within the District which have been subdivided into parcels smaller than five acres. As shown on Map 4, large areas in the District have been so subdivided, with about 1,410 acres, or 46 percent of the lands in the District, consisting of parcels less than five acres in area. It is important to point out that, if wetlands or other environmentally sensitive lands are located within such small parcels, existing regulations, as described in Chapter III of this report, may prohibit additional future development.

Existing Sanitary Sewerage Facilities

As already noted, the Town of Norway Sanitary District No. 1 was established in 1969 to construct a sanitary sewerage system to serve the areas surrounding Wind, Waubeesee, and Kee Nong Go Mong Lakes in the Town of Norway and Denoon Lake in the City of Muskego. The sewage treatment plant serving this area was completed in 1978. Map 5 shows the location of the sewage treatment

Figure 1
HISTORIC URBAN GROWTH IN THE TOWN OF



Source: SEWRPC.

plant, the location of existing trunk sewers, and the location and extent of the area served in the sanitary District in 1994. As shown on Map 5, about 2,180 acres, or about 71 percent of the lands in the District, including certain parcels encompassed by wetlands; and about 3,920 persons, or about 98 percent of the resident population within the District, are provided with sanitary sewer service.

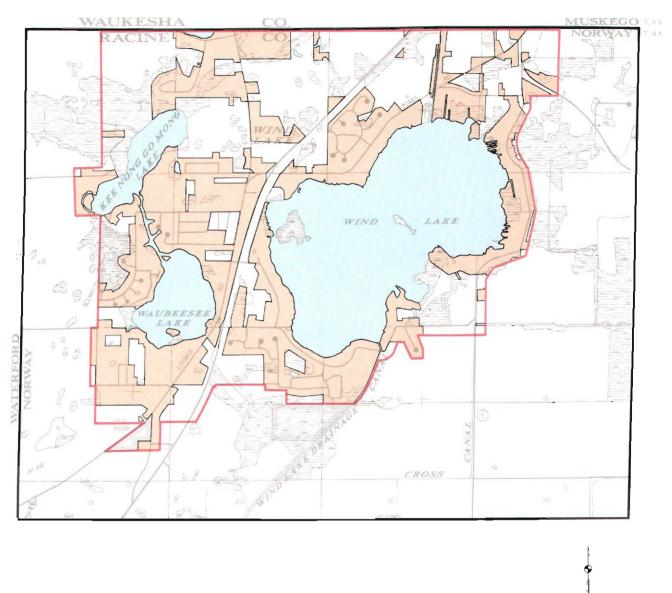
LAND USE

Information on the amount of land devoted to the various types of land uses in the District in 1994 is presented in Table 1 and shown graphically on Map 6. As indicated in Table 1, agricultural uses still accounted for about 510 acres, or 12 percent of the District. Surface waters encompassed about 1,150 acres, or about 28 percent of the District. Other rural land uses, including woodlands, wetlands, and other open lands, combined encompassed about 1,270 acres, or 30 percent of the District. Thus, about 2,930 acres, or 70 percent of the District, were in rural uses or surface water in 1994.

¹For this study, the "land area" of the District is 3,067 acres and includes all upland areas, wetlands, floodlands, and small ponds in the District but excludes the 1,138-acres of the waters of the three major lakes. Thus, the 3,067-acre land area of the District encompasses about 73 percent of the total 4,205-acre District.

Map 4

AREAS COVERED BY PARCELS LESS THAN FIVE ACRES IN SIZE IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1993



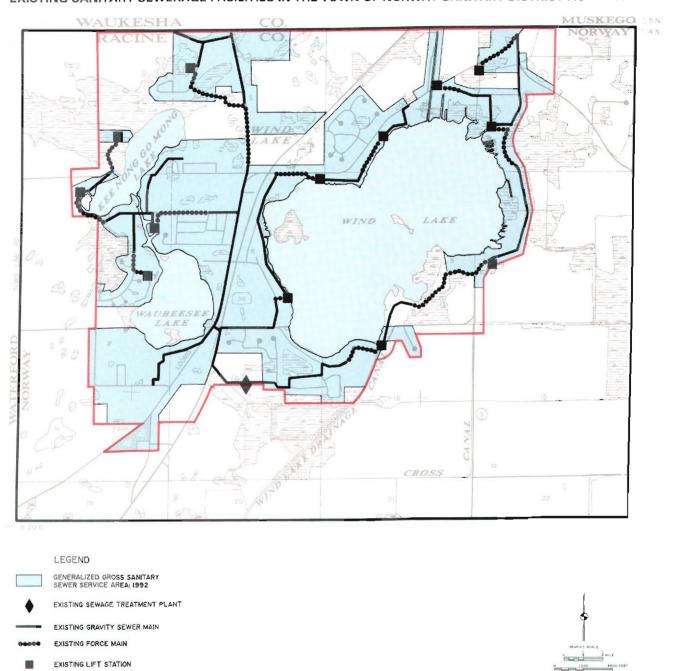
As further indicated in Table 1 and shown on Map 6, residential lands accounted for about 880 acres, or about 21 percent of the District and 69 percent of the urban lands in the District. The remaining urban land uses combined covered about 390 acres, or 9 percent of the District and 31 percent of the urban lands. Thus, about 1,270 acres, or 30 percent of the District, were in urban use in 1994.

PUBLIC LAND OWNERSHIP

Major public landholdings in the Sanitary District are identified on Map 7. Shown on Map 7 are an approximately 19-acre island in Wind Lake owned by the Wisconsin Department of Natural Resources; two County-owned sites, Colonel Heg Park and a site located adjacent to the Whisper-

Map 5

EXISTING SANITARY SEWERAGE FACILITIES IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1994



ing Hills of Waubeesee Lake Subdivision, which together encompass 64 acres; a 30-acre Town-owned undeveloped park site located in the southwestern portion of the District; and the 32-acre sewage-treatment plant site owned by the Town of Norway Sanitary District No. 1, also located in the southwestern portion of the District. In addition to these major landholdings, the Wisconsin Department of

Natural Resources owns two small lake-access sites in the Sanitary District, one on Wind Lake, the other on Waubeesee Lake.

NATURAL RESOURCE FEATURES

The study of environmentally sensitive lands in the Town of Norway Sanitary District No. 1 requires

Table 1

EXISTING LAND USE IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1994

Category	Acres	Percent of Subtotal	Percent of Study Area
Urban			
Residential	884	69.4	21.0
Commercial	21	1.7	0.5
Industrial	2	0.2	a
Transportation, Communication, and Utilities ^b	325	25.5	7.8
Governmental and Institutional	13	1.0	0.3
Recreational ^C	28	2.2	0.7
Subtotal	1,273	100.0	30.3
Rural			
Agricultural ^d	514	17.5	12.2
Surface Water	1,147	39.1	27.3
Other Open Lands ^e	1,271	43.4	30.2
Subtotal	2,932	100.0	69.7
Total	4,205		100.0

^aLess than 0.05 percent.

detailed information on the individual elements of the natural resource base in the district. This section presents a description of surface water resources, wetlands, floodlands, woodlands, wildlife habitat, scientific and natural area sites, historic sites, and soils in the District.

Surface Water Resources

As already noted, the District contains three major lakes, Wind, Waubeesee, and Kee Nong Go Mong Lakes, each 50 acres or larger in size and together encompassing a total of 1,138 acres. A small five-acre portion of a fourth major lake, Denoon Lake, is located in the northwestern portion of the District. In addition, as shown on Map 8, a number of small ponds of less than five acres were identified in the District. Together these lakes and ponds encompass a total of 1,147 acres, or 27 percent of the District.

Wetlands

Under Section 29 of the State Statutes, a wetland is defined as "an area where water is at, near or above

the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions."² It is important to note that lowland wooded areas, such as tamarack swamps and lowland hardwood forests, meet the requirements of this definition and are classified as wetlands. As shown on Map 8, wetlands are located throughout the District and encompass about 715 acres, or about 23 percent of the land area and about 17 percent of the total area of the District. In addition, Map 8 shows wetlands that were altered and cropped prior to December 23, 1985, but are located in shallow topographic depres-

bincludes off-street parking.

^CConsists of intensively used outdoor recreation land.

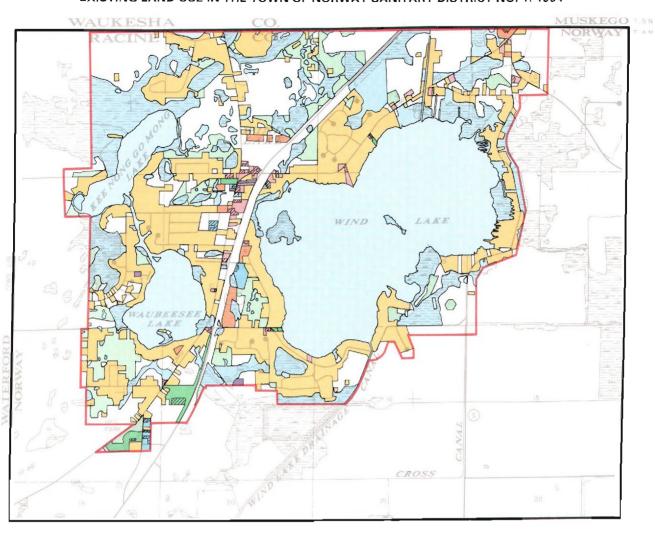
dincludes about 13 acres of land which are currently farmed but are subject to Federal wetland regulations.

eConsists of wetlands, woodlands, and unused lands.

²This definition was utilized in conducting the Wisconsin Wetlands Inventory mapping program described in Chapter III of this report and is the definition that the Technical Coordinating and Advisory Committee guiding this study directed be used to determine the location and extent of wetlands in the District.

Map 6

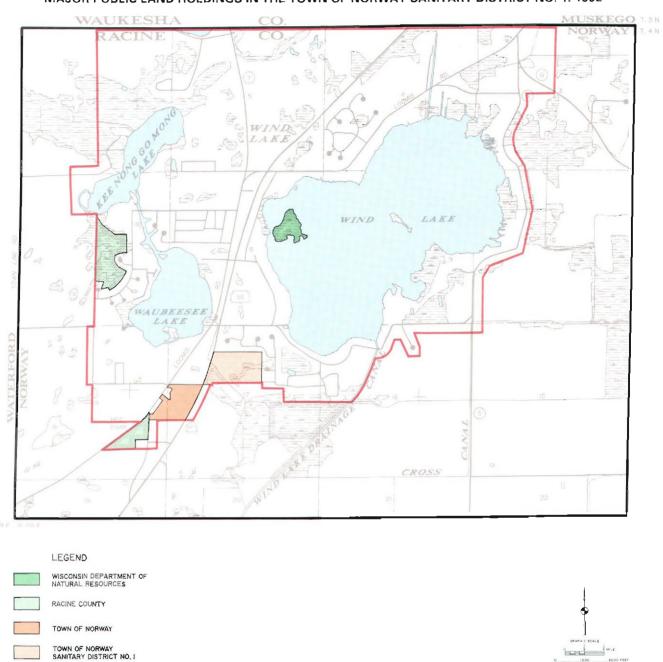
EXISTING LAND USE IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1994





Map 7

MAJOR PUBLIC LAND HOLDINGS IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1992



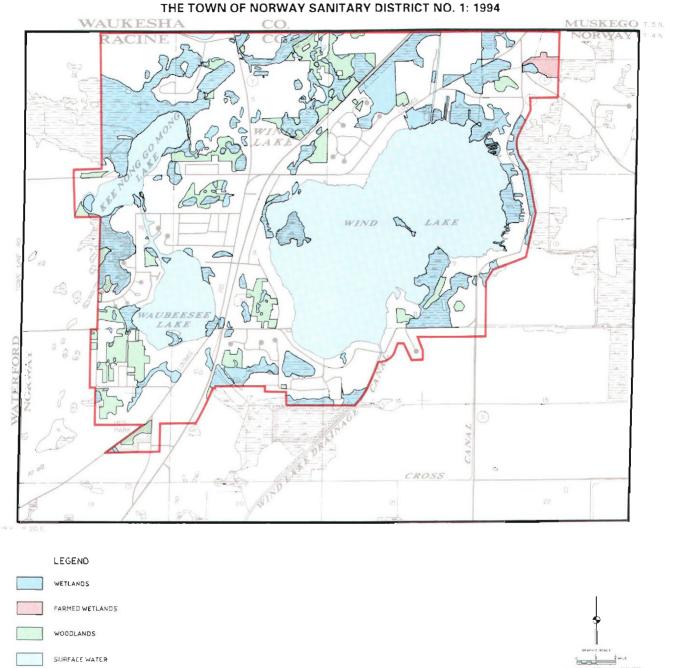
sions and that flood or pond seasonally and are consequently subject to Federal wetland regulation. These "farmed wetlands" encompass about 13 acres, or less than 1 percent of the total area of the District.

Floodlands

Floodlands are those lands, including the floodplain, floodway, and channel, subject to inundation by the

100-year recurrence interval flood. The 100-year recurrence interval flood, also termed "regional flood," is a flood determined to be representative of large floods known to have occurred in an area, or which may be expected to occur or be exceeded on a particular lake, river, or stream once in every 100 years. Thus, the 100-year recurrence interval flood has a 1 percent chance of occurring or being exceeded in any given year. As shown on Map 9, the

Map 8
SURFACE WATER, WETLANDS, AND WOODLANDS IN



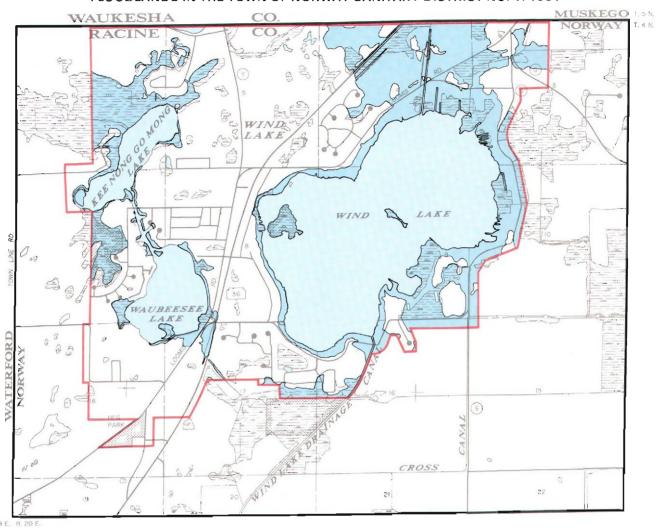
large areas of floodlands are associated with the three major lakes in the District, encompassing 971 acres, or about 32 percent of the land area in the District. As further shown on Map 9, the surface waters of Wind, Waubeesee, and Kee Nong Go Mong Lakes cover an area of 1,138 acres. Thus, the surface water area of the major lakes and floodlands encompass a total of 2,109 acres, or about 50 percent of the total area of the District.

Woodlands

Woodlands are upland areas one acre or more in size with 17 or more deciduous trees per acre, each measuring at least four inches in diameter at breast height and having at least a 50 percent canopy cover. Coniferous tree plantations and reforestation projects are also classified as woodlands. As previously noted, lowland wooded areas, such as tamarack swamps, are classified as wetlands. As shown

Map 9

FLOODLANDS IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1981



LEGEND

LANDS LOCATED WITHIN THE IOD-YEAR RECURRENCE INTERVAL FLOODPLAIN

MAJOR LAKE

NOTE: THE DELINEATION OF THE LANDS WITHIN THE 100-YEAR RECURRENCE INTERVAL FLOOD HAZARD AREA IS BASED ON THE RACINE COUNTY FLOOD INSURANCE STUDY, DATED OCTOBER 1, 1981, AND ON ONE INCH EQUALS 2,000 FEET SCALE, 2-FOOT CONTOUR INTERVAL TOPOGRAPHIC MAPS COMPILED FROM AERIAL PHOTOGRAPHY, DATED NOVEMBER 1970 AND APRIL 1973. SINCE THE DATE OF PHOTOGRAPHY, SMALL PORTIONS OF THE FLOODPLAIN MAY HAVE BEEN ALTERED OR FILLED TO ENABLE THE CONSTRUCTION OF RESIDENTIAL STRUCTURES. A MORE DETAILED DISCUSSION OF THE FILLING OF FLOODPLAINS, INCLUDING LANDS WITHIN THE DESIGNATED FLOODPLAIN FRINGE AREA, IS PRESENTED IN CHAPTER IV.



Source: SEWRPC.

on Map 8, woodlands encompass an area of 247 acres, or about 8 percent of the land area and 6 percent of the total area in the District.

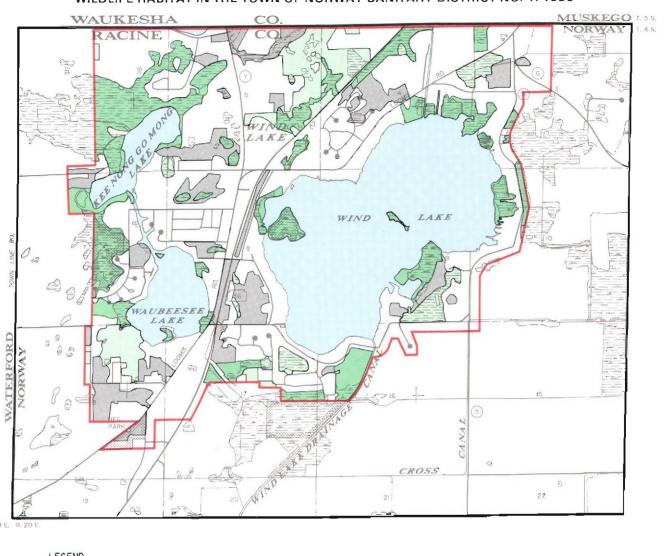
Wildlife Habitat

Wildlife habitat is an area devoted to natural open uses of a size and width of a vegetative cover capa-

ble of supporting a high and balanced diversity of wildlife. Significant wildlife habitat has been classified into three classes:

1. Class I: High-quality wildlife habitat containing a diversity of wildlife areas, adequate in size to meet all of the minimum habitat

Map 10
WILDLIFE HABITAT IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1990





DRAPPIE SCALE

Source: SEWRPC.

requirements for most of the species characteristic of this portion of the region, and located in proximity to other wildlife habitat areas.

2. Class II: Medium-quality wildlife habitat, or a habitat area generally lacking one of the three requirements for a Class I area.

3. Class III: Other significant wildlife habitat, or habitat which generally lacks two of the three requirements for a Class I area.

As shown on Map 10, wildlife habitat encompassed 1,121 acres, or about 37 percent of the land area and 27 percent of the total area of the District. Of this total, 532 acres were identified as Class I habitat,

254 acres were identified as Class II habitat, and 335 acres were identified as Class III habitat.

Scientific and Natural Area Sites

Scientific and natural area sites, as defined by the Wisconsin Scientific Areas Preservation Council, are tracts of land or water so little modified by man's activity, or sufficiently recovered from the effects of such activity, that they contain intact native plant and animal communities believed to be representative of the pre-European settlement landscape. Scientific and natural area sites are classified into one of the following four categories: State scientific area (SA), natural area of statewide or greater significance (NA-1), natural area of countywide or regional significance (NA-2), and natural area of local significance (NA-3). Classification of an area into one of these four categories is based upon consideration of the diversity of plant and animal species and community types present; the structure and integrity of the native plant or animal community; the extent of disturbance from man's activity, such as logging, agricultural use, and pollution; the commonness of the plant and animal community; any unique natural features; the size of the site; and the educational value. It is important to point out that scientific and natural area sites may encompass rare, threatened, or endangered resources. As shown on Map 11. three scientific and natural area sites have been identified within the District.

- Wind Lake Wet Meadow is a 12-acre site located on the northern shore of Wind Lake. This site has been classified as a natural area of local significance (NA-3).
- 2. Wind Lake Marsh and Sedge Meadow is a 20-acre site located on the southeastern shore of Wind Lake. This site has been classified as a natural area of countywide or regional significance (NA-2).
- 3. Waubeesee Oak Woods and Tamarack Relict is located south of Kee Nong Go Mong Lake. The portion of this 169-acre site located within the Sanitary District is in County ownership. This site has been classified as a natural area of countywide or regional significance (NA-2).

Historic Sites

Historic sites have been classified by the Regional Planning Commission into one of three categories: structures, archaeological sites or features, and other cultural features. In general, historic structures include architecturally or historically significance homes, churches, inns, government buildings, mills, schools, and museums. Archaeological sites consist of areas occupied or utilized by man for a sufficient length of time to be marked by certain features, such as mounds, or to contain a number of artifacts. Such sites are generally associated with early American Indian settlements. Other cultural features include sites of early European settlements or are closely related to such settlements and include, for example, old plank roads and cemeteries. Certain sites of known historic significance in the County are listed on the National Register of Historic Places. The location of the one such site in the District, Norwegian Buildings at Heg Park, is shown on Map 12. As further shown on Map 12, two additional structures and 16 archaeological sites were identified in 1978 through research sponsored by the State Historical Society of Wisconsin.

<u>Soils</u>

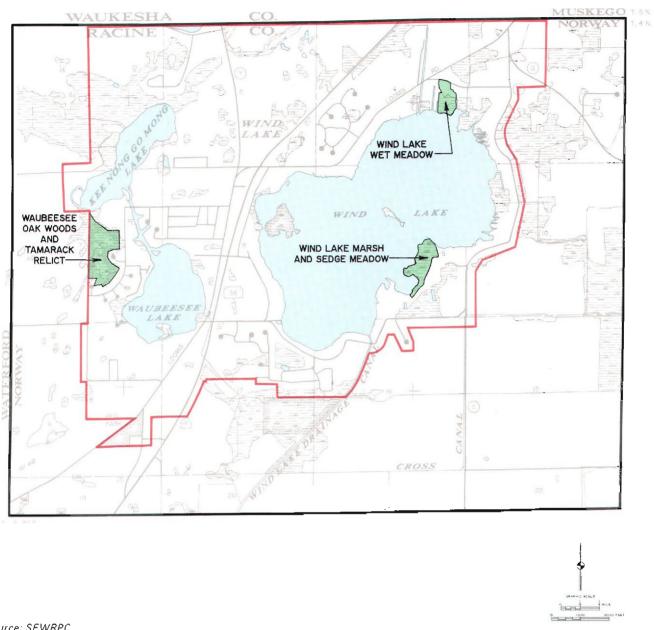
In the early 1960s, the Commission contracted with the U.S. Soil Conservation Service to complete detailed operational soil surveys of the entire seven-county Region. This work effort mapped the geographic locations of the various types of soils: identified their physical, chemical, and biological properties; and interpreted those properties for land use and public facility planning. Of particular importance to this study are the soil interpretations with respect to residential development served by public sanitary sewer service. The suitability of soils in the District for residential development with public sanitary sewer service is shown on Map 13. Soil types with severe limitations for urban development, even with public sanitary sewers, cover 1,468 acres, or about 48 percent of the land area in the District.

Environmental Corridors

One of the most important tasks completed under the regional planning program for Southeastern Wisconsin has been the identification and delineation of those areas in the Region in which concentrations of natural resource elements occur. It was recognized that preservation of the natural resource elements, especially where these elements are concentrated in identifiable geographic areas, was essential both to the maintenance of the overall environmental quality of the Region and to the continued provision of the amenities required to maintain the quality of life for the resident population.

Under the regional planning program, seven elements of the natural resource base have been

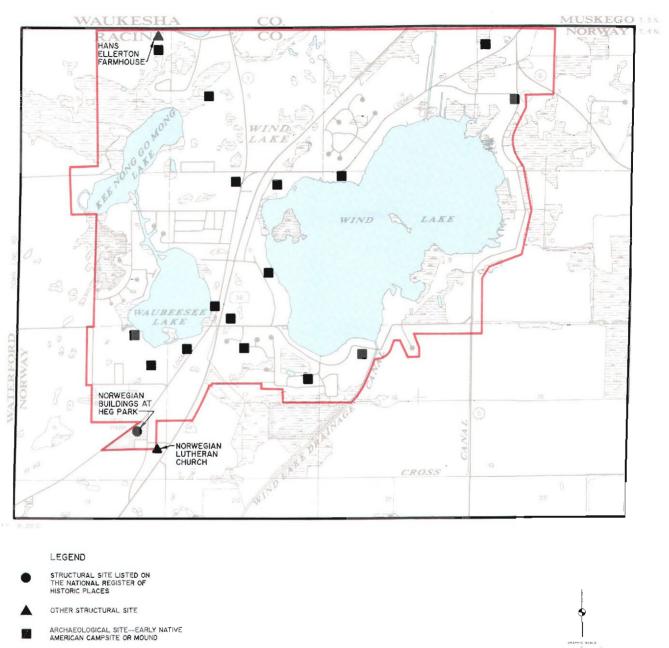
Map 11 SCIENTIFIC AND NATURAL AREA SITES IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1994



considered essential to the maintenance of both the ecological balance as well as the overall quality of life in the Region: 1) lakes, rivers, and streams and the associated shorelands and floodlands; 2) wetlands; 3) woodlands; 4) prairies; 5) wildlife habitat areas; 6) wet, poorly drained, and organic soils; and 7) rugged terrain and high-relief topography. In

addition, there are certain other features which, although not a part of the natural resource base per se, are closely related to or centered on that base and are a determining factor in identifying and delineating areas with recreational, aesthetic, ecological, and cultural value. These features include 1) existing park and open space sites, 2) potential park

Map 12
HISTORIC SITES IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1990

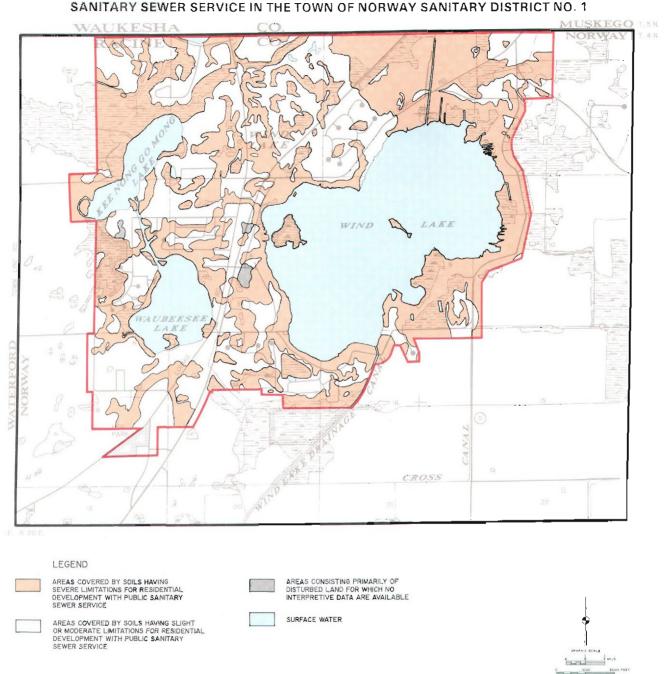


and open space sites, 3) historic sites, 4) scenic areas and vistas, and 5) scientific and natural area sites.

MORE SPECIFIC INFORMATION ON THE LOCATION OF THESE SITES IS ON FILE AT THE STATE HISTORICAL SOCIETY OF WISCONSIN.

The delineation of these 12 natural resource and natural resource-related elements on maps results in a concentration of such elements in an essentially linear pattern of relatively narrow, elongated areas which have been termed "environmental corridors" by the Regional Planning Commission. "Primary" and "secondary" environmental corridors have been identified. Primary environmental corridors include a wide variety of the most important natural resource and resource-related elements and are at

Map 13
SUITABILITY OF SOILS FOR RESIDENTIAL DEVELOPMENT WITH PUBLIC



least 400 acres in size, two miles long, and 200 feet wide. Secondary environmental corridors generally connect with the primary environmental corridors and are at least 100 acres in size and one mile long. In addition, smaller concentrations of natural resource features that have been separated physically from the environmental corridors by intensive urban or agricultural land uses have also been identified. These areas, which are at least five

acres in size, are referred to as isolated natural resource areas. The location of the environmental corridors and isolated natural resource areas in the Town of Norway Sanitary District No. 1 are shown on Map 14.

The preservation of these environmental corridors in essentially natural, open uses can assist in floodflow attenuation, water pollution abatement, noise pollution abatement, air quality maintenance, and favorable climate modification. Such corridor preservation is also essential to facilitate the movement of wildlife, especially in times of stress, and for the movement and dispersal of seeds for a variety of plant species. In addition, because of the many interacting relationships which exist between living organisms and their environment, the destruction or deterioration of one important element of the total environment may lead to a chain reaction of deterioration and destruction of other elements. The draining of wetlands, for example, may destroy fish spawning areas, wildlife habitat, groundwater recharge areas, and natural filtration and floodwater storage areas of interconnecting stream systems. The resulting deterioration of surface water quality may, in turn, lead to a deterioration of the quality of the groundwater which serves as a source of domestic, municipal, and industrial water supply and upon which low flows of rivers and streams may depend. In addition, the intrusion of intensive urban land uses into such areas may result in the creation of serious and costly problems, such as failing foundations for pavements and structures, wet basements, excessive operation of sump pumps, excessive clear-water infiltration into sanitary sewerage systems, and poor drainage. Similarly, destruction of ground cover may result in soil erosion, stream siltation, more rapid runoff, and increased flooding, and the destruction of wildlife habitat. Although the effects of any one of these environmental changes may not in and of itself be overwhelming, the combined effects must eventually lead to a serious deterioration of the underlying and sustaining natural resource base and of the overall quality of the environment for life. The need to maintain the integrity of the remaining environmental corridors and isolated natural resource areas in Southeastern Wisconsin should, thus, be apparent.

Primary Environmental Corridors: As shown on Map 14, the primary environmental corridors in the District are associated with the natural resources located around the major lakes and along the outlet streams from these lakes. In the District in 1994, the primary environmental corridors encompassed 659 acres, not including the 1,138 acres of surface water in the major lakes, or about 22 percent of the land area in the District.

Secondary Environmental Corridors: As shown on Map 14, secondary environmental corridors in the District are located along two streams tributary to Wind Lake and in a large area encompassing wetlands, woodlands, and wildlife habitat in the northern portion of the District. In the District in 1994, the secondary environmental corridors encompassed 334 acres, or about 11 percent of the land area in the District.

Isolated Natural Resource Areas: In addition to the primary and secondary environmental corridors, other smaller pockets of natural resource base elements exist within the District. These areas, generally woodlands or wetlands, are isolated from the environmental corridors by urban development or agricultural use. As shown on Map 14, there were five such isolated natural resource areas in the District in 1994. These isolated natural resource areas together encompassed an area of 68 acres, or 2 percent of the land area in the District.

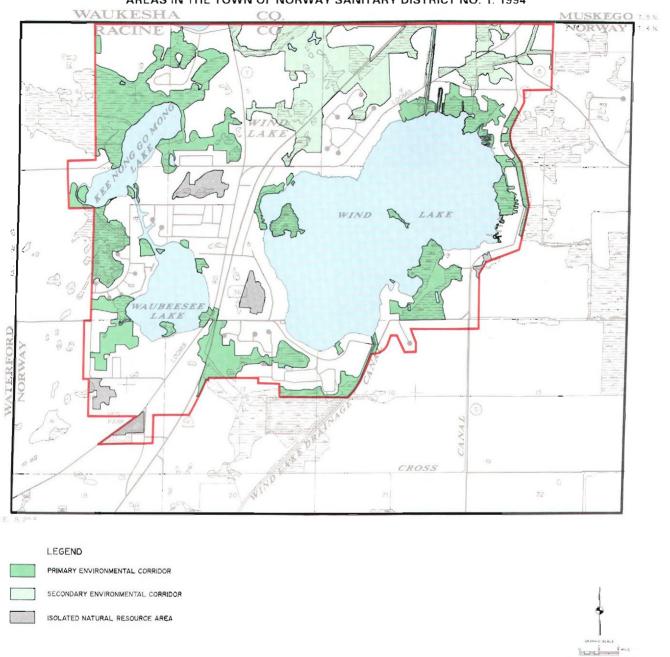
PREVIOUS PLANNING PROGRAMS AFFECTING THE DISTRICT

A variety of plans and studies setting forth recommendations dealing with, or related to, land use, water quality management, park and open space, and lake management within and adjacent to the Town of Norway Sanitary District No. 1 have been prepared. Such plans may provide valuable background information on the District, as well as recommendations and strategies for land use development and natural resource preservation.

As summarized below, these plans and studies generally refine and detail the important recommendations set forth in the adopted regional land use plan for Southeastern Wisconsin. The initial regional land use plan, documented in SEWRPC Planning Report No. 7, The Land Use-Transportation Study, was completed in 1966 for the design year 1990. The regional land use plan has been updated for design years 2000 and 2010, and is documented in SEWRPC Planning Report No. 25, A Regional Land Use Plan and a Regional Transportation Plan for Southeastern Wisconsin: 2000, and Planning Report No. 40, A Regional Land Use Plan for Southeastern Wisconsin-2010, respectively. The initial regional land use plan, as well as the secondand third-generation plans, each set forth three important recommendations: 1) that new urban development occur on suitable soils in areas where essential urban facilities and services are available, or into which such facilities and services can be readily and economically extended, 2) that impor-

Map 14

ENVIRONMENTAL CORRIDORS AND ISOLATED NATURAL RESOURCE
AREAS IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1: 1994



tant natural resources within the primary environmental corridors be protected and preserved in natural, open uses, and 3) that prime agricultural lands be maintained in agricultural use whenever possible. This section presents recommendations contained in the following regional, county, and local plans and studies which are pertinent to Town of Norway Sanitary District No. 1: the Fox River watershed plan; the regional water quality management plan, the Racine County and the Town of Norway park and open space plans, and the lake management plans for Wind and Waubeesee Lakes.

Fox River Watershed Plan

A comprehensive plan for the Fox River Watershed was prepared and adopted by the Commission in 1970. This plan is documented in SEWRPC Planning Report No. 12, A Comprehensive Plan for the Fox River Watershed. The plan contains three main elements: a land use plan element, a floodland management plan element, and a water quality management plan element. Under the land use plan element, it is recommended generally 1) that new urban development occur on suitable soils in areas where essential urban facilities and services are available, or into which such facilities and services can be readily and economically extended, 2) that important natural resources located within the primary environmental corridors be protected and preserved in natural, open uses, and 3) that prime agricultural lands be maintained in agricultural use. Accordingly, with respect to the Town of Norway Sanitary District No. 1, it was recommended that urban development in the Wind Lake area be served with sanitary sewer facilities and that important natural resources within the primary environmental corridor be preserved and protected in natural, open uses.

Under the flood control element, it was recommended that floodlands along perennial stream channels be protected from further urban development in order to avoid intensification of flood damage problems within the watershed, to provide for the maintenance of necessary floodwater storage, and to assist in the protection of the primary environmental corridors within the watershed. In addition to the flood control element of the Fox River Watershed plan, a drainage and water level control plan for the Wind Lake area was prepared in 1975. This plan is documented in SEWRPC Community Assistance Planning Report No. 5, Drainage and Water Level Control Plan for the Waterford-Rochester-Wind Lake Area of the Lower Fox River Watershed. Specifically for the District, this plan recommended 1) the clearing and maintenance of the Wind Lake canal system, 2) the construction of dikes along the Wind Lake canal system, and 3) clearing and deepening of the Muskego Canal.

Under the surface water pollution control plan element, it was recommended that urban development be served with public sanitary sewerage system facilities. Specifically for the District, it was recommended that the entire lake community be provided with such sanitary sewer service, including the existing urban subdivisions located to the west and northwest of the lake. It was also recommended that the necessary sewage treatment plant be located at the southern end of the lake and discharge to the Wind Lake Drainage Canal.

Regional Water Quality Management Plan

In 1979, an areawide water quality management plan for Southeastern Wisconsin was prepared and adopted by the Commission. The plan is aimed at achieving clean and wholesome surface waters within the seven-county region, surface waters that are "fishable and swimmable." The plan is documented in SEWRPC Planning Report No. 30, A Regional Water Quality Management Plan for Southeastern Wisconsin: 2000, Volume One, Inventory Findings; Volume Two, Alternative Plans; and Volume Three, Recommended Plan. The plan has five elements: a land use element, a point source pollution abatement element, a nonpoint source pollution abatement element, a sludge management element, and recommendations for continued water quality monitoring efforts.

Specifically for the Town of Norway Sanitary District No. 1, the land use element, like the land use element of the Fox River watershed plan, consisted of recommendations for the location of new urban development and for the preservation of primary environmental corridors and prime agricultural lands. The point source pollution abatement element included recommendations concerning the location and extent of sanitary sewer service areas. including the general location and extent of the Wind Lake service area and the location, type, and capacity of, and the level of treatment to be provided at, sewage treatment facilities, including the District treatment plant. The nonpoint source pollution abatement element consisted of recommendations for the control of pollutant runoff from rural and urban lands and, for the District, recommended that the relatively high level of nonpoint source pollution be reduced. The sludge management element consists of recommendations for the handling and disposal of sludge from sewage treatment facilities.

Under the point source pollution abatement element, it was recognized that the adopted regional water quality management plan recommendations for the location and extent of sewer service areas attendant to each recommended sewage treatment facility were, of necessity, based upon the urban land use configuration identified in the Commission-adopted regional land use plan. As such, the delineation of these sanitary sewer service areas is necessarily general, and may not reflect detailed local planning considerations. Accordingly, it was recommended that these sewer service areas, including the Wind Lake service area, be refined and detailed. Such a refined and detailed service area has not yet been prepared for the Wind Lake area. It is anticipated, however, that the results of this study will be utilized in the preparation of the recommended refined Wind Lake sewer service area.

Park and Open Space Plans

The regional park and open space plan, as it relates to Racine County, was recently revised and updated by the Regional Planning Commission; and, in 1989, this plan update was adopted by the Racine County Board of Supervisors. The plan is documented in SEWRPC Community Assistance Planning Report No. 134, A Park and Open Space Plan for Racine County. The plan consists of two basic elements: an open space preservation element and an outdoor recreation element. The open space preservation element consists of recommendations for the preservation of primary environmental corridors in natural, open uses and the maintenance of prime agricultural lands in agricultural use. Within the District, it is recommended that the important natural resources within the environmental corridors and isolated natural resource areas be protected and preserved in natural, open uses and that important scientific and natural area sites be protected in public or private conservancy agency ownership. The outdoor recreation element consists of recommendations for the provision of parks, trails, and water access facilities. Within the District, it is recommended that the County maintain the Waterford-Wind Lake Recreation Trail; and that a new county park site along the southeast shore of Wind Lake be acquired.

In 1990, a park and open space plan was prepared specifically for the Town of Norway by a private planning consultant, Cullinane Design. This plan, documented in a report entitled An Outdoor Recreation and Open Space Plan for the Township of Norway–2010, like the County park and open space plan, set forth recommendations for the protection of important natural resources and the provision of necessary outdoor recreation facilities. Specifically, for the District, the plan recommended the protection and preservation of natural resources within the primary environmental corridors and the protec-

tion and preservation of all other inland lake and surface water resources, significant wetlands, woodlands, and wildlife habitat. The plan also recommended the protection and preservation of prime agricultural lands. Finally, the plan recommended that the Town acquire and develop a new park in the Wind Lake area.

Lake Management Plans

In 1991, a lake management for Wind Lake was prepared by the Regional Planning Commission. This plan is documented in SEWRPC Community Assistance Planning Report No. 198, A Management Plan for Wind Lake. The plan includes recommendations for land use and natural resource management, water quality protection, and shoreline protection. Specifically, for the District, the plan recommends the preservation of primary environmental corridors, other lands containing high-value wildlife habitat, and areas containing rare, threatened, or endangered species and the review and modification of county and local land use zoning ordinances to preserve and enhance these important natural resources. In addition, the plan recommends maintenance and enhancement of water quality, including the implementation of nonpoint source pollution controls, the implementation and enforcement of construction erosion control measures, and the protection of the lake shoreline through a combination of both structural and nonstructural methods.

In 1990, a lake management plan for Waubeesee Lake was also prepared by the Commission. This plan is documented in SEWRPC Community Assistance Planning Report No. 182, <u>A Water Use Management Plan for Waubeesee Lake and the Anderson Canal</u>. Specifically, for the District, the plan recommendations include public acquisition of wetlands located adjacent to the lake, preservation of primary environmental corridors within the lake watershed, and provision of a public access site.

SUMMARY

This chapter has provided information pertinent to the preparation of a plan to resolve conflicts between land development rights and natural resource protection policies within the Town of Norway Sanitary District No. 1, including information on population, existing sanitary sewerage facilities, land use, natural resource features, and land use and water quality management plans affecting the District. The inventory findings set forth in this chapter may be summarized as follows:

- 1. The Town of Norway Sanitary District No. 1 is located in the northwestern portion of the Town of Norway, Racine County. The District encompasses an area of about 4,200 acres, or about 6.6 square miles, including about 1,150 acres of water area. The District was created in 1969 pursuant to Section 60.71(1) of the Wisconsin Statutes.
- 2. The resident population of the District was estimated at 3,980 persons in 1990. Between 1970 and 1980, the population in the District increased by about 150 persons, or 5 percent, over the estimated 1970 population level of 2,930. Between 1980 and 1990, the population in the District increased by about 900 persons, or 29 percent, over the estimated 1980 population level of 3,080.
- 3. A sewage treatment plant was constructed in 1978 to serve the District. About 2,180 acres, or about 71 percent of the land area encompassed by the District and about 3,920 persons, or about 98 percent of the resident population within the District, are served by public sanitary sewers.
- 4. Urban lands consisting primarily of residential and transportation uses, encompassed about 1,270 acres, or 30 percent, of the total area of the District in 1994. The remaining lands, consisting of wetlands, woodlands, other open lands, agricultural uses, and surface water, encompassed about 2,930 acres, or 70 percent of the District.
- 5. Important elements of the natural resource base are located within the District, including three major lakes, Wind, Waubeesee and Kee Nong Go Mong Lakes, encompassing a total

- of 1,138 acres, or 27 percent of the total area of the District; wetlands, encompassing about 715 acres, or 17 percent; and woodlands, encompassing about 250 acres, or 6 percent of the District. Other important elements of the natural resource base, portions of which may be encompassed within the aforementioned lakes, wetlands, and woodland areas. include floodlands, which encompass about 2,100 acres, or 50 percent of the District, and wildlife habitat areas, which encompass about 1,120 acres, or 27 percent of the District. Many of these natural resource features in the District, as in other parts of the Southeastern Wisconsin Region, occur in linear concentrations in the landscape. These linear patterns are referred to by the Regional Planning Commission as environmental corridors. Primary environmental corridors include a wide variety of important natural resource and resource related elements and are, by definition, at least 400 acres in size, two miles long, and 200 feet wide. Primary environmental corridors in the District are primarily associated with the natural resources located around the three major lakes. Together, these corridors, including the area of the major lakes, encompass a total of about 1,800 acres, representing about 43 percent of the total area of the District.
- 6. A variety of plans and studies setting forth recommendations dealing with, or related to, land use, water quality management, park and open space, and lake management within and adjacent to the District have been prepared. Such plans provide valuable background information, as well as recommendations and strategies for land use development and natural resource preservation for areas within the District.

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Chapter III

THE NATURAL RESOURCE-RELATED REGULATORY FRAMEWORK

There are a variety of regulatory measures by which local, county, State, and Federal units and agencies of government can shape and guide land use development and otherwise manage the use of land to prevent harm to the public interest. In combination, these measures can be viewed as an overall public land use management framework. This chapter describes those aspects of this framework which are particularly relevant to, and may have a bearing on, the use and management of environmentally sensitive lands within the Town of Norway Sanitary District No. 1 study area. Specifically, this chapter describes the general land use controls administered by Racine County and the Town of Norway and the required wetland, shoreland, and floodplain zoning administered by Racine County. This chapter also describes the State programs, including the navigable waters program; the sanitary sewer extension regulatory program; the wetland, shoreland, and floodplain oversight program; and the water quality certification for Federal permits, all administered by the Wisconsin Department of Natural Resources (DNR). It also describes the Federal wetland regulatory program administered by the U.S. Army Corps of Engineers.

COUNTY AND LOCAL LAND USE REGULATION

This section describes the Racine County and Town of Norway land use controls which have a direct bearing on the management and use of environmentally sensitive lands in the study area. These include the Racine County general and floodland-shoreland zoning ordinances, the County land division control ordinance, the County sanitary code and private sewerage system management ordinance, and the Town building code with its ordinance governing soil-disturbing activities.

General and Floodland-Shoreland Zoning Ordinances

Zoning ordinances represent one of the most important means available to county and local units of government for managing land use in the public interest. In Wisconsin, counties, in cooperation with the towns, may enact a general, or comprehensive, zoning ordinance applicable to all unincorporated areas of the county. Such a general county zoning ordinance, however, becomes effective only in those towns which act to ratify the county ordinance.

In addition to the general zoning ordinance, counties are required, under the State Water Resources Act of 1965 and Sections 59.971 and 87.30 of the Wisconsin Statutes, to adopt a floodland and shoreland zoning ordinance. This ordinance is intended to promote public safety and health by discouraging the location of flood damage-prone land uses in areas subject to flood hazards and to help preserve important natural resources in the floodland-shoreland area, thereby protecting and enhancing water quality. Town ratification of floodland-shoreland ordinances is not required and, indeed. towns have no zoning jurisdiction in shoreland areas in those cases where towns are under a county-sponsored zoning program. In practice, the Town of Norway and Racine County have acted together to implement the countysponsored floodland and shoreland zoning ordinance. For all proposed activities within the floodland-shoreland jurisdictional area, the County seeks review, comments, and recommendations before taking action to approve or deny any proposed activity.

Racine County adopted a combination general and floodland-shoreland zoning ordinance in 1969 and has amended the ordinance periodically, most recently in March 1992. The ordinance is set forth in Chapter 20 of the Racine County Municipal Code, ratified by the Town of Norway in 1972.

In Racine County the general and floodland-shoreland zoning regulations are combined in a single ordinance. Basic, or "underlying," zoning districts are applied to all lands and waters in the towns which have ratified the county ordinance. The regulations set forth for these basic districts are intended to guide the development and use of all structures, lands, and waters in these towns, including all of the Town of Norway. Two of these basic zoning districts, the C-1 Resource Conservation District and the FW Urban Floodway District, are intended to pro-

vide for the preservation and protection of environmentally sensitive lands. While not specifically intended to protect environmentally sensitive lands, two additional basic districts, the R-1 Country Estate District and the R-8 Planned Residential District, may provide limited protection for such lands.

- The C-1 Resource Conservation District is intended to protect wetland resources. Uses permitted in the District include floodwater storage; scenic, historic, and scientific areas; sustained-yield forestry; streambank and shoreline protection; water-retention ponds; and wildlife areas. Structures are not permitted in the C-1 Resource Conservation District, except for structures accessory to permitted uses. In addition, any uses which involve filling, tilling, or disturbing in any way the natural conditions of the area in the District are prohibited.
- The FW Urban Floodway District is intended to protect people and property in urban areas, areas where public sanitary sewer service is available, from flood damage by prohibiting structures that would restrict the flow of water during periodic flood events. Uses permitted in the District include general farming activities, not including farm structures; sod farms; outdoor recreation; and sustained-yield forestry. The placement of fill, storage of dangerous materials, structures, and other incompatible uses such as solid waste disposal and onsite soil absorption sanitary sewage disposal systems are prohibited in the District.
- 3. The R-1 Country Estate District is intended to provide for very-low-density rural residential development consisting of single-family residential development on sites five acres or more in area. In addition to single-family residential use, sustained-yield forestry is a permitted use in the District. When applied to woodland areas, the District may provide limited protection for such resources.
- 4. The R-8 Planned Residential District is intended to provide for multi-family and clustered single-family residential development served by public sanitary sewer. In the Planned Residential District, at least 20 percent of the development area must be

set aside in open parkland use. When applied to woodland areas, the District may provide limited protection for such resources. It is important to point out that 80 percent of such woodland areas may be developed for residential use under the District regulations. It is also important to point out that the District can only be applied to parcels which are 10 acres or larger in size and in one ownership.

Under the Racine County combination general and floodland-shoreland zoning ordinance, "overlay" zoning districts are applied to that portion of the County lying within the regulatory shoreland jurisdictional area, as described in the next section of this chapter, including portions of the Town of Norway. The regulations set forth for these overlay districts are intended to prevent harm to public water resources and to guide the development and use of all structures, lands, and waters in the regulatory shoreland areas of the County. When the regulations in the overlay districts are more restrictive than those in the basic underlying districts, the regulations and restrictions of the overlay districts must be applied. There are four overlay districts, the FCO Urban Floodplain Conservancy Overlay District, the FFO Urban Floodplain Fringe Overlay District, the GFO General Floodplain Overlay District, and the SWO Shoreland-Wetland Overlay District, which are intended to protect environmentally sensitive lands, specifically including floodlands and wetlands in the shoreland area.

The FCO Urban Floodplain Conservancy Overlay District is intended to protect watercourses and other resources within floodlands in the urban areas of the County. The overlay district can be applied only in tandem with the FW Urban Floodway basic district, thereby assuring uniform protection of those portions of the entire floodplain not developed or fully committed for urban use. As in the case of the basic FW Urban Floodway District described above, uses permitted in the Urban Floodplain Conservancy Overlay District include general farming activities, not including farm structures; sod farms; outdoor recreation; and sustained-yield forestry. The placement of fill, storage of dangerous materials, structures, and other incompatible uses such as solid waste disposal and onsite soil absorption sanitary sewage disposal systems are prohibited in the Urban Floodplain Overlay District.

2. The FFO Urban Floodplain Fringe Overlay District is intended to recognize existing and committed urban development in the floodplain fringe and, like the FCO Urban Floodplain Conservancy Overlay District, is intended to be applied in tandem with the FW Urban Floodplain Basic District. Examples of uses permitted in basic underlying district which may occur in the overlay district include open space uses such as croplands within a basic agricultural district, required yards within a basic residential district, and parking areas within a basic commercial or industrial district.

When permitted in the basic underlying district, residential, commercial, and institutional structures are conditional in the Urban Floodplain Fringe Overlay District. Any such structure permitted in the underlying district must meet standards relating to the placement of fill above the flood elevation, floodproofing, and contiguous dry land access. It is important to point out that the FFO Urban Floodplain Fringe Overlay District has been applied in Racine County only in the Town of Norway Sanitary District No. 1 service area.

- 3. The GFO General Floodplain Overlay District is intended to protect the natural floodplains of rivers, streams, and lakes in areas of the County where development in the floodlands has not occurred. Uses permitted in the overlay district include certain agricultural uses such as sod farms and truck farming, outdoor recreation, yards and parking, and sustained-yield forestry. The placement of fill, storage of dangerous materials, structures, and other incompatible uses are prohibited in the General Floodplain Overlay District.
- 4. The SWO Shoreland-Wetland Overlay District is intended to protect wetland resources within the regulatory shoreland jurisdictional area. The establishment of a shoreland-wetland zoning district is required under Chapter NR 115 of the Wisconsin Administrative Code. Gener-

ally, permitted uses in the overlay district must be carried out without filling, flooding, draining, dredging, or other disturbing of the wetlands resources. Such uses include harvesting of wild crops, silvicultural practices, pasturing of livestock, and the cultivation of agricultural crops. It should be noted that, in certain specified situations, minor limited disturbing activities such as maintenance of utility lines and construction of public surface water access facilities may be permitted. All uses not specifically identified as permitted or conditional uses are prohibited in the shoreland-wetland overlay district.

The use of basic underlying zoning districts in combination with overlay zoning districts to regulate the use of environmentally sensitive lands in Racine County, particularly wetlands and floodlands, has resulted in certain conflicts in the mapping of zoning districts and in some confusion in providing information about the regulations to land developers and to the general public. For example, in a basic underlying residential district which has been applied to an area, the construction of a residence and associated landscaping would generally be permitted. However, if the FCO Urban Floodplain Conservancy Overlay District or the SWO Shoreland-Wetland Overlay District has also been applied to that area, the construction of the residential structure and any associated land disturbing activities would generally be prohibited. As already noted, the restrictions on residential development under the application of the overlay districts supersede any development permitted in the basic underlying district.

As another example of such conflict and confusion, the general application of the basic zoning districts to the unincorporated areas in the County is identified on a series of small-scale zoning maps on a town-by-town basis. The overlay districts applied to the jurisdictional shoreland area are not shown on these maps, but are identified on a separate series of larger-scale aerial photo maps, with each photo map covering an area of four square miles. The requirements and restrictions associated with the overlay districts shown on the larger-scale photo maps would apply to any land use or development and would supersede the requirements of the basic underlying districts shown on the smaller-scale Town zoning maps.

Land Subdivision Control Ordinances

Racine County approved and adopted a land division control ordinance in 1956 and has amended the ordinance periodically, most recently in March 1992. The ordinance is set forth in Chapter 18 of the Racine County Municipal Code. This ordinance governs the division of land in the unincorporated areas of the County, relating only to those divisions of a lot, outlot, parcel, or tract of land where five or more parcels or building sites each three acres or less in area are created within a period of five years. The ordinance sets forth the procedures and requirements to be followed by the landowner and developer in the submission of preliminary and final subdivision plats.

Among other objectives, application of the land division control ordinance assists in ensuring that the guidelines and requirements of the zoning ordinance will be met. Importantly, however, the County land division control ordinance does not apply to divisions of tracts of land resulting in the creation of parcels larger than three acres, nor does it apply to land divisions which result in the creation of up to four parcels or building sites of any size. Racine County, therefore, does not review minor land division by certified survey map, resulting in the potential for the creation of new parcels which may not conform to the requirements of the County zoning ordinance. For example, a landowner may divide a parcel to create four small, less than three-acre, lots in a wetland without county oversight of the division. That landowner might then convey any or all of these parcels and the purchaser may acquire these parcels with the impression that the parcels may be developed. In fact, development on any of these parcels may be prohibited by the county zoning ordinance or by Federal and State regulatory programs.

The Town of Norway also adopted a subdivision control ordinance in 1977, most recently amended in July 1992, governing all the divisions of land within the Town, including both subdivisions, defined as the division of a lot, parcel, or tract of land where five or more parcels or building sites each 1.5 acres or less in area are created within a period of five years through the land subdivision process, and also minor land divisions by certified survey map. The Town ordinance sets forth procedures to be followed by the landowner and developer in the submission of preliminary and final plats and certified survey maps.

Both the County and Town ordinances regulate the form of proposed urban development by specifying design standards for streets, lot lines, and other development features. Divisions of land within the Town of Norway must meet the requirements of both Town and County ordinances. Where differences between the ordinances occur, the more stringent regulation must be met.

Regulation of Private Sewage Disposal Systems Sections 59.065 and 145.01(15) of the Wisconsin Statutes require that all Wisconsin counties. except counties with a population of 500,000 or more, adopt and administer an ordinance regulating private sewerage systems within the County. Racine County, in accordance with Chapters 59 and 145 of the Statutes, enacted regulations applying to private sewage disposal systems in July 1980. The regulations are set forth in Chapter 19 of the Racine County Municipal Code. This code regulates the location, construction, installation, design, use, and maintenance of private waste disposal in the County. Regulations in the ordinance pertaining to private sewerage systems apply throughout Racine County, including cities and villages as well as unincorporated areas. The County sanitary code establishes site requirements for soilabsorption sewage disposal systems, including percolation rates and minimum allowable depth to groundwater and bedrock. In the Town of Norway Sanitary District No. 1, development is generally served by public sanitary sewer service.

Town Building Code and Soil-Disturbing Activities

The Town of Norway approved and adopted a building code in 1958 and has amended the ordinance periodically, most recently in 1990. The building code sets forth requirements to ensure the safe design, construction, and use of all buildings constructed, enlarged, repaired, or converted to other uses in the Town. The code also regulates the types of equipment used in the maintenance of, and the use and occupancy of, all buildings and structures in the Town and sets forth the procedures, permits, and fees required to construct and occupy such buildings.

The Town of Norway amended its building code to include an ordinance on soil disturbance in 1990. The ordinance requires that erosion control practices be put in place to reduce the amount of sediment and other pollutants leaving construction sites during land development or soildisturbing activities. The ordinance applies to all land-disturbing construction activities but does not apply to agricultural land uses. Under the ordinance, a developer is required to obtain a permit before undertaking soil disturbance or development activities. The erosion control permit application for activities affecting two or more acres of land requires that an overall site plan, including the site development plan map, a schedule of construction activities, and a description of the erosion control measures to be used during construction, be submitted to, and approved by, the Town Engineer. For those development activities affecting areas less than two acres in size, the developer must submit a site map showing existing drainage characteristics and an erosion control statement to the Engineer for review and approval. The Town enforces the ordinance through periodic inspections and may revoke permits for noncompliance with the ordinance and approved plan.

STATE POLICIES AND REGULATORY PROGRAMS

A number of policies and regulatory programs of the State of Wisconsin have a direct bearing on the use of the land and water resources in the study area. Natural resources intended for preservation and protection under these policies and programs include the navigable waters of the State, including wetlands; shorelands and floodplain areas: and those lowland and upland resources which, if protected, serve to maintain or improve water quality. This section describes the State policies and programs relating to navigable waters of the State, including structures along navigable waters; shoreland and floodplain zoning; the statewide wetlands mapping program; sewer service extension review policy; and environmental review requirements. Reflecting a cooperative approach to regulation, the Statutes and programs which are discussed below frequently call for strong and direct participation by local units of government.

Chapters NR 1.95 and NR 103: Preservation,
Protection, and Management Policies and
Water Quality Standards for Wetlands
The Wisconsin wetlands preservation, protection, and management policies are set forth generally in Chapter NR 1.95 of the Wisconsin Administrative Code; the Wisconsin water qual-

ity standards for wetlands, prepared pursuant to Chapter 144 of the State statutes, are set forth Chapter NR 103 of the Wisconsin Administrative Code. Chapter NR 1.95 establishes the rules by which the Wisconsin DNR administers its regulatory and management authorities regarding wetlands. Such rules require the DNR to evaluate all reasonable alternatives, including the alternative of no action, in making regulatory decisions concerning such processes requiring permits as sanitary sewer extensions, dredging and filling, the construction of dams and bridges, and stream course alterations where adverse impacts to wetlands may occur as a result of such activities. In addition, Chapter NR 1.95 indicates that State land acquisition programs should emphasize acquisition of high-value wetlands; that the State enforcement activities regarding unlawfully altered wetlands should, to the extent practicable, require restoration; and that the avoidance or minimal use of wetlands should be advocated in liaison activities with Federal, State, and local units and agencies of government. Under Chapter NR 1.95, administrative rules and legislation aimed at protecting and enhancing wetland values and ecology and at providing education about wetlands may be promulgated by the DNR.

Chapter NR 103 of the Wisconsin Administrative Code establishes water quality standards for wetlands. These standards, like the more general policies set forth for wetlands protection under Chapter NR 1.95, are applied by the Wisconsin DNR in all decision making under existing State authority and in State review for certification of Section 404 permits. The water quality standards for wetlands are intended to provide protection of all waters of the State, including wetlands, for all present and potential future uses, such as for public and private water supply; for use by fish and other aquatic life and by wild and domestic animals; for preservation of natural flora and fauna; for domestic and recreational uses; and for agricultural, commercial, industrial, and other uses.

Under Chapter NR 103, the Wisconsin DNR is responsible for the protection of the functions of wetlands. Specifically, such functions include stormwater and floodwater storage and retention and the moderation of water level fluctuation extremes; hydrologic function values, such as maintenance of dry-season streamflow, the

discharge and recharge of groundwater, and maintenance of groundwater flow; filtration or storage of sediments, nutrients, or toxic substances which might otherwise adversely affect other waters of the State; shoreline protection against erosion; habitat for aquatic organisms; habitat for resident and transient wildlife; and all other recreational, cultural, educational, scientific, aesthetic, and natural values.

In making findings concerning any proposed use which may affect existing and future functions of wetlands, the DNR evaluates the wetland dependency of the proposed use, the available alternative locations for the proposed use, and the cumulative impacts of the proposed use on the waters of the State.

These water quality standards for wetlands were prepared also in response to a U. S. Environmental Protection Agency directive, under authority of the Clean Water Act, requiring all states to prepare and promote such standards for wetlands by 1993. The rules and policies established under Chapter NR 103 are effective as of August 1, 1991.

Wisconsin Environmental Policy Act

Under Section 1.11 of the Wisconsin Statutes, the Wisconsin Environmental Policy Act, each State agency is required to consider the environmental implications of its actions. Chapter NR 150 of the Wisconsin Administrative Code sets forth the general policy concerning actions by State agencies and the effects of these actions on the environment, sets forth the criteria for determining whether an environmental assessment or impact statement must be prepared and establishes guidelines for the preparation and review of any required environmental evaluation of State actions.

Under Chapter NR 150, the Wisconsin DNR specifies its intention to encourage productive and enjoyable harmony among people and their environment; to promote efforts that minimize harm to the environment; and to promote the understanding of the important ecological systems and natural resources of the State. The Department also recognizes its responsibilities as the State environmental agency for evaluating, coordinating, and communicating information on all actions by State and Federal agencies which may affect natural resources and the overall environment for life in the State.

Under Chapter NR 150, the Department identifies types of potential action by State and Federal agencies and establishes categories for those actions, importantly including regulatory actions, for which environmental impact evaluations would be required. Type I actions are "major" actions which would significantly affect the quality of the human environment. The preparation of an environmental impact statement is required for any Type I action by a State or Federal agency. Examples of Type I actions include establishment of land acquisition projects over 1,000 acres in size involving a proposed change in land use; State regulatory action involving a new hazardous waste disposal facility over 80 acres in size; and State regulatory action involving new large electric generating facilities.

Type II actions are actions which have the potential to cause significant environmental effects and may involve unresolved conflicts in the use of available resources. The preparation of an environmental assessment is generally required for Type II actions. Examples of Type II actions include establishment of land acquisition projects less than 1,000 acres in size or those acquisition projects larger than 1,000 acres in size not resulting in a land use change, habitat management activities involving filling or draining of wetlands, acquisition of parcels located outside of established project boundaries where the total area planned for acquisition exceeds 160 acres, or stocking or introduction of fish or wildlife species that are neither native nor established in the State.

Type III actions are actions which normally do not have the potential to cause significant environmental effects, normally do not significantly affect energy use and normally do not involve unresolved conflicts in the use of available resources. Type III actions generally require the issuance of a news release and may require the preparation of an environmental impact report providing information on the proposed action. Examples of Type III actions include acquisition and development of public sites for access to public waters, acquisition of parcels less than 160 acres in size located outside of established project boundaries, prescribed burning affecting less than 60 acres within State property, and silvicultural harvesting involving less than 160 acres within State property during a calendar year.

Type IV actions include enforcement activities: emergency activities to protect public health, safety, and welfare; and other actions which do not significantly affect the quality of the human environment, do not significantly affect energy use, and do not involve unresolved conflicts in the use of available resources. Type IV actions generally do not require the environmental impact statement, the environmental assessment, or a news release, and are generally exempt from requirements under Chapter NR 150. Examples of Type IV actions include acquisition of parcels within established project boundaries, lake and stream habitat improvement, and trail construction for wildlife management purposes.

Under Chapter NR 150, guidelines for issue identification are set forth; the required contents of environmental impact statements, assessments, and reports are identified; procedures for statement, assessment, and report review are established; and public review and comment procedures are set forth.

With respect to the recommendations developed under this study, the Wisconsin Department of Natural Resources has indicated that the actions proposed under the study are likely to be classified as Type II or Type III actions. Thus, an environmental assessment or environmental impact report should be prepared.

Chapter 30: Navigable Waters, Harbors, and Navigation

Under Chapter 30 of the Wisconsin Statutes, the Wisconsin Department of Natural Resources has the authority to regulate the deposition of materials upon the bed of any navigable body of water, the straightening or altering of stream courses, the dredging of material from the bed of a lake or river, the enlargement of any navigable waterway, and diversions from any body of water. Navigable waters include those wetland areas below the ordinary high-water mark of an adjacent navigable lake or stream. The issuance of a Chapter 30 permit for any of the abovementioned activities in navigable waters would be subject to the policies and standards stipulated in Chapters NR 1.95 and NR 103 of the Wisconsin Administrative Code and to the provisions of the Wisconsin Environmental Policy Act, which established a State policy to encourage harmony between human activity and the environment, to promote efforts

to reduce damage to the environment, and to stimulate an understanding of important ecological systems.

One of the initial steps in the issuance of any Chapter 30 permit is the determination of navigability of the affected surface water body or adjacent wetland. Section 30.10 of the Wisconsin Statutes indicates that "all lakes . . . which are navigable in fact are declared to be navigable and public waters" Section 30.10 also indicates that "all streams, sloughs, bayous, and marsh outlets, which are navigable in fact for any purpose whatsoever, are declared navigable " The Wisconsin Supreme Court, in its decision on Muench vs. Public Service Commission, in 1952, pointed out that, in Wisconsin since 1911, navigable waters had been defined as those which are navigable in fact for any purpose whatsoever, and the Court further noted that "... any stream is 'navigable in fact' which is capable of floating any boat, skiff, or canoe of the shallowest draft used for recreation purposes." In addition, the Court, in its decision on DeGayner and Company, Inc., vs. Department of Natural Resources, in 1975, indicated that this test of navigability does not require that the surface waters be capable of floating a recreational boat or canoe on every day of the year or for every rod of its length or over all its surface area. A determination of navigability using this criteria is often referred to as the "recreational boating test." If it is determined that a surface water body is not navigable, the State may not have jurisdiction over the surface water body or any adjacent wetlands.

The determination of navigability is made on a case-by-case basis by the staff of the Wisconsin Department of Natural Resources. Because of budgetary constraints, no jurisdictional maps of the navigable waters of the State have been prepared. It is important to point out that the navigability or nonnavigability of a surface water body may change over the years as urban development: agricultural practices, including conversion of agricultural lands to natural open use; or other natural causes affect the amount of water flowing through the surface water system. It is also important to point out that, under Section 30.10 of the Wisconsin Statutes, "farm drainage ditches are not navigable . . . unless it is shown that the ditches were navigable streams before ditching." The identification of navigable waters and adjacent wetlands in the study area will be presented in Chapter IV of this report.

Chapter 31: Regulation of Dams and Bridges Affecting Navigable Waters

Under Chapter 31 of the Wisconsin Statutes, the Wisconsin Department of Natural Resources has authority to regulate the location, construction, and operation of dams and bridges affecting a navigable body of water. The issuance of a Chapter 31 permit would also be subject to the policies stipulated in Chapter NR 1.95 and the standards set forth in Chapter NR 103 of the Wisconsin Administrative Code and to the provisions of the Wisconsin Environmental Policy Act.

Shoreland and Floodplain Zoning in Wisconsin The Water Resources Act of 1965 was adopted by the State Legislature in recognition of the adverse effects that water pollution had on the public health and general welfare of the citizens of the State. It set in motion a comprehensive program to protect human life and health; fish and aquatic life; scenic and ecological values; and domestic, municipal, recreational, industrial, agricultural, and other uses of water. The Act attempts to achieve these objectives by mobilizing efforts and resources at all levels of government to enhance the quality of all the waters of the State. To that end, the State Legislature authorized and required that counties zone shorelands and floodplains, meeting minimum State standards in so doing.

Shoreland Regulations: Section 59.971 of the Wisconsin Statutes requires counties of the State to enact ordinances to regulate all shoreland areas within the unincorporated areas of the counties. The regulations apply to shorelands, defined as all lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond, or flowage and 300 feet from a river or stream, or to the landward side of the area flooded in the 1 percent chance flood event, also termed the 100-year recurrence interval floodplain, whichever distance is greater.

The standards and criteria for shoreland ordinances are set forth in Chapter NR 115 of the Wisconsin Administrative Code. They include restrictions on lot sizes, including a minimum average width of 65 feet and minimum area of 10,000 square feet for lots served by public sanitary sewer and a minimum average width of

100 feet and a minimum area of 20,000 square feet for lots not served by public sanitary sewer; on building setbacks, including a normal minimum setback of 75 feet from any surface water body; on the cutting of trees and shrubbery; and on filling, grading, and dredging.

Under Chapter NR 115, counties are also required to place all wetlands five acres or larger in size and located in the statutory shoreland zoning jurisdictional area in a shoreland-wetland zoning district, to establish land division regulations, and to establish sanitary regulations under a County private sewage system ordinance. The Racine County shoreland-wetland zoning district, land division ordinance, and private sewage disposal system ordinance were described in previous sections of this chapter.

Counties are required to keep their regulations current and effective in order to remain in compliance with the statutes and minimum standards established by the Wisconsin DNR. Chapter NR 115 of the Administrative Code requires that any rezoning of wetlands within the shoreland area meet specific criteria. A rezoning, as well as a conditional use or variance, may not take place if the proposed rezoning would result in a significant adverse impact upon any of the following characteristics of the shoreland area:

- 1. Stormwater and floodwater storage capacity.
- Maintenance of dry-season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.
- Filtering or storing of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters.
- 4. Shoreline protection against soil erosion.
- 5. Fish spawning, breeding, nursery, or feeding grounds.
- 6. Wildlife habitat.
- 7. Areas of special recreational, scenic, or scientific interest, including scarce wetland types.

The Racine County zoning agency must notify the Wisconsin DNR of the proposed rezoning, hold a public hearing, and submit findings and recommendations to the County Board. The Department must review and approve any proposed zoning amendment. If the County Board approves the proposed zoning amendment and the Department determines, after review against the criteria set forth above, that the proposed rezoning would no longer comply with State requirements, the DNR, after notice and hearing, must act to adopt a complying ordinance for the County.

Floodplain Protection: The Water Resources Act also provides for the regulation of floodplains. The delineation of floodplains and the minimum criteria that the regulations must meet are set forth in Chapter NR 116 of the Wisconsin Administrative Code. The Code mandates that the floodplain zoning ordinances be adopted by the appropriate jurisdiction: county, city, or village. If a county, city, or village fails to adopt such an ordinance, the Wisconsin DNR may, upon its own motion or upon the petition of a municipality or of another State agency, hold a public hearing and fix the limits and regulate the use of any floodlands, an action that will have the same effect as if adopted by the local jurisdiction. Modification of any local floodplain ordinance, once adopted, requires written approval of this Department.

When a violation of any ordinance occurs through the construction of a structure, fill, or development in the floodplain, it may constitute a public nuisance and, as such, may be enjoined through an action by a municipality or by the State or any of its citizens. The Racine County floodplain zoning ordinance was approved by the Wisconsin DNR in 1982.

Wisconsin Wetlands Inventory

As noted above, under Chapter NR 115 of the Wisconsin Administrative Code, counties in Wisconsin are required to protect wetlands within the shoreland area by placing such wetlands in a shoreland-wetland zoning district. Shoreland-wetland zoning regulations and any subsequent proposed amendments are subject to review and approval by the Wisconsin DNR.

In 1978, to facilitate the protection of shoreland wetlands, the State Legislature mandated the mapping of all wetlands in the State. The wetlands mapping program, officially known as the Wisconsin Wetland Inventory, resulted in the preparation of wetland maps covering each U. S. Public Land Survey township in the State. Wetlands in Racine County were delineated on the Commission's 1980 1 inch equals 2,000 feet scale ratioed and rectified aerial photographs of each survey township. The Regional Planning Commission, under contract to the Wisconsin Department of Natural Resources, completed the identification and mapping of wetlands within the seven-county Southeastern Wisconsin Region in 1982.

The Wisconsin Wetland Inventory maps served as the basis for the identification of those wetlands to be regulated under Chapter NR115. Under the procedures established by the Wisconsin Department of Natural Resources to implement provisions of Chapter NR 115, preliminary wetland maps for each survey township within each respective county were provided by the State to the county zoning administrator for review. Chapter NR 115 also required that the county zoning committee hold a public hearing to receive comments on the accuracy and completeness of the preliminary maps, that hearing notices be mailed to all town clerks, and that hearing notices be published as class one notices. Following the review period and hearing, the Department prepared final maps. Each county was required to amend, within six months of receiving the final maps, its shoreland-wetland zoning ordinance to protect all mapped wetlands within the shoreland area.

For Racine County, including the Town of Norway, a series of public hearings on the preliminary maps were conducted and review comments were submitted to the Department in 1983. The zoning ordinance was amended by the County to protect the shoreland wetlands and the amended ordinance was approved by the Department in 1986.

Sanitary Sewerage System Plans

Under Wisconsin law and administrative rules, the State of Wisconsin is required to review and take action to approve or reject plans for proposed sewerage facilities. The review and action is guided by an adopted areawide water quality management plan. On July 12, 1979, the Southeastern Wisconsin Regional Planning Commission formally adopted an areawide water quality management plan for Southeastern Wisconsin.

The plan seeks to achieve clean and wholesome surface waters within the seven-county Region.¹

The plan has five basic elements: 1) a land use element, consisting of recommendations for the location of new urban development in the Region and for the preservation of primary environmental corridors and prime agricultural lands, 2) a point source pollution abatement element, including recommendations concerning the location and extent of sanitary sewer service areas, 3) a nonpoint source pollution abatement element, consisting of recommendations for the control of pollutant runoff from rural and urban lands, 4) a sludge management element, and 5) recommendations for the establishment of continuing water quality monitoring efforts in the Region.

The plan was formally endorsed by the Wisconsin Natural Resources Board on July 25, 1979. Such endorsement is important because, under Chapter 144 of the Wisconsin statutes, the State must find certain actions to be in accordance with the adopted and endorsed plan. These actions by the State include, among others, approval of waste discharge permits, approval of State and Federal grants for the construction of wastewater treatment and conveyance facilities, and approval of locally proposed sanitary sewer extensions. In addition, the water quality management plan recommends that important natural resources, including surface waters and associated floodlands and shorelands, wetlands, woodlands, wildlife habitat, and areas of steep slope and rough topography, be preserved in natural, open uses.

Chapters NR 110 and ILHR 82 of the Wisconsin Administrative Code require that the Wisconsin DNR, with respect to public sanitary sewers, and the Wisconsin Department of Industry, Labor and Human Relations (DILHR), with respect to private sanitary sewers, make a finding that all proposed sanitary sewer extensions be in con-

formance with adopted areawide water quality management plans. These Departments, in carrying out their responsibilities, require that the Southeastern Wisconsin Regional Planning Commission, as the designated areawide water quality management planning agency for the Southeastern Wisconsin Region, review and comment on each proposed sewer extension as to its relationship to the approved water quality management plan.

More specifically, with respect to granting a public sanitary sewer service extension permit, under Sections NR 110.08(4) and NR 121.05(2), the Wisconsin DNR must make a finding that the area proposed to be served is located 1) within an approved sewer service area and 2) outside of areas having physical or environmental constraints which, if developed, would have adverse water quality impacts. Areas having such physical or environmental constraints may include wetlands, shorelands, floodways and floodplains, steep slopes, highly erodible soils and other limiting soil types, and groundwater recharge areas.

With respect to granting a private sewer connection permit, under Section ILHR 82.20(4), the Wisconsin DILHR, like the DNR as described above, must make a finding that the buildings proposed to be served through a private sewer connection are located 1) within an approved sewer service area and 2) outside areas having physical or environmental constraints which, if developed, would have adverse water quality impacts.

In order properly to reflect local, as well as areawide, planning concerns in the execution of this review responsibility, the Regional Planning Commission, in adopting the areawide water quality management plan, recommended that steps be taken to refine and detail each of the sanitary sewer service areas delineated in the plan, including the Wind Lake sewer service area, in cooperation with the local units of government concerned. It is intended that the results of this study be used in the preparation of the refined and detailed Wind Lake sanitary sewer service area.

FEDERAL WETLAND REGULATORY PROGRAM

The U.S. Congress has provided for the regulation of certain wetlands of the Nation. Section

¹The adopted areawide water quality management plan is documented in SEWRPC Planning Report No. 30, <u>A Regional Water Quality Management Plan for Southeastern Wisconsin: 2000, Volume One, Inventory Findings, 1978; Volume Two, Alternative Plans, 1979; and Volume Three, Recommended Plan, 1979.</u>

404 of the Clean Water Act, as amended, provides the principal Federal authority in the regulation of wetland use. That law requires the U.S. Army Corps of Engineers, working in cooperation with the U.S. Environmental Protection Agency, to regulate the discharge of dredged and fill materials into waters of the United States, including lakes, rivers, and wetlands. In carrying out this responsibility, the Corps of Engineers identifies waters of the United States, including wetlands, and determines when permits are required for the discharge of dredged and fill materials. Some silvicultural, mining, and agricultural activities in waters and adjacent wetlands may be exempt from the individual permit requirement and certain minor activities, such as sand blankets, boat ramp construction, and shore stabilization activities, may be undertaken under a preapproved general or nationwide permit. It should also be noted that the Corps of Engineers does have discretionary authority under which it can override a nationwide permit on a case-by-case basis, as it deems appropriate.

Under the provisions of Section 401 of the Clean Water Act, the issuance of Federal permits must be consistent with State water quality policies and standards. The State of Wisconsin has established procedures to review all activities which may involve the discharge of dredged or fill material into the waters of the State, including wetlands. These procedures are set forth in Chapter NR 299 of the Wisconsin Administrative Code, which requires the Wisconsin DNR to deny certification for any discharge which does not meet the guidelines set forth in Chapters 30. 31, and 144 of the Wisconsin Statutes, to grant certification if such guidelines are met, or to waive certification if such guidelines do not apply. In cases where State certification is denied, the U.S. Department of the Army, Corps of Engineers, permit would also be denied.

SUMMARY

There are a variety of regulatory measures by which county and town, State, and Federal units and agencies of government can shape and guide urban development and manage land use in the public interest. In combination, these measures can be viewed as the overall legal land use management framework. This chapter described those aspects of the management framework which are particularly relevant to,

and may have a bearing on, the use and management of natural resource lands within the Town of Norway Sanitary District No. 1 study area. These county, town, State, and Federal regulatory measures are summarized below.

1. The Racine County land use controls which have a direct bearing on the management and use of natural resource lands in the study area include the its combination general and floodland-shoreland zoning ordinance, which guides and directs the use of land in the unincorporated areas of the county, including the Town of Norway. This ordinance includes zoning districts intended to protect certain important natural resources, particularly wetlands and floodlands, in the County.

The Racine County Subdivision Control Ordinance sets forth the procedures for the division of land for subdivisions in the County and regulates the form of proposed development through design standards. The County also regulates the location, use, and maintenance of private waste disposal in the County and sets forth site requirements for soil absorption sewage disposal systems. The Racine County general and floodland-shoreland zoning ordinance, subdivision control ordinance, and sanitary code are applied in the Town of Norway.

- 2. The Town of Norway has adopted a building code, which sets forth the requirements to ensure the safe design, construction, and use of all buildings constructed in the Town. The code also regulates the maintenance of, and sets forth the conditions for occupancy of, all buildings in the Town. In addition, the Town of Norway amended its building code to include a soil-disturbing activities control ordinance. The ordinance amendment requires that erosion control practices be put into place to reduce the amount of sediment and other pollutants leaving construction sites during land development or land disturbance.
- 3. A number of policies and regulatory programs of the State of Wisconsin have a direct bearing on the use of the land and water resources in the study area. Under Chapters 30 and 31 of the Wisconsin Statutes, the Wisconsin DNR has the

authority and responsibility to regulate the navigable waters, including associated wetlands, of the State. Administrative rules aimed at protecting and enhancing natural resource values and the overall environmental quality of the State are set forth in the Wisconsin Administrative Code. Important administrative policies directing the protection of wetlands are set forth in Chapter NR 1.95 of the Administrative Code, while specific water quality standards for wetlands aimed at protecting the functions of such wetlands are set forth in Chapter NR 103 of the Administrative Code.

Under Chapter 59 of the Wisconsin Statutes, the important natural resources within the floodland and shoreland areas of the State are protected. The administrative rules protecting such resources within the floodland-shoreland areas of the State and establishing the joint protection responsibilities between the State and the counties are set forth in Chapters NR 115 and 116 of the Wisconsin Administrative Code. The Wisconsin Wetland Inventory mapping program served as the basis for identification of those wetlands to be regulated under Chapter NR 115.

Under Chapter 144 of the Wisconsin Statutes, the State has the responsibility to ensure that those resources located in the urban and urbanizing areas of the State served by sanitary sewer are protected, thereby assuring the maintenance of water quality within the State. The administrative rules which guide the protection of natural resources and water quality within

sanitary sewer service areas are set forth in Chapters NR 110, NR 121, and ILHR 82 of the Wisconsin Administrative Code.

In addition, under Chapter 1 of the Wisconsin Statutes, the Wisconsin Environmental Policy Act requires that each State agency must consider the environmental implications of all actions and proposals and, before proceeding with any "major" action which may affect the quality of the environment, must prepare a detailed evaluation concerning the environmental effects of the proposed action and alternatives.

Under Section 404 of the Clean Water Act, the U.S. Congress has provided for the regulation of certain wetlands of the nation. Section 404 of the Clean Water Act requires the U.S. Army Corps of Engineers to regulate the discharge of dredged and fill materials into waters of the United States, including lakes, rivers, and wetlands. In carrying out this responsibility, the Corps of Engineers determines when permits are required for discharge of dredged and fill materials. In addition, under the provisions of Section 401 of the Federal Clean Water Act, the issuance of Federal permits must be consistent with State water quality policies and standards. The State of Wisconsin has established procedures to review all activities which may involve the discharge of dredged or fill materials to the waters of the State. Chapter NR 299 of the Wisconsin Administrative Code sets forth the procedures for such review to assure that all such federally permitted activity meets the guidelines set forth in Chapters 30, 31, and 144 of the State Statutes.

Chapter IV

APPLICATION OF RESOURCE-RELATED LAND USE REGULATIONS

INTRODUCTION

Chapter III of this report described the existing local, County, State, and Federal land use regulations in effect within the Town of Norway Sanitary District No. 1, focusing on those regulatory programs which bear on natural resource features within the area. The most important resourcerelated regulatory programs identified included conservancy zoning established under the Racine County zoning ordinance; joint State-County floodland and shoreland zoning; State water quality standards for wetlands established under Chapter NR 103 of the Wisconsin Administrative Code: water quality protection provisions built into the State regulation of sanitary sewerage systems, particularly as established under Chapter NR 110 and Chapter ILHR 82 of the Wisconsin Administrative Code; and Federal regulation of waters of the United States, including wetlands, under Section 404 of the Federal Clean Water Act. Because of the number and complexity of the programs involved and because of their overlapping nature, confusion can arise in efforts to determine the net effect of these regulations on specific parcels of land. Consequently, determination of the legally established protection status, or, conversely, the development potential, of any parcel requires careful consideration of the effects of each regulatory program on the parcel.

This chapter identifies the areas of the Town of Norway Sanitary District No. 1 that are subject to each of the aforementioned regulatory programs. In addition, the final section of this chapter identifies areas which are held in the public trust insofar as they are located below the ordinary high-water mark of navigable lakes and ponds in the Sanitary District. The information presented in this chapter provides an important basis for the development of the recommended plan presented in Chapter V of this report, and for the formulation of the attendant plan implementation recommendations presented in Chapter VI of this report.

AREAS AFFECTED BY RESOURCE-RELATED LAND USE REGULATORY PROGRAMS

Racine County Conservancy Zoning— C-1 Resource Conservation District
As reported in Chapter III, the C-1 Resource Conservation District adopted as part of the Racine

County zoning ordinance is intended to protect wetland resources. Virtually no structures are permitted in this zoning district. Any uses which involve filling or disturbing in any way the natural conditions of the lands in this zoning district are prohibited. As shown on Map 15, the C-1 zoning district has been applied to a total of 229 acres within the Town of Norway Sanitary District No. 1, including 213 acres encompassing lowland resources; four acres encompassing upland resources; and 12 acres encompassing other lands.1 Map 15 indicates that the C-1 zoning district has not been consistently applied to lowland resources within the Sanitary District. The zoning district has been applied to only a portion of the wetlands within the Sanitary District, apparently with the intention of permitting the development of certain wetlands that had been provided with sewer service.

Racine County Floodland Zoning

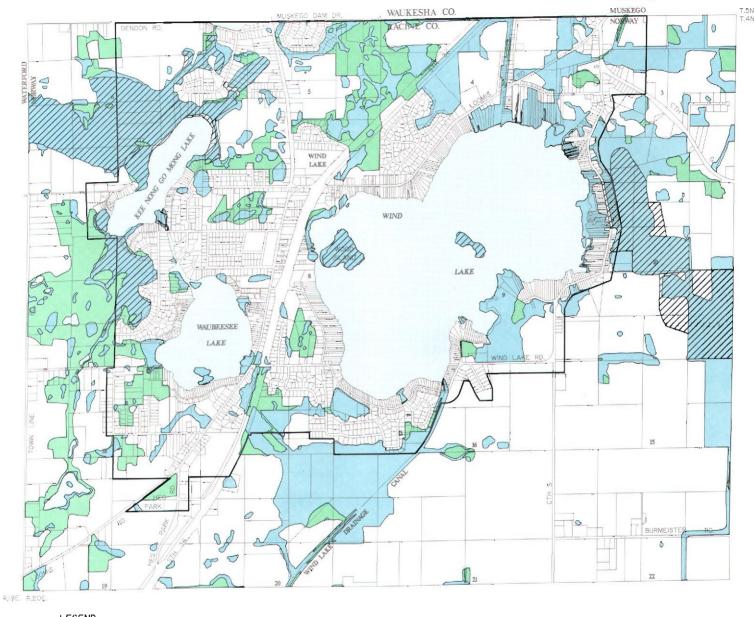
As noted in Chapter III, the Racine County zoning ordinance includes three floodplain districts which prohibit nearly all filling and development and thereby effectively reduce flood damages and protect the floodplain areas to which they are applied. These districts are the FW Urban Floodway District, the FCO Urban Floodplain Conservancy Overlay District, and the GFO General Floodplain Overlay District. In combination, these districts have been applied to a total of 1,791 acres within the Town of Norway Sanitary District No. 1, including 415 acres of land encompassing lowland resources, 233 acres of other land, and 1,143 acres of surface water (see Map 16).

As indicated in Chapter III, the Racine County zoning ordinance includes a fourth floodplain district, the FFO Urban Floodplain Fringe Overlay

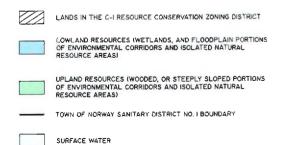
For the purposes of this analysis, "lowland" resource areas include all wetlands within the study area and all floodplains that are located within the existing primary environmental corridors, secondary environmental corridors, and isolated natural resource areas within the study area. "Upland" resource areas include all other areas contained within the primary and secondary environmental corridors and isolated natural resource areas. The upland resource areas typically consist of steeply sloped lands, woodlands, and wildlife habitat.

LANDS WHICH HAVE BEEN PLACED IN THE C-1 RESOURCE CONSERVATION DISTRICT OF THE RACINE COUNTY ZONING ORDINANCE IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS

Map 15



LEGEND

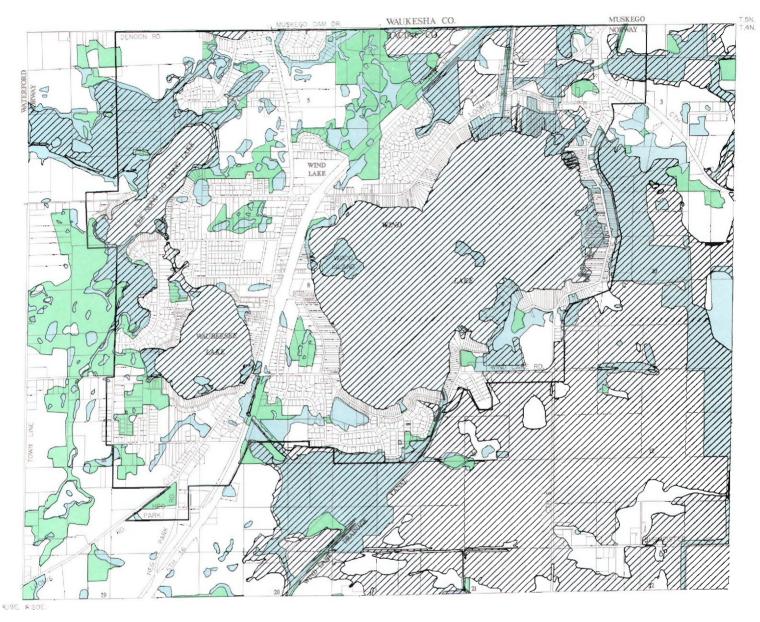


Source: Racine County and SEWRPC.



Map 16

LANDS WHICH HAVE BEEN PLACED IN THE FLOODPLAIN ZONING DISTRICTS THAT PROHIBIT FILLING AND DEVELOPMENT UNDER THE RACINE COUNTY ZONING ORDINANCE IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS



LEGEND

LANDS IN FLOODPLAIN ZONING DISTRICTS THAT PROHIBIT
FILLING AND DEVELOPMENT (GFO GENERAL FLOODPLAIN OVERLAY
DISTRICT, FCO URBAN FLOODPLAIN CONSERVANCY OVERLAY DISTRICT,
AND FW URBAN FLOODWAY DISTRICT)

LOWLAND RESOURCES (WETLANDS, AND FLOODPLAIN PORTIONS OF
ENVIRONMENTAL CORRIDORS AND ISOLATED NATURAL RESOURCE AREAS)

UPLAND RESOURCES (WOODED OR STEEPLY SLOPED PORTIONS OF ENVIRONMENTAL CORRIDORS AND ISOLATED NATURAL RESOURCE AREAS)

TOWN OF NORWAY SANITARY DISTRICT NO. I BOUNDARY

SURFACE WATER

Source: Racine County and SEWRPC.



District. This district is intended to recognize existing and committed urban development in floodplain fringe areas. It generally allows, as a conditional use, structures permitted in underlying basic residential and other urban zoning districts.

Racine County Shoreland-Wetland Zoning

The Racine County zoning ordinance includes another overlay district, the SWO Shoreland-Wetland Overlay District. This district applies to all wetlands five acres or greater in area that are located within the statutory shoreland jurisdiction area. The SWO zoning district prohibits nearly all forms of filling and development in such wetlands.

The statutory shoreland jurisdiction area consists of all lands within the following distances of the ordinary high-water mark of navigable waters: 1,000 feet of a lake or pond and 300 feet of a stream or to the landward side of the floodplain, whichever distance is greater. The shoreland jurisdiction area in the Town of Norway Sanitary District No. 1 is shown on Map 17. That area was delineated based upon surface-water-navigability determinations and ordinary high-water-mark determinations made by the Wisconsin Department of Natural Resources in 1993.

Also shown on Map 17 are wetlands five acres or greater in size which are located within the shoreland jurisdiction area and which are therefore subject to the SWO Shoreland-Wetland Overlay District of the Racine County zoning ordinance. These shoreland wetlands encompass a combined area of 454 acres within the Town of Norway Sanitary District No. 1.

State Water Quality Standards for Wetlands—Chapter NR 103 of the Wisconsin Administrative Code

Chapter NR 103 of the Wisconsin Administrative Code establishes State water quality standards for wetlands. These standards must be applied by the Department of Natural Resources in all of its decision making pertaining to wetlands, including the Department's water quality certification of Federal Section 404 permits for activities involving the discharge of fill materials into the waters of the United States, including wetlands. In effect, the provisions of Chapter NR 103 apply to all wetlands in the State, including all wetlands in the Town of Norway Sanitary District No. 1 (see Map 8 in Chapter II of this report, page 14).

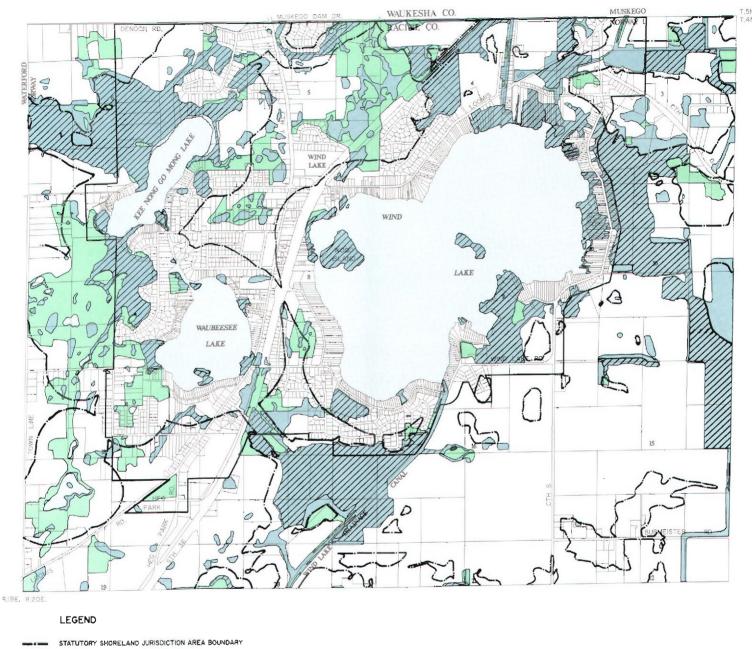
Chapter NR 103 establishes criteria to be applied by the Department in determining whether a wetlanddisturbing activity may be approved. Pursuant to Section 103.08, the Department may not approve wetland-disturbing projects which are not wetlanddependent or for which practical alternatives that do not adversely affect wetlands exist. Where it is found that the proposed activity is wetlanddependent and that no practical alternatives exist, the Department must determine whether the activity will result in significant adverse impacts on the functional values of the affected wetlands, significant adverse impacts on water quality, or other significant adverse environmental consequencesusing the criteria specified in Chapter NR 103. Where it is determined that significant environmental impacts will occur, the Department may not approve the proposed activity.

Within the Town of Norway Sanitary District No. 1, the most complex land use regulatory situations pertain to undeveloped lots that have been created for residential use and which wholly or substantially consist of wetlands. Under this planning study, such lots were identified and their development potential analyzed based upon the application of the standards specified in Chapter NR 103.

The Town of Norway Sanitary District No. 1 in 1993 contained 79 undeveloped parcels that were created for residential use and which substantially consisted of wetlands. These parcels are identified on Map 18. The specific findings for each parcel in terms of the Chapter NR 103 criteria are presented in Table 2. The analysis indicated that 62 of the concerned parcels, encompassing a combined area of about 39 acres, may not be filled based upon the Chapter NR 103 criteria. The analysis further indicated that five parcels, encompassing a combined area of about three acres, may be filled as necessary where no alternatives exist. The analysis also indicated that the remaining 12 parcels, encompassing a combined area of about eight acres, could possibly sustain limited filling under Chapter NR 103 where no alternatives exist.

Under this planning study, the application of the standards of Chapter NR 103 was limited to those undeveloped parcels that have been created for residential use and which substantially consist of wetlands. As already noted, the provisions of Chapter NR 103 apply to all wetlands. Determination of the impacts of Chapter NR 103 on other wet-

Map 17
SHORELAND WETLANDS IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS



SHORELAND WETLANDS

LOWLAND RESOURCES IWETLANDS, AND FLOODPLAIN PORTIONS OF ENVIRONMENTAL CORRIDORS AND ISOLATED NATURAL RESOURCE AREAS)

UPLAND RESOURCES (WOODED OR STEEPLY SLOPED PORTIONS OF ENVIRONMENTAL CORRIDORS AND ISOLATED NATURAL RESOURCE AREAS)

TOWN OF NORWAY SANITARY DISTRICT NO. I BOUNDARY

SURFACE WATER



Source: Wisconsin Department of Natural Resources, Racine County, and SEWRPC.

DOCUMENTED WETLAND FUNCTIONAL VALUES FOUND ON UNDEVELOPED PARCELS IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS CREATED FOR RESIDENTIAL USE AND SUBSTANTIALLY CONSISTING OF WETLANDS

Parcel Identification			"X" Indicates That Available Records Indicate That Parcel Wetlands Significantly Perform Functions as Identified in Chapter NR 103, Wisconsin Administrative Code											
Number on Map 18	Racine County Tax Key Number	Area (acres)	Water Quality Protection	Storm- Floodwater Storage and Retention ^a	Hydrologic Functions ^b	Shoreline Erosion Protection	Wildlife Habitat ^C	Fish and Other Aquatic Organism Habitat	Recreational, Cultural, and Aesthetic Values and Uses	Educational, Scientific, and Natural Area Values and Uses	Critical Habitat for State- or Federally Designated Threatened or Endangered Species	Calcareous Fens	Environmentally Sensitive Areas (primary environmental corridor and ADID wetlands) ^d	Parcel Category ^e
1	42003-018-030	1.07		xf	•-	·		**					x	Α
2	42003-018-040	0.42		xf									×	A
. 3	42003-018-050	0.43	'	x ^f									X	Α
4	42003-026-000	2.87		χg	х		X			х	x	×	×	Α
5	42003-059-000	0.48	••	xh			x			'			×	. A
6	42003-071-000	0.17		xf	•								×	. A
7	42003-115-000	0.24		x ^f	F== :								×	A
8	42003-121-000	0.18	х	x ^f				x	×			-2	. x	Α
9	42003-124-000	0.49	х .	xf				x	×				×	Α
10	42003-126-000	0.42	X ₂	xf				×	х				x	Α
11	42003-128-000	0.46	×	x ^h				х	×				×	Α
12	42003-129-000	0.50	•	xf	Х		X			X ·	х	x	x	Α
13	42003-131-000	0.68	х	x ^h	x _		х	х	×	х	X	x	х	Α
14	42003-132-000	0.54	X .,.	x ^h	X		X	х	×	×	×	×	×	. А
15	42004-023-000	1.33	х	x ^h			х	х	×	х	Х.		x	. A
16	42004-024-000	1.28	х	xh			Х	×	х	Х	х		х	· A
17	42004-025-000	1.16	X.	x ^h			Х	х	х	х	x		x	. А
18	42004-026-000	1.22	X	x ^h		••	X	х	х	х	×		×	Α
19	42004-027-000	1.16	X	x ^h		••	х	Х	×	x	×		×	Α
20	42004-028-000	1.29	×	X ^h			х	Х	×	×	×		x	Α
21	42004-095-000	1.10	· x	x ^h		-	х	Х	х	1,			x	Α
22	42004-095-001	1.24	х	X ^h			X	Х	. x				×	Α
23	42004-095-002	1.34	х	χħ			Х	х	х				x	, A .
24	42004-113-000	2.94		X ^h			. •• /				. •-			В
25	42004-127-000	0.14		x ^f		'						••		В
26	42004-128-000	0.23		x ^f				••						В
27	42004-129-000	0.23		xf		••		1						В
28	42004-130-000	0.23		xf		,								В
29	42004-131-000	0.23		xf							•• /.			В
30	42004-132-000	0.24		x ^f										В

Table 2 (continued)

Parcel Identification		"X" Indicates That Available Records Indicate That Parcel Wetlands Significantly Perform Functions as Identified in Chapter NR 103, Wisconsin Administrative Code												
Number on Map 18	Racine County Tax Key Number	Area (acres)	Water Quality Protection	Storm- Floodwater Storage and Retention ^a	Hydrologic Functions ^b	Shoreline Erosion Protection	Wildlife Habitat ^C	Fish and Other Aquatic Organism Habitat	Recreational, Cultural, and Aesthetic Values and Uses	Educational, Scientific, and Natural Area Values and Uses	Critical Habitat for State- or Federally Designated Threatened or Endangered Species	Calcareous Fens	Environmentally Sensitive Areas (primary environmental corridor and ADID wetlands) ^d	Parcel Category ^e
31	42004-133-000	0.22		x ^f				• •						В
32	42004-161-000	0.32	х	Χâ			x	x	×			,	х	Α
33	42004-162-000	0.31	X ·	χg			×	х	X		·		x	. А
34	42004-163-000	2.10	х	χg			×	х	×		4		×	A
35	42004-163-157	0.48		Χg		:								В
36	42005-033-013	0.49												С
37	42005-033-014	0.47											%, 	C .
38	42005-121-000	1.47											x ⁱ	В
39	42005-141-000	1.22		xj			x		х				х	Α.
40	42005-200-030	0.93												С
41	42007-300-010	0.46							•-					С
42	42007-300-020	0.70												С
43	42008-027-002	0.71	х	xf			х	х	×	×	×		×	Α
44	42008-313-000	0.13	×	xf			х		••	x	×		×	A
45	42008-314-000	0.13	x	xf	• •		X			×	×		×	A
46	42008-285-010	1.95	X	Χâ			x	X	×	x	×		×	. A
47	42009-015-000	0.37		xf	,		x			,		·	х	A
48	42010-002-000	0.77	×	X ^h	X		x	х	×	, 144	×	×		Α
49	42010-004-000	0.64	х	x ^h			x	X .	×				· ·	Α
50	42010-005-000	0.64	×	Xh			x	X	×					Α
51	42003-133-000	0.59	X	Xh	Х		X	х	×	х	х	X	х	Α
52	42003-145-000	0.54	X	Xa	. X		х	х	×	×	×	×	x	Α
53	42003-153-000	0.89	×	Xh	х		x	х	х	х	X	×	x	Α
54	42003-155-010	0.27		xf	х	** .	х			х	, X	×	х	Α
55	42003-156-010	0.25		x ^f	х		x	· ·		х	х	х	х	A
56	42003-157-000	0.93	х	X ^h	. X		х	x	x	х	Х	X	х	A
57	42003-159-000	1.01	×	X ^h	х		х	х	X	х	X	Х	x	A
58	42003-134-000	0.28		. xf	X		x		:	х	X	X	×	, A
59	42003-135-000	0.27		xf	Х		×			х	x	X	x	Α
60	42003-136-000	0.27		xf	х		х			X	х	X	X	Α
61	42003-137-000	0.26		xf	х		×			x	x	×	- x	A

Γ	Parcel Identification			-x	"X" Indicates That Available Records Indicate That Parcel Wetlands Significantly Perform Functions as Identified in Chapter NR 103, Wisconsin Administrative Code											
	Number on Map 18	Racine County Tax Key Number	Area (acres)	Water Quality Protection	Storm- Floodwater Storage and Retention ^a	Hydrologic Functions ^b	Shoreline Erosion Protection	Wildlife Habitat ^C	Fish and Other Aquatic Organism Habitat	Recreational, Cultural, and Aesthetic Values and Uses	Educational, Scientific, and Natural Area Values and Uses	Critical Habitat for State- or Federally Designated Threatened or Endangered Species	Calcareous Fens	Environmentally Sensitive Areas (primary environmental corridor and ADID wetlands) ^d	Parcel Category ^e	
	62	42003-138-000	0.27		x ^f	х		х			×	x	×	×	A	
ſ	63	42003-139-000	0.26		xf	X -		x		••	×	x	×	x	A	
	64	42003-140-000	0.27		x ^f	X		x			x	x	x	×	A	
	65	42003-141-000	0.27	••	x ^f	Х	•	. X			x	x	x	x	A	
	66	42003-142-000	0.26		x ^f	X		X		•-	х	X	x	×	Α .	
	67	42003-143-000	0.27		x ^f	х		X	<i>;</i>	-;-	x	x	×	x	A	
	68	42003-144-000	0.27		x ^f	х	••	x			x	x	x	×	Α	
٠[69	42003-146-000	0.28		x ^f	х		х			х	×	x	×	Α	
	70	42003-147-000	0.25	'	x ^f	х		, X			x	x	x	×	Α	
	71	42003-148-000	0.27		x ^f	х		х			×	x	x	×	Α	
L	72	42003-149-000	0.26		x ^f	х		Х		••	x	x	×	x	Α	
	73	42003-150-000	0.27		x ^f	х		х	••		x	х	×	. x	Α	
	74	42003-151-000	0.26		x ^f	х		×			×	x	x	×	Α	
L	75	42003-152-000	0.27	••	xf	х	1	x			x	х	×	x	Α	
	76	42003-154-000	0.27		x ^f	X		X			×	x	X	×	Α	
	77	42003-158-000	0.21	, -	Xh	X		×			×	×	×	×	Α	
L	78	42010-060-000	0.71	/·	x ^f	••	••	••							В	
٠L	79	42010-063-000	0.36		xf				••		••	'			В	
	Total		49.66	••	,	•• ,							••			

⁸Areas located in the Racine County FFO Urban Floodplain Fringe Overlay District may be filled and developed under Racine County zoning regulations found by the Wisconsin Department of Natural Resources (DNR) to meet the requirement set forth in Chapter NR 116 of the Wisconsin Administrative Code.

^bHydrologic functions include maintenance of dry-season streamflows, groundwater discharge to a wetland, recharge of groundwater from a wetland, and groundwater flow through a wetland.

^Cincludes the SEWRPC-DNR-designated Class I and II wildlife habitat areas.

^dAll wetlands located in the Commission-delineated 1980 primary environmental corridors have been designated under the advanced delineation and identification (ADID) studies as being unsuitable for the discharge of fill materials by the U. S. Environmental Protection Agency under sec. 404(c), 33 USC 1344(c).

⁶A—Highly significant adverse impacts attendant to filling (standards for permit to fill cannot be met).

B—Potentially significant adverse impacts attendant to filling (limited fill may possibly be allowed in the absence of alternatives).

C-Limited impacts attendant to filling (necessary fill allowed in the absence of alternatives).

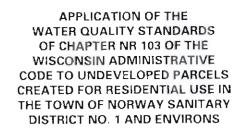
^fFloodlands consisting entirely of FFO Urban Floodplain Fringe Overlay District.

gFloodlands not consisting of any FFO Urban Floodplain Fringe Overlay District.

h Floodlands consisting partially of FFO Urban Floodplain Fringe Overlay District.

ⁱRear portion of lot only.

jOnly 0.61 acre of this 1.22-acre parcel lies within floodlands, none of which consists of FFO Urban Floodplain Fringe Overlay District.





T.5N.

T.4N.

NORWAY

UNDEVELOPED PARCELS CREATED FOR RESIDENTIAL USE AND SUBSTANTIALLY CONSISTING OF WETLANDS

HIGHLY SIGNIFICANT ADVERSE IMPACTS ATTENDANT TO FILLING ISTANDARDS FOR PERMIT TO FILL CANNOT BE MET)

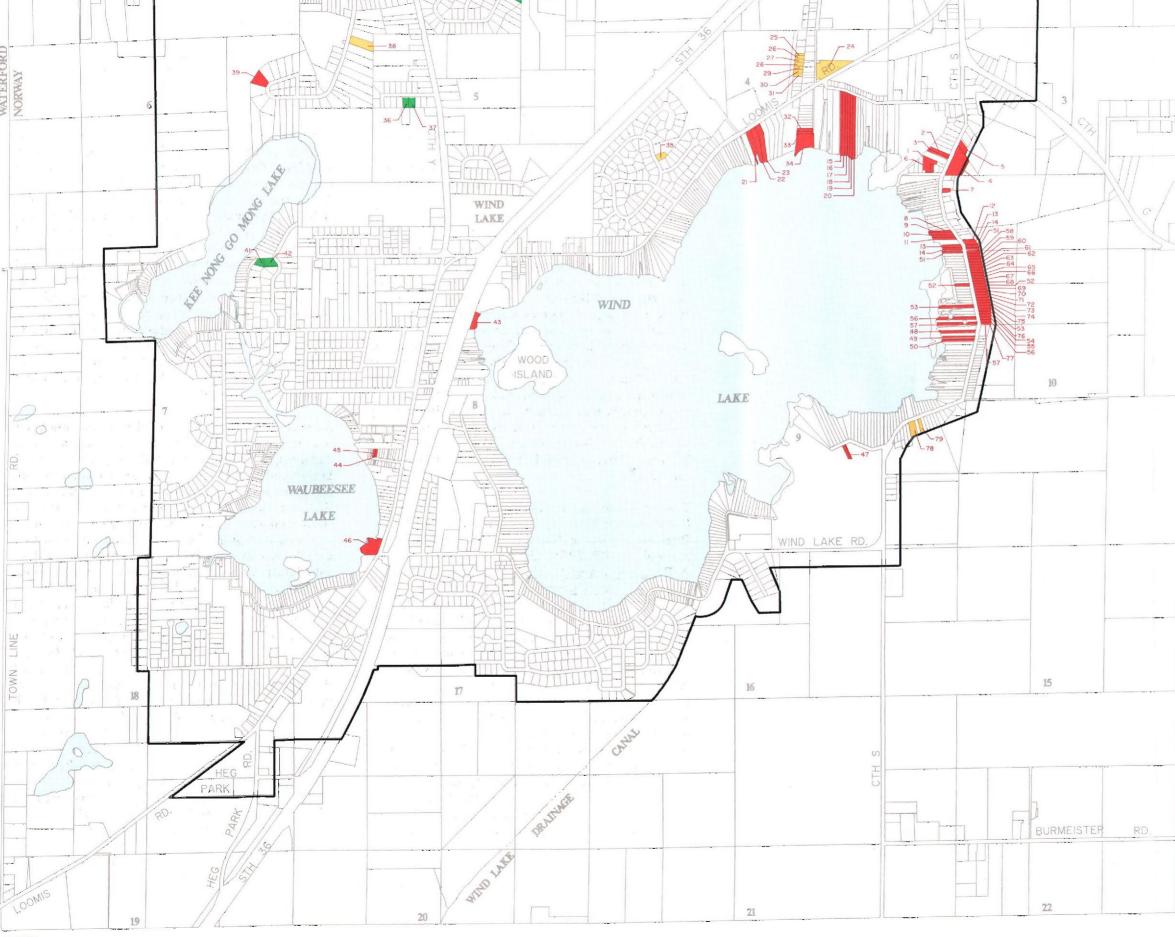
POTENTIALLY SIGNIFICANT ADVERSE IMPACTS ATTENDANT TO FILLING ILLIMITED FILL MAY POSSIBLY BE ALLOWED IN THE ABSENCE OF ALTERNATIVES!

LIMITED IMPACTS ATTENDANT TO FILLING (NECESSARY FILL ALLOWED IN THE ABSENCE OF ALTERNATIVES)

PARCEL NUMBER (SEE TABLE 2)

SURFACE WATER

TOWN OF NORWAY SANITARY DISTRICT NO, I BOUNDARY



WAUKESHA CO.

RACINE CO.

MUSKEGO DAM DR.

DENOON RD.



R,19E, R,20E.

Source: Racine County and SEWRPC.

lands in the study area would require similar detailed analysis on a case-by-case basis as proposals to fill arise.

State Regulation of Sanitary Sewerage Systems

The Wisconsin Departments of Natural Resources and Industry, Labor and Human Relations are responsible for the oversight and regulation of sanitary sewerage systems in Wisconsin, including oversight of public and private sewer extensions. Under the Wisconsin Administrative Code, adopted areawide water quality management plans constitute an important basis for the State review of proposed sewer extensions. Chapters NR 110 and ILHR 82 of the Wisconsin Administrative Code require that the Department of Natural Resources. with respect to public sanitary sewers, and the Department of Industry, Labor and Human Relations, with respect to private sanitary sewers, make a finding that all proposed sanitary sewer extensions are in conformance with an adopted areawide water quality management plan before approving such extensions. It should be noted that the Wisconsin Administrative Code requires that areawide water quality management plans exclude from any proposed sewer service area those lands which are unsuitable for the installation of sewerage systems because of the potential for adverse water quality impacts.²

The areawide water quality management plan for Southeastern Wisconsin, initially adopted by the Regional Planning Commission in 1979, is documented in SEWRPC Planning Report No. 30, A Regional Water Quality Management Plan for Southeastern Wisconsin: 2000, Volume One, Inventory Findings, September 1978; Volume Two, Alternative Plans, February 1979; and Volume Three, Recommended Plan, June 1979; and amending reports. In their oversight of sanitary sewerage systems, the Wisconsin Departments of Natural Resources and Industry, Labor and Human Relations have determined that certain environmentally sensitive areas identified in the regional water quality management plan may not be developed with sanitary sewers because of the potential adverse water quality impacts involved. These areas include those portions of primary environmental corridors, secondary environmental corridors, and isolated natural resource areas that consist of wetlands or steeply sloped lands adjacent to surface water or wetlands. The Departments have further determined that development of other portions of the primary environmental corridor generally should be limited to rural-density residential development providing a site area of at least five acres per dwelling unit.

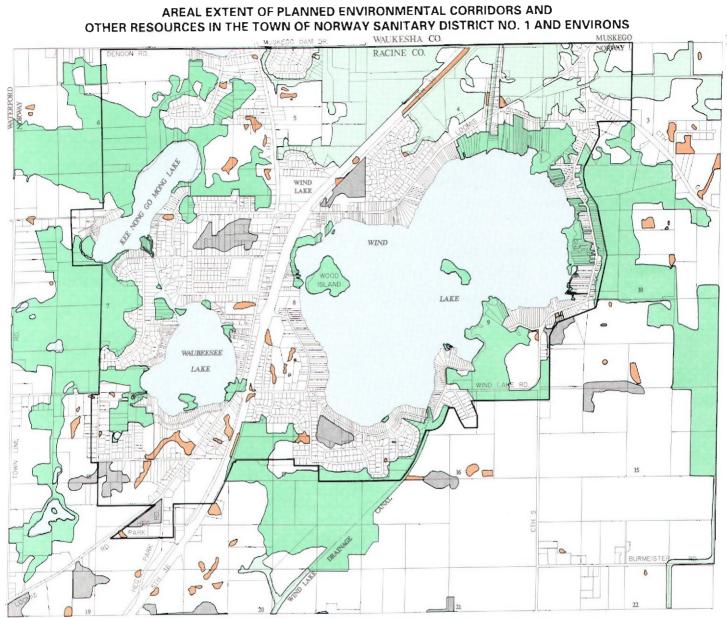
The areawide water quality management plan adopted by the Regional Planning Commission in 1979 identified a generalized sanitary sewer service area for each sewerage system in the Southeastern Wisconsin Region and recommended the conduct of local planning studies to refine and detail the generalized service areas. As such detailed local sewer service area plans are prepared, the location and configuration of environmental corridors and isolated natural resource areas within the respective planned sewer service areas are refined and detailed. As part of this process, the environmental corridor location and configuration are modified to incorporate adjacent undeveloped floodland areas, typically in agricultural use, which should be maintained in open use as the development of adjacent upland areas proceeds.

A sewer service area refinement planning study has not yet been undertaken for the Norway area. Accordingly, in order to graphically illustrate the State regulation of sanitary sewer extensions within the Town of Norway Sanitary District No. 1, it was first necessary to refine and detail the primary environmental corridors, secondary environmental corridors, and isolated natural resource areas within the District in accordance with procedures established for local sanitary sewer service area studies. As part of this process, the location and configuration of existing environmental corridors and isolated natural resource areas in the Sanitary Districtpreviously shown on Map 14 in Chapter II of this report (see page 22)—were revised to include adjacent undeveloped floodplains. It should be noted that the revised environmental corridors and isolated natural resource areas include those undeveloped lots that consist of wetlands which may not be filled based upon applications of the standards of Chapter NR 103 of the Wisconsin Administrative Code, and exclude those lots which may possibly sustain some filling under the Chapter NR 103 standards (see Map 18). The resulting planned environmental corridors and isolated natural resource areas are shown on Map 19.

As noted above, in carrying out their regulatory responsibilities, the Wisconsin Departments of

²Wisconsin Administrative Code, Chapter NR 121.

Map 19



R.19E. R.20E LEGEND PRIMARY ENVIRONMENTAL CORRIDOR SECONDARY ENVIRONMENTAL CORRIDOR ISOLATED NATURAL RESOURCE AREA WETLAND LOCATED OUTSIDE ENVIRONMENTAL CORRIDOR OR ISOLATED NATURAL RESOURCE AREA SURFACE WATER TOWN OF NORWAY SANITARY DISTRICT NO. I BOUNDARY Source: SEWRPC.

Natural Resources and Industry, Labor and Human Relations will not approve any sewer extension intended to accommodate development of wetlands or steeply sloped lands located within primary or secondary environmental corridors or isolated natural resource areas. The areas within the Town of Norway Sanitary District No. 1 that are so regulated are identified on Map 20. These areas encompass a combined total of 865 acres. State regulatory policy also generally limits sewered development in other portions of the primary environmental corridors-also shown on Map 20-to residential development at a density of at least five acres per dwelling unit. These areas encompass a combined total of 93 acres. It should be noted that from a practical standpoint, the application of this regulatory policy would not apply to undeveloped platted lots that are currently provided with sanitary sewer service.

In their oversight of sanitary sewerage systems, the Wisconsin Departments of Natural Resources and Industry, Labor, and Human Relations also consider the potential impacts of proposed sanitary sewer extensions on other, smaller wetlands which are located outside environmental corridors or isolated natural resource areas. Departmental decisions regarding such extensions are made on a case-by-case basis, based upon a consideration of the resource value of the concerned wetland. Wetlands located beyond the environmental corridors and isolated natural resource areas—which require such a case-by-case review—are also identified on Map 20. These areas encompass a combined total of 45 acres.

<u>Federal Regulation of Wetlands—</u> Section 404 of the Federal Clean Water Act

As noted in Chapter III, Section 404 of the Federal Clean Water Act requires that the U. S. Department of the Army, Corps of Engineers, working cooperatively with the U. S. Environmental Protection Agency, regulate the discharge of dredged and fill material into waters of the United States, including wetlands. Under Section 401 of the Clean Water Act, the issuance of Federal permits for the discharge of dredged and fill material must be consistent with State water quality policies and

standards. Accordingly, Federal regulation of wetlands under Section 404, as a practical matter, may be considered to be the same as the previously described State regulation.

OWNERSHIP OF NAVIGABLE WATERS

As established under case law in Wisconsin, the beds of natural, navigable lakes and ponds are owned by the State, while the beds of navigable streams are owned by the riparian owner. The entirety of each natural, navigable lake or pond below the ordinary high-water mark is held by the State in the public trust.

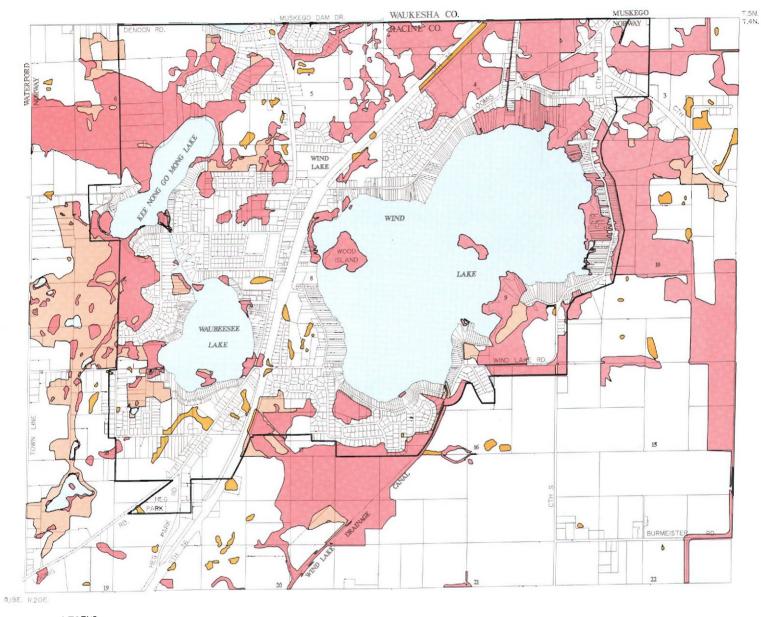
The areas below the ordinary high-water mark attendant to each of the navigable lakes and ponds in the Town of Norway Sanitary District No. 1 are shown on Map 21. These areas are held by the State in the public trust. As shown on Map 21, these areas consist primarily of surface water but also include certain wetlands situated below the ordinary high-water mark. Wetlands situated below the ordinary high-water mark together encompass a total of 131 acres. As noted above, navigability and high-water-mark determinations were made for the Town of Norway Sanitary District No. 1 by the Wisconsin Department of Natural Resources in 1993.

CONCLUDING REMARKS

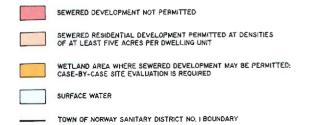
This chapter has provided a description of the manner in which environmentally sensitive lands within the Town of Norway Sanitary District No. 1 are currently regulated by County, State, and Federal land use regulatory programs. Many of the environmentally sensitive areas in the District are affected by two or more regulatory programs, and a determination of the development potential of any parcel requires consideration of each program. For that reason, the regulatory programs have been described individually in this chapter. The next chapter of this report examines the cumulative effects of the regulatory programs—particularly those programs which are mandated by the State and Federal governments—as one of the key considerations in the development of a plan for the protection of environmentally sensitive lands in the District.

IMPACT OF STATE REGULATION OF SANITARY SEWER EXTENSIONS ATTENDANT TO ENVIRONMENTAL CORRIDORS AND OTHER RESOURCES IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS

Map 20



LEGEND



DRAPHIC SCALE

D

J

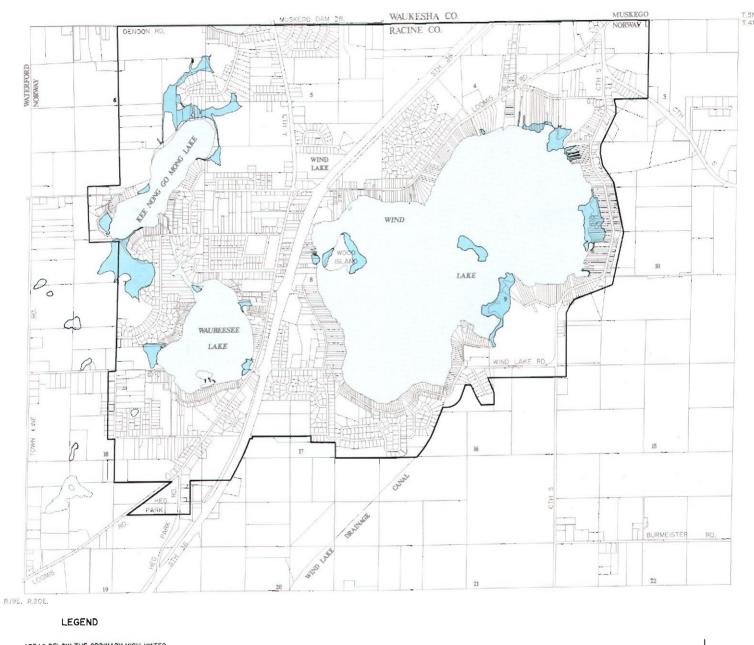
MICE

1000

2000 FEET

Map 21

AREAS BELOW THE ORDINARY HIGH-WATER MARK OF NAVIGABLE LAKES AND PONDS
IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS





GRAPHC SCALE

Source: Wisconsin Department of Natural Resources, Racine County, and SEWRPC.

Chapter V

RECOMMENDED PLAN

INTRODUCTION

As documented in prior chapters of this report, the Town of Norway Sanitary District No. 1 encompasses a variety of important natural resources. including three large lakes and associated shorelands and floodlands, large areas of wetlands, and woodlands and other upland natural resources. The natural setting provided by these resources particularly, the premium attached to lakefront property or other lake access—has caused some of these resource-rich areas to be zoned and platted for residential use, despite inherent physical development limitations. The development of some of these platted lots is now legally restricted under State and Federal regulatory programs which have been put in place over the past two decades. This situation has resulted in a complex regulatory situation and some confusion regarding the development potential of a number of parcels in the area.

This chapter presents a plan which attempts to resolve the conflicting land use objectives which have developed in the area in a manner which preserves important natural resource values, which is consistent with State- and Federally mandated regulatory programs, and which is fair and equitable to the affected landowners. This chapter addresses two basic aspects of such a plan: 1) which lands should be preserved and protected in the public interest and which should be allowed to be developed; and 2) of those lands recommended to be preserved, which should be acquired by the public sector. The next chapter recommends agency responsibilities for the proposed public land acquisition, presents estimates of the cost of acquiring the lands concerned, and further recommends changes in the land use regulatory framework to ensure consistency among local, County, State, and Federal regulations.

PLAN DETERMINANTS

The plan presented in this chapter was developed based upon detailed, definitive information concerning existing natural features in the Sanitary District, particularly as embodied in the primary environmental corridors, secondary environmental corridors, and isolated natural resource areas; the existing land use regulatory framework; and recommendations of previously adopted plans concerning the public acquisition of open space lands in the area. These major plan determinants are described below.

Environmental Corridors and Isolated Natural Resource Areas

As noted in Chapter II, primary environmental corridors are linear areas in the landscape that contain concentrations of high-value elements of the natural resource base, including almost all of the best remaining woodlands, wetlands, and wildlife habitat areas as well as major lakes and streams and associated undeveloped shorelands. By definition, these corridors are at least 400 acres in area. two miles long, and 200 feet in width. Secondary environmental corridors also contain a variety of resource elements, often being remnants of primary corridors that have been partially converted to intensive urban use or agricultural use. By definition, secondary environmental corridors are at least one mile long and 100 acres in area. Isolated natural resource areas consist of smaller areas of wetlands, woodlands, or surface water that are isolated from the primary and secondary environmental corridors. By definition, isolated natural resource areas are at least five acres in size.

Environmental corridors and isolated natural resource areas in the Town of Norway Sanitary District No. 1 are shown on Map 14 in Chapter II of this report (see page 22) as delineated based upon the criteria summarized above. As part of the detailed planning process carried out for the Sanitary District, the location and configuration of the environmental corridors and isolated natural resource areas were refined and detailed to 1) incorporate adjacent undeveloped floodplains, typically in agricultural use, which should be maintained in open use as the development of adjacent upland areas proceeds; 2) exclude sewered platted lots not consisting of wetlands, floodlands, or steep slopes; 3) exclude wetlands and floodlands being filled due to the widening of STH 36; and 4) reflect the application of Federal and State wetland regulations that would tend to permit at least limited filling of lots already platted. The environmental corridors and isolated natural resource areas as thus revised are shown on Map 22.

Existing Regulatory Framework

The local, County, State, and Federal land use regulations which govern the use of environmentally sensitive lands in the area were described in Chapters III and IV of this report. Of greatest concern are regulations established under programs that are mandated or administered by the State or Federal governments. These include joint State-County floodland and shoreland zoning; State water quality standards for wetlands established under Chapter NR 103 of the Wisconsin Administrative Code; water quality protection provisions built into the State regulation of sanitary sewerage systems, particularly as established under Chapters NR 110 and 121 and Chapter ILHR 82 of the Wisconsin Administrative Code; and Federal regulation of waters of the United States, including wetlands, under Section 404 of the Federal Clean Water Act.

The areas within the Town of Norway Sanitary District No. 1 affected by each of the aforementioned programs were described in Chapter IV. The cumulative effect of these regulations is shown on Map 23. In developing Map 23, it was assumed that all new development in the Sanitary District would be served by public sanitary sewers and would, accordingly, be subject to standards applied by the Wisconsin Departments of Natural Resources and Industry, Labor and Human Relations in their regulation of sanitary sewer extensions.

Previously Adopted Plans

As described in Chapter II, several previous planning programs have recommended the public acquisition of land for outdoor recreation or open space preservation purposes in the Norway area. These include the Racine County park and open space plan and lake management plans for Waubeesee Lake and Wind Lake. In addition, recommendations for public acquisition of additional open space lands are being developed in the regional natural area and critical species habitat protection and management plan currently under preparation by the Regional Planning Commission. The areas recommended for public acquisition under the County park and open space plan and the lake management plans for Waubeesee and Wind Lakes are shown on Map 24. Also shown on Map 24 are the natural areas and critical species habitat areas which have been preliminarily recommended for public acquisition under the regional natural area preservation planning program.

RECOMMENDED PLAN

The recommended plan for the preservation of environmentally sensitive lands in the Town of Norway Sanitary District No. 1 is presented on Map 25. The plan identifies those environmentally sensitive lands which should be preserved in essentially natural, open use and those which are recommended to be allowed to be developed. For the lands recommended to be preserved, the plan map further identifies those which should be publicly acquired and those which should be retained in private ownership.

Environmentally Sensitive Lands to Be Preserved or Developed

The open space preservation recommendations of the plan were formulated so as to be consistent with existing State- and Federally mandated regulations governing environmentally sensitive lands. Accordingly, the open space preservation recommendations set forth on the recommended plan map, Map 25, correspond directly with the preservation requirements mandated under the various applicable State and Federal regulatory programs, as reflected on Map 23. The manner in which the various categories of environmentally sensitive lands are treated in the plan is summarized in Table 3.

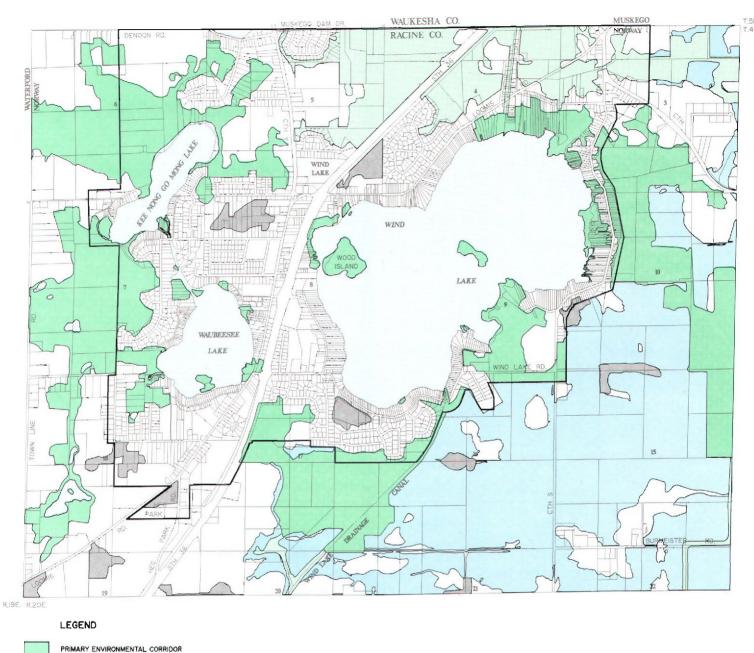
As shown on Map 25, the plan recommends the preservation in natural, open use of lands encompassing a total of 985 acres, or 23 percent of the total area of the Sanitary District. The plan recommends that other areas, encompassing a total of 70 acres, or 2 percent of the District, be preserved in natural, open use or, alternatively, be developed for residential use at a density of no more than one dwelling unit per five acres. These recommendations coincide with the State and Federal regulatory requirements shown on Map 23.

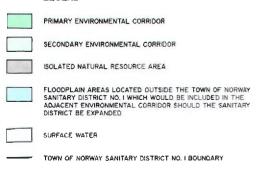
The plan recommends that certain other areas encompassing 129 acres, or 3 percent of the District, be preserved to the greatest extent possible as the development of adjacent lands proceeds. These lands consist of portions of secondary environmental corridors and isolated natural resource areas other than wetlands, floodlands, and steep slopes. While not mandated by State or Federal regulations, the preservation of these areas is important to the overall quality of the environment and will help avoid the creation of new developmental problems. Resources on these lands may be preserved in a number of ways. In some cases, the concerned areas can be reserved as common open space areas

Map 22

PLANNED ENVIRONMENTAL CORRIDORS AND ISOLATED

NATURAL RESOURCE AREAS IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1





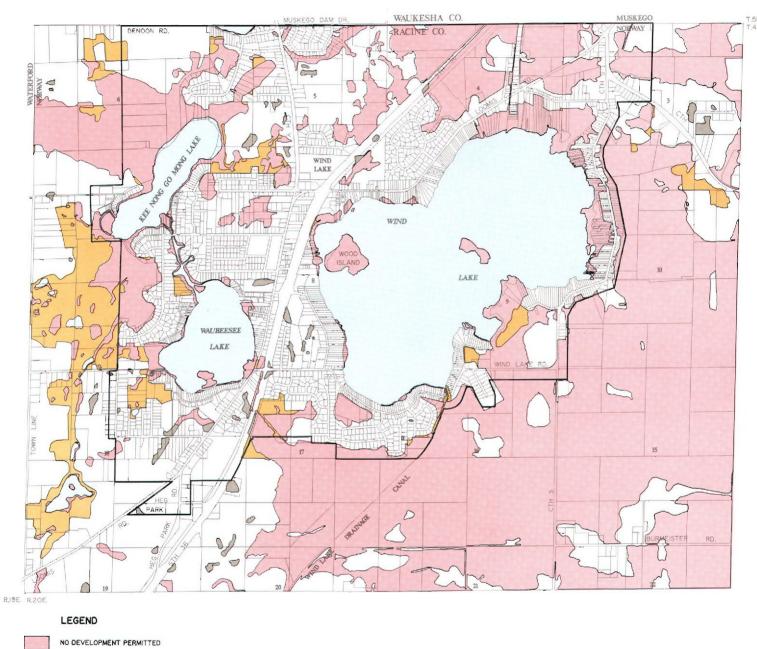
ORAFIC SCALE

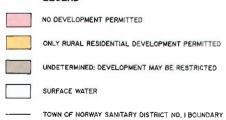
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J IDCO 2000 FEE

LANDS AFFECTED BY STATE- AND FEDERALLY MANDATED
ENVIRONMENTAL REGULATIONS IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1

Map 23

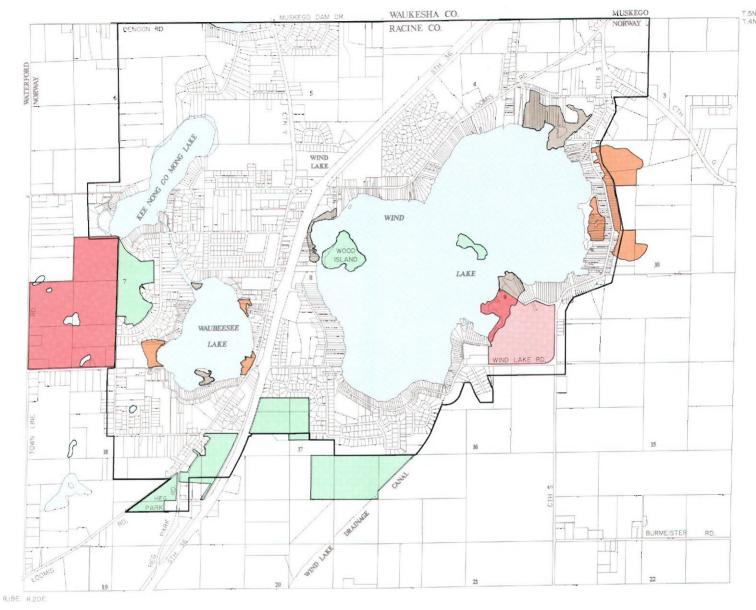






Map 24

LANDS RECOMMENDED FOR PUBLIC ACQUISITION UNDER OTHER PLANNING PROGRAMS FOR THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS



LEGEND

EXISTING PUBLIC OWNERSHIP LANDS RECOMMENDED FOR PUBLIC ACQUISITION UNDER LAKE MANAGEMENT PLANS FOR WAUBEESEE LAKE AND WIND LAKE AND UNDER THE REGIONAL NATURAL AREA AND CRITICAL SPECIES HABITAT PROTECTION AND MANAGEMENT PLAN (PRELIMINARY PLAN RECOMMENDATIONS) LANDS RECOMMENDED FOR PUBLIC ACQUISITION UNDER THE RACINE COUNTY PARK AND OPEN SPACE PLAN

LANDS RECOMMENDED FOR PUBLIC ACQUISITION UNDER THE RACINE COUNTY PARK AND OPEN SPACE PLAN AND UNDER THE REGIONAL NATURAL AREA AND CRITICAL SPECIES HABITAT PROTECTION AND MANAGEMENT PLAN (PRELIMINARY PLAN RECOMMENDATIONS)

LANDS RECOMMENDED FOR PUBLIC ACQUISITION UNDER THE REGIONAL NATURAL AREA AND CRITICAL SPECIES HABITAT PROTECTION AND MANAGEMENT PLAN (PRELIMINARY PLAN RECOMMENDATIONS)

SURFACE WATER

NOTE:

TOWN OF NORWAY SANITARY DISTRICT NO, I BOUNDARY

THE AREAL EXTENT OF LANDS RECOMMENDED FOR PUBLIC ACQUISITION UNDER LAKE MANAGEMENT PLANS AND THE REGIONAL NATURAL AREA AND CRITICAL SPECIES HABITAT PROTECTION AND MANAGEMENT PLAN IS BASED DIRECTLY UPON THE EXTENT OF SPECIFIC NATURAL RESOURCE FEATURES.



Table 3
SUMMARY OF OPEN SPACE PRESERVATION RECOMMENDATIONS OF THE PLAN FOR THE PROTECTION
OF ENVIRONMENTALLY SENSITIVE LANDS IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1

Environmentally Sensitive Land Category	Plan Recommendation
Primary environmental corridor consisting of floodlands, wetlands, or steep slopes	Preservation
Primary environmental corridor not consisting of floodlands, wetlands, or steep slopes	Preservation or development at a density of no more than one dwelling unit per five acres
Secondary environmental corridor and isolated natural resource area—consisting of floodlands, wetlands, or steep slopes	Preservation
Secondary environmental corridor and isolated natural resource area—not consisting of floodlands, wetlands, or steep slopes	Preservation to the greatest extent possible as land development proceeds
Floodlands located outside of primary environmental corridor, secondary environmental corridor, and isolated natural resource areas	 Filling and development of floodlands in STH 36 right-of-way as needed for highway widening Preservation of other floodlands
Wetlands located outside of primary environmental corridor, secondary environmental corridor, and isolated natural resource areas	Filling and development of 17 lots where it has been determined that fill likely would be allowed under the standards of Chapter NR 103 of the Wisconsin Administrative Code
	Filling and development of three lots located on Severt Court where permits to fill have been approved by the Wisconsin Department of Natural Resources
	Filling and development of wetlands in STH 36 right-of-way as needed for highway widening
	Preservation of shoreland wetlands, except as noted above
	 Resolution of regulatory status of other wetlands on case-by- case basis

NOTE: In this table, the term "floodlands" includes all lands in the 100-year recurrence interval flood hazard area other than lands which have been placed in the FFO Urban Floodplain Fringe Overlay District, where filling is permitted.

Source: SEWRPC.

on subdivision plats. In other cases, the lands may be developed for residential use at a density of no more than one dwelling unit per five acres.

The plan recommends that certain wetland and floodland areas—encompassing a total of 20 acres, or less than 1 percent of the total area of the District—be filled and developed.¹ As shown on Map 25 and indicated in Table 3, the plan envisions the filling and development of the following: wetlands located on 17 lots where it has been determined that filling likely would be permitted under the standards of Chapter NR 103 of the Wisconsin Administrative Code; wetlands on three lots located

on Severt Court, where permits to fill have already been approved by the Wisconsin Department of Natural Resources; and small areas or narrow bands of wetlands and floodlands located within the right-of-way of STH 36 which will be required to be filled to accommodate widening of that highway.

¹Throughout this chapter, the term "floodlands" includes all lands in the 100-year recurrence interval flood hazard area other than lands which have been placed in the FFO Urban Floodplain Fringe Overlay District, where filling is permitted.



WAUKESHA CO.

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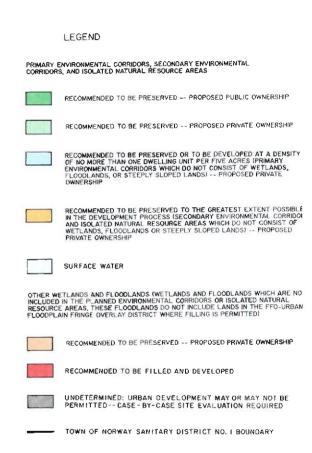
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WIND LAKE

WAUBEESEE

LAKE

RECOMMENDED PLAN FOR THE PROTECTION OF ENVIRONMENTALLY SENSITIVE LANDS IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS





Source: SEWRPC.

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Finally, the plan identifies a number of small wetlands, each less than five acres in area, where development has not yet been proposed and whose regulatory status insofar as filling is concerned has not yet been determined. These areas together encompass 26 acres, or less than 1 percent of the Sanitary District. The plan envisions that any proposals to fill these wetlands would be evaluated on a case-by-case basis.

Environmentally Sensitive Lands to Be Publicly Acquired

The portion of the Sanitary District identified for preservation in open use on Map 25 includes a total of 62 undeveloped lots which have been platted for residential development. Filling of these lots to accommodate such development is effectively prohibited under State and Federal regulations. Because the development of these lands was publicly sanctioned at the time of platting, but is not permitted under the public regulatory structure now in place, the public sector should, in the interest of fairness, offer to purchase these lands from their current landowners at fair market values. In most cases, such acquisition would yield other public benefits, including the permanent preservation of significant natural resource features as part of an integrated system of public open space sites.

Accordingly, the plan recommends the purchase of the aforementioned 62 lots. The plan also reaffirms recommendations for the public acquisition of open space lands set forth under previous planning programs for the Norway area and incorporates the preliminary public land acquisition recommendations of the regional natural area and critical species habitat protection and management plan now under preparation-all as summarized on Map 24. In addition, the plan recommends the public acquisition of certain intervening lands in order to physically link or buffer other lands recommended for acquisition, thereby creating an integrated system of public open space land reserves. The areas envisioned for public ownership under the plan are shown on Map 25. Including areas already in public ownership, environmentally sensitive lands encompassing 306 acres, or 7 percent of the Sanitary District, would be in public ownership upon implementation of the recommended plan.

PLAN RECOMMENDATIONS FOR RESIDENTIAL LOTS THAT SUBSTANTIALLY CONSIST OF WETLANDS

The plan shown on Map 25 sets forth a comprehensive approach to the protection of environ-

mentally sensitive lands in the Town of Norway Sanitary District No. 1 and environs. Of utmost importance in the plan is the treatment of undeveloped parcels that have been created for residential use and that substantially consist of wetlands. Indeed, the regulatory problems attendant to these lots were what precipitated this planning study.

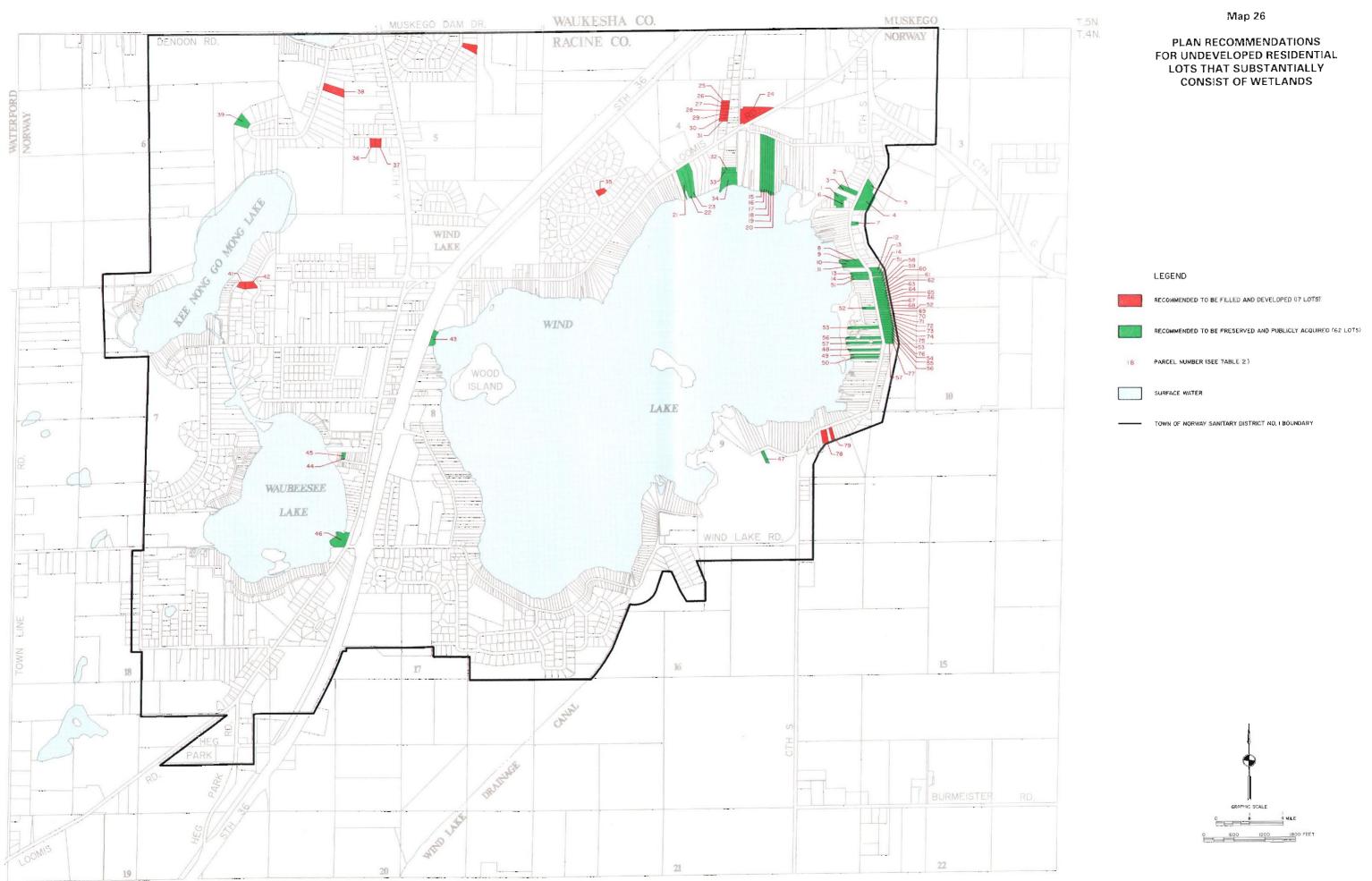
As documented in Chapter IV of this report, the Town of Norway Sanitary District contains 79 undeveloped parcels that have been created for residential use and that substantially consist of wetlands. Detailed analyses taking into consideration State water quality standards for wetlands indicated that filling to accommodate residential development would likely be permitted on 17 of those lots, while filling would not be permitted on the remaining 62 lots. As noted above, the plan recommends the public acquisition of the 62 lots where development is prohibited.

Map 26 identifies the 79 concerned lots. This map specifically identifies the 17 lots where filling and development should be permitted as well as the 62 lots where filling and development would not be permitted and whose public acquisition is therefore recommended.

CONCLUDING REMARKS

This chapter has presented a plan for the protection of environmentally sensitive lands in the Town of Norway Sanitary District No. 1. The plan attempts to resolve conflicting land use objectives within the area, particularly as related to environmentally sensitive lands which have been platted for residential use but whose development is restricted under the public regulatory structure now in place. The plan presented in this chapter recommends which environmentally sensitive lands in the Sanitary District should be preserved and which should be allowed to be developed. The plan further recommends which of the lands that are proposed to be preserved should be acquired in the public interest.

The next chapter of this report indicates the major steps required to implement this plan. It recommends agency responsibilities for the proposed land acquisition and provides estimates of the attendant costs. It also recommends changes in the land use regulatory structure to achieve consistency among local, County, State, and Federal land use regulations affecting the area.



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Source: Racine County and SEWRPC.

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Chapter VI

PLAN IMPLEMENTATION

INTRODUCTION

The previous chapter of this report presented a plan for the preservation of environmentally sensitive lands in the Town of Norway Sanitary District No. 1. The plan identified wetlands and other environmentally sensitive lands that should be preserved and recommended which of the lands so identified should be acquired in the public interest.

This chapter recommends steps to be taken by the concerned agencies and units of government to implement that plan. It refines and details the public land acquisition recommendations for the area; recommends governmental responsibilities for the proposed land acquisition; identifies related land acquisition costs; and indicates potential funding sources. This chapter also recommends changes to public land use regulations in the area in order to better preserve environmentally sensitive lands and to achieve consistency among the various regulations, thereby avoiding problems attendant to conflicting regulations which have existed in the area in the past.

PROPOSED PUBLIC ACQUISITION OF ENVIRONMENTALLY SENSITIVE LANDS

Refinement of the Recommended Public Acquisition Area

Chapter V of this report identified environmentally sensitive lands in the Town of Norway Sanitary District No. 1 that are recommended for preservation through public acquisition. Lands identified for public acquisition on Map 25 in Chapter V (see page 59) include: 1) 62 undeveloped lots-substantially consisting of wetlands having significant water quality benefits and other resource valueswhich have been platted for residential development but which cannot be developed under existing State and Federal wetland protection regulations; 2) lands recommended for public acquisition for resource preservation or outdoor recreation purposes under previous planning programs, including the Racine County park and open space plan and lake management plans for Waubeesee Lake and Wind Lake, and lands preliminarily recommended for public acquisition under the regional natural area and critical species habitat preservation planning program; and 3) certain lands which physically link or buffer other lands recommended for acquisition, thereby enabling the creation of an integrated system of readily manageable public open space land reserves.

The boundaries of the areas recommended for public acquisition shown on Map 25 in Chapter V reflect the areal extent of wetlands and other natural features as inventoried and mapped under this planning program. The boundaries of such natural features typically do not coincide with real-property boundaries. To assist in plan implementation, the configuration of the areas indicated on Map 25 as being recommended for acquisition was refined and detailed, to the extent feasible, by adjusting the boundaries of the recommended acquisition areas to real-property boundaries. The refined recommended acquisition areas are shown on Map 27. The refined area recommended for public acquisition encompasses 255 acres within the Town of Norway Sanitary District No. 1. Lands immediately adjacent to the Sanitary District that are recommended for acquisition encompass an additional 277 acres. It should be noted that the refined acquisition areas include all of the aforementioned 62 lots in the Sanitary District which have been platted for residential development but which cannot be developed under existing State and Federal wetland regulations. These lots are specifically identified on Map 28. The refined planned acquisition areas shown on Map 27 consist entirely of unimproved land, being composed of parcels with no improvements, as well as the unimproved, wetland portions of certain partially improved lots.

It should be noted that a number of existing single-family homesites are effectively surrounded by the proposed acquisition areas, particularly in the area located along E. Wind Lake Road. Under the plan, these homesites would be permitted to be maintained indefinitely. However, the plan does not preclude the possibility of acquisition and removal of such housing units in the future where this would enhance the integrity of the open space area and where such acquisition would be mutually agreeable to the acquiring agency and the owners of the properties concerned.

PROPOSED PUBLIC ACQUISITION OF OPEN SPACE LANDS IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS

			Number of Tax Key Parcels			Status of Inclusion in Other Plans Involving Recommendations for Public Acquisition		
Acquisition Agency	Site Location	Site Area (acres)	Total	Parcels Where Development Is Prohibited under NR 103	Acquisition Cost	County Park and Open Space Plan ^a	Regional Natural Area and Critical Species Habitat Protection and Management Plan ^b	Lake Management Plans ^C
Racine County	North of Homestead Road, east of Town Line Road North of S. Wind Lake Road,	185	7	0	\$ 157,500	Yes	Yes	No
	west of E. Wind Lake Road East of E. Wind Lake Road	95 112	7 44	1 33	185,400 209,600	Yes No	Part Yes	No Yes
	Racine County subtotal	392	58	34	\$ 552,500			1,
Wind Lake Management District or Nonprofit Conservation Organization	Wind Lake	124	81	31	\$ 413,600	No	Part	Part
Proposed Waubeesee-Kee Nong Go Mong Lake Management District or Nonprofit Conservation Organization	Waubeesee Lake	15 1	12 1	3 1	\$ 23,000 22,000	No No	Yes No	Part No
	Waubeesee-Kee Nong Go Mong subtotal	16	13	4	\$ 45,000		1	
Total		532	140 ^d	62 ^d	\$1,011,100	7	1	

^aSEWRPC Community Assistance Planning Report No. 134, <u>A Park and Open Space Plan for Racine County</u>, September 1988.

Source: SEWRPC.

Recommended Land Acquisition Responsibilities Under the plan, responsibility for public acquisition of environmentally sensitive lands as shown on Map 27 would rest primarily with the County and local levels of government. During the planning process, the Wisconsin Department of Natural Resources staff indicated that it was unlikely that the Department would acquire lands in the proposed acquisition area since those lands would probably not meet the project acquisition area criteria in effect under any of the programs through which the Department acquires open space lands. The Department of Natural Resources, however, may be indirectly involved in the acquisition efforts through the administration of Department programs which provide grants to assist County and local units of government in funding open space acquisition.

Recommended County Land Acquisition: It is recommended that Racine County acquire three open space sites located in or adjacent to the Town of Norway Sanitary District No. 1, as shown on Map 27. In combination, these sites encompass

392 acres. As indicated in Table 4, total acquisition costs for these three sites are estimated to be about \$550,000.1

¹Land acquisition costs presented in this chapter are based upon locally assessed property values as indicated on the 1992 Town of Norway tax roll, where whole tax key parcels are to be acquired. The Town of Norway assesses property at, or nearly at, full market value. Where only portions of parcels are to be acquired, the acquisition cost was estimated based upon the acreage proposed for acquisition, the site characteristics (wetland, upland woodland, steep slopes), and average per-acre selling prices of sites with similar characteristics based upon a study of land sales transactions for open space land in Southeastern Wisconsin in 1994, recently completed by the Regional Planning Commission. The indicated land acquisition costs reflect acquisition of fee simple interest. Purchase of conservation easements rather than fee simple interest may result in somewhat lower costs.

bRegional natural area and critical species habitat protection and management plan currently under preparation by the Regional Planning Commission.

CSEWRPC Community Assistance Planning Report No. 182, <u>A Water Use Management Plan for Waubeesee Lake and the Anderson Canal, Racine County, Wisconsin</u>, December 1990; and SEWRPC Community Assistance Planning Report No. 198, <u>A Management Plan for Wind Lake, Racine County, Wisconsin</u>, December 1991.

dThe sum of the number of parcels in the respective areas does not match the total given because certain parcels lie in more than one acquisition area.

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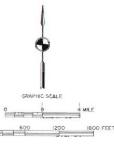
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County acquisition of two of the sites concerned—the 95-acre site located north of S. Wind Lake Road and west of E. Wind Lake Road and the 185-acre site located north of Homestead Road and east of Town Line Road—was previously recommended under the adopted Racine County park and open space plan. That plan envisioned County land acquisition for open space preservation purposes and limited recreational facility development at both sites. Both sites encompass natural areas identified under the regional natural area and critical species habitat protection and management planning program currently under way.

The third site recommended for County acquisition is located along E. Wind Lake Road and includes lands located both inside and outside of the Sanitary District. This 112-acre site includes a natural area identified under the regional natural area and critical species habitat protection and management planning program.

Recommended Local Agency Acquisition: It is envisioned that the balance of the lands proposed for acquisition in the public interest would be acquired by local agencies. In this respect, it is recommended that inland lake protection and rehabilitation districts—also referred to as lake management districts—established under Chapter 33 of the Wisconsin Statutes serve as the lead agencies in such local acquisition efforts. In 1996, there was one inland lake protection and management district in the study area, the Wind Lake Management District. It is recommended that a similar district be established to serve both Waubeesee and Kee Nong Go Mong Lakes.

Efforts of the inland lake management districts to carry out the proposed land acquisition may be complemented by local nonprofit conservation organizations. In 1996, there was one such organization active in the area—the Tri-Lake Association, which served the Wind, Waubeesee, and Kee Nong Go Mong Lakes area. Nonprofit conservation organizations are eligible to apply for certain State open space grants not available to lake management districts. Any land acquisition by a nonprofit conservation organization should be coordinated with the land acquisition and management programs of the concerned lake management district.

The lands recommended for local acquisition under the plan, as shown on Map 27, encompass a total of 140 acres. The total cost of acquiring these lands is estimated to be about \$460,000.

The lands recommended for local acquisition consist for the most part of wetlands which drain to Wind Lake or Waubeesee Lake. The preservation of these wetlands may be expected to enhance water quality and the overall ecosystem of the lake areas.

It should be noted that a plan recommendation for acquisition of a site by Racine County would not preclude acquisition of the site by a lake management district, nor would a plan recommendation for acquisition by a lake management district preclude acquisition by Racine County—where this is mutually acceptable to the County and the concerned lake management district.

Open Space Acquisition Grant Programs

There are a number of State- and Federally sponsored programs which provide financial and technical assistance to County and local units and agencies of government and to nonprofit conservation organizations for the acquisition, development, and management of park and open space lands. These programs typically provide assistance amounting to 50 percent to 75 percent of eligible project costs. A summary of existing State- and Federally sponsored resource protection and park and open space grant programs potentially available to Racine County, lake management districts, and nonprofit conservation organizations for carrying out the recommended land acquisition in the Norway area is presented in Table 5. Racine County and the concerned local agencies should make full use of the available grant programs in efforts to acquire land in accordance with the recommended plan.

Open Space Acquisition—Concluding Remarks

The recommended land acquisition areas shown on Map 27 are intended to serve as points of departure for the identification of precise project-area boundaries by the concerned County and local agencies. As the plan is implemented, Racine County and the concerned local agencies may further refine the land acquisition recommendations of the plan based upon consideration of existing natural features and land availability and land costs. The refined project acquisition areas should, in any event, include the 62 lots which have been platted for residential use but which cannot be developed under existing State

Table 5

STATE AND FEDERAL RESOURCE PROTECTION AND PARK AND OPEN SPACE GRANT PROGRAMS POTENTIALLY AVAILABLE FOR IMPLEMENTATION OF THE RECOMMENDED PLAN FOR THE PROTECTION OF ENVIRONMENTALLY SENSITIVE LANDS IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1

Grant Program	Sponsor	Annual Statewide Funding Level (millions of dollars)	Eligible Uses Related to Implementation of the Recommended Plan	Eligible Recipients	Funding Provided (percent)	
Urban Green Space	Wisconsin Department of Natural Resources	0.75	Land acquisition	Counties Cities, villages, towns Inland lake protection and rehabilitation districts Nonprofit conservation organizations ^a	50	
Acquisition and Development of Local Parks	Wisconsin Department of Natural Resources	2.25	Land acquisition	Counties Cities, villages, towns	50	
Lake Protection	Wisconsin Department of Natural Resources	1.35	Land acquisition, conservation easements, and wetland restoration	Counties Cities, villages, towns Inland lake protection and rehabilitation districts Town sanitary districts Nonprofit conservation organizations ^a Qualified lake associations ^C	75 ^b	
Sport Fish Restoration	U. S. Fish and Wildlife Service	d	Land acquisition and habitat restoration	Counties Cities, villages, towns	75	
Urban Rivers	Wisconsin Department of Natural Resources	1.90	Land acquisition	Counties Cities, villages, towns Nonprofit conservation organizations ^a	50	
Habitat Restoration	Wisconsin Department of Natural Resources	1.50	Management practices and conservation easements	Nonprofit conservation organizations ^a	50	
Natural Areas	Wisconsin Department of Natural Resources	1.50	Land acquisition and conservation easements	Nonprofit conservation organizations ^a	50	
North American Wetlands Conservation Act Grant ^e	U. S. Fish and Wildlife Service	d	Wetland acquisition, restoration, and enhancement	Counties Cities, villages, towns Inland lake protection and rehabilitation districts Conservation organizations	50	
Lake Management Planning Grant	Wisconsin Department of Natural Resources	0.62	Water quality assessment and planning	Counties Cities, villages, towns Inland lake protection and rehabilitation districts Town sanitary districts Qualified lake associations ^C	75	

^aNonprofit corporations, charitable trusts, or other nonprofit associations whose purposes include the acquisition of property for conservation (see Wisconsin Statutes, Section 23.0955).

Source: Wisconsin Department of Natural Resources and SEWRPC.

^bTotal grant may not exceed \$200,000.

^CGroups incorporated under Chapter 181 of the Wisconsin Statutes for the purposes of supporting the protection or improvement of one or more inland lakes for the benefit of the general public (see Wisconsin Statutes, Section 144.253 [1]).

^dVaries depending on availability of Federal funding.

^eInformation pertains to the standard grant and the small grant components of the North American Wetlands Conservation Act Grant program.

and Federal wetland protection regulations. These 62 lots are specifically identified on Map 28.²

It should be recognized that under the plan, the responsibility for acquisition of the aforementioned undevelopable residential lots has been assigned to both Racine County and to local lake management districts, possibly complemented by local nonprofit conservation organizations. Should in any case the concerned lake management district or conservation organization be unable to acquire the undevelopable residential lots at the time they are offered for sale at fair market value, it is recommended that Racine County purchase the lots in question. The County could eventually convey such lots to the appropriate lake management district for ownership and management.

It should also be recognized that the estimated land acquisition costs presented in this section are largely based on the locally assessed value of property as reported on the 1992 tax roll for the Town of Norway. Locally assessed property values on the Town of Norway tax roll are intended to represent full market value. In reviewing the cost data, however, the Advisory Committee noted instances in which the assessed value of undeveloped land in the area is substantially lower than market value, as reflected in current sale prices. To the extent that this situation occurs, the cost estimates presented herein may understate the actual future land acquisition costs.

²Seven unbuildable tax key parcels identified for public acquisition under the plan straddle E. Wind Lake Road. It is recommended that Racine County assume responsibility for acquisition of these tax key parcels. Upon acquisition, the County should convey the westerly portions of these parcels—that is, the portions located west of E. Wind Lake Road-to the Wind Lake Management District for permanent ownership and management. This recommendation is intended to facilitate the acquisition of the seven lots, making it possible for the concerned property owners to deal with one public agency in a single transaction for each tax key parcel. This recommendation, however, would not preclude an alternative whereby the Wind Lake Management District would acquire one or more of the seven tax key parcels which straddle E. Wind Lake Road and subsequently convey the easterly portions of such parcels to Racine County for ownership and management.

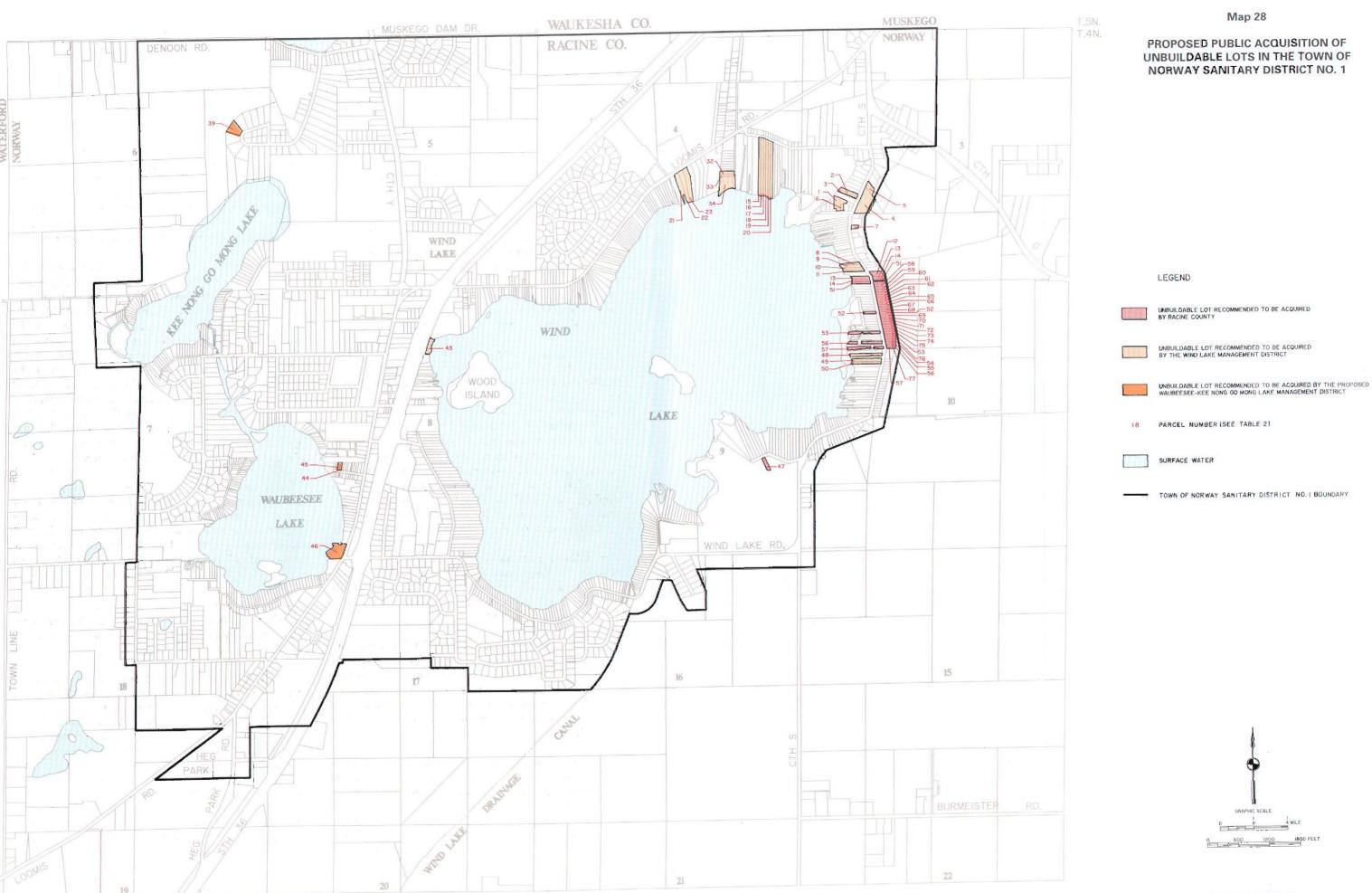
It is the intent of the plan that all land acquisitions occur on a willing-seller, willing-buyer basis and that landowners receive fair market value for their property. Each transaction should follow the Wisconsin Department of Natural Resources acquisition procedures, which include an appraisal by a professional appraiser, as is required by the Department for all acquisitions undertaken by governmental units using Department grants (see Appendix A of this report). The Advisory Committee recommended that the purchase price reflect the value of comparable land where development is not restricted by wetland preservation-oriented public land use controls.

The recommended acquisition may occur in full fee simple interest or in less-than-fee-simple interest, such as through the purchase of conservation easements. Where a conservation easement is utilized, the landowner retains title to the property; the easement typically precludes mowing or other disturbance of the area by the owner and provides access for site management purposes, such as the removal of woody vegetation which may shade out desired plant species and removal of other nuisance vegetation. The purchase of conservation easements is a particularly effective means of protecting and providing for the sound management of wetlands that are located in shore-yard portions of existing homesites that are proposed to be preserved.

The recommended acquisition may also occur through land subdivision dedication as well as through donations of fee simple title or of conservation easements. Donations may yield income-tax advantages to those who donate, since the value of the land or easement donated generally may be deducted from taxable income as an itemized deduction for Federal incometax purposes and may be considered in calculating the itemized deduction credit for State incometax purposes.

PROPOSED CHANGES TO PUBLIC REGULATORY PROGRAMS

A number of public regulatory programs have been established to protect environmentally sensitive lands in the Norway area. These include basic conservancy zoning established under the Racine County zoning ordinance and various regulatory programs mandated or administered by the State and Federal governments. These regulatory programs and the areas affected were described in Chapters III and IV of this report.



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It is envisioned that the regulatory programs administered or mandated by the State and Federal governments will continue to be applied in the area essentially as they have been in the past, with only minor changes being recommended in accordance with the plan. More substantial changes in the application of conservancy zoning districts under the Racine County zoning ordinance are, however, recommended.

<u>Conservancy Zoning under the</u> Racine County Zoning Ordinance

Basic lowland and upland resource conservancy zoning districts represent an effective means of ensuring the preservation of natural features in lowland and upland areas. The application of lowland and upland conservancy zoning under the Racine County zoning ordinance is recommended.

Lowland Conservancy Zoning: As reported in Chapter IV, the C-1 Resource Conservation District of the Racine County zoning ordinance is intended to protect wetland resources. Virtually no structures are permitted in this zoning district; any uses which involve filling or disturbing the natural conditions of the lands in this zoning district are prohibited. The C-1 Resource Conservation District includes all of the provisions necessary to ensure the preservation of lowland resources in areas where it is applied. As noted in Chapter IV, however, this zoning district has not been applied consistently to lowland resource areas within the Sanitary District.

The following recommendations are made with respect to the application of the C-1 Resource Conservation District within the Town of Norway Sanitary District No. 1 and environs to implement the recommended plan:

- It is recommended that the C-1 Resource Conservation District be applied to all wetlands and to all natural, undeveloped floodplains located in the primary environmental corridors, secondary environmental corridors, and isolated natural resource areas identified in the plan.
- 2. It is recommended that the C-1 Resource Conservation District be applied to shoreland wetlands that are located outside the planned primary environmental corridors, secondary environmental corridors, or isolated natural resource areas but which are, nevertheless, recommended for preservation under the plan.³

The above recommendations should be implemented upon adoption of the environmentally sensitive lands protection plan. In addition, it is recommended that the C-1 Resource Conservation District be applied within the Sanitary District to floodlands that are currently in agricultural use at such time as agricultural operations are discontinued and that the lands concerned be allowed to revert to a natural condition. These lands would become part of the environmental corridor network within the Sanitary District at such time as agricultural operations may cease and natural conditions become restored.⁴

The application of the C-1 Resource Conservation District in accordance with the foregoing guidelines is shown on Map 29. The proposed changes in the C-1 Resource Conservation District boundaries are shown on Map 30. As indicated, most of the proposed changes involve expanded use of the C-1 Resource Conservation District. In a limited number of cases, lands are proposed to be removed from the C-1 zoning district and included in an adjacent zoning district, reflecting changes in the pattern of wetlands since the initial application of the C-1 zoning district, as well as additional field investigations which have resulted in a more precise delineation of wetlands in certain areas.

The areal extent of the C-1 Resource Conservation District within the Sanitary District would increase from 229 acres under current zoning to 927 acres under the recommended zoning, including 153 acres of existing agricultural floodplains which would be eventually placed in the C-1 zoning district at such

³Only one such area was found to exist in the Sanitary District, an approximately five-acre area located between Pioneer Road and Elm Lane, south of Waubeesee Lake.

⁴Map 29 identifies agricultural floodlands in the Sanitary District that should be allowed eventually to revert to a natural condition and be incorporated into the environmental corridor network. These floodlands are, accordingly, recommended to be placed in the C-1 Resource Conservation District. Should the Sanitary District be expanded in the future, agricultural floodplains in the expansion area should similarly be allowed to revert to a natural condition and become part of the environmental corridor network. Such areas should also be placed into the C-1 Resource Conservation District as soon as practicable.

time as agricultural operations cease. It should be recognized that many of the areas proposed to be added to the C-1 Resource Conservation District are already subject to similar regulation under Statemandated shoreland-wetland zoning.

Upland Conservancy Zoning: It is recommended that other upland woodlands and areas of steep slope located within the planned primary environmental corridors be placed in an upland conservancy zoning district. Such a district should include provisions appropriately limiting the disturbance of upland resources. In order to afford sound protection of upland resources and to conform to the recommendation of the regional water quality management plan attendant to sewered development within upland portions of primary environmental corridors, such a district should limit residential development to a density of no more than one dwelling unit per five acres.

In 1995, Racine County created a new zoning district, the C-2 Upland Resource Conservation District, which contains most of the provisions that should be included with regard to a sound upland conservancy zoning district. However, the new zoning district allows residential development at a density of one dwelling unit per three acres. In its deliberations on the new zoning district, the County considered and rejected a maximum density of one dwelling unit per five acres. Clustering of dwelling units was established as a conditional use for this district.

Upon consideration of this matter, the Advisory Committee recommended that the existing C-2 Upland Resource Conservation District, with a maximum density of one dwelling unit per three acres, be applied to upland primary environmental corridor lands, contrary to a Regional Planning Commission staff recommendation that upland resources be protected through conservancy zoning with a maximum density of one dwelling unit per five acres. The lands recommended for inclusion in that zoning district are shown on Map 29. Lands within the Sanitary District recommended to be placed in the upland conservancy zoning district in total encompass 91 acres.

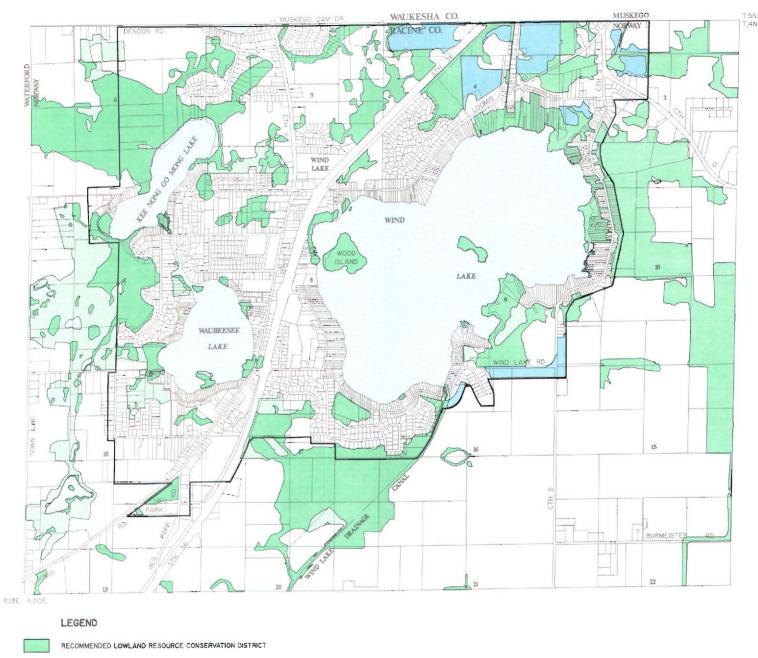
Regulatory Programs Mandated or Administered by the State and Federal Governments

Regulatory programs mandated or administered by the State and Federal governments which bear on environmental resources in the Norway area include State-mandated floodplain and shoreland zoning; State water quality standards for wetlands established under Chapter NR 103 of the Wisconsin Administrative Code; water quality protection provisions built into the State regulation of sanitary sewerage systems, particularly as established under Chapter NR 110 and Chapter ILHR 82 of the Wisconsin Administrative Code; and Federal regulation of waters of the United States under Section 404 of the Federal Clean Water Act. It is recommended that these programs continue to be administered in the area much as they have been in the past. Certain relatively minor changes, however, are recommended in accordance with the plan.

First, it is recommended that Racine County revise its floodplain zoning regulations on certain of the floodplain wetland areas proposed for preservation under the plan. As noted in Chapter III, Racine County has established four floodplain districts. Three of these, the FW Urban Floodway District, the FCO Urban Floodplain Conservancy Overlay District, and the GFO General Floodplain Overlay District, prohibit nearly all filling and development; the fourth, the FFO Urban Floodplain Fringe Overlay District, allows filling and development as permitted by the underlying basic zoning. Certain wetlands that are designated for permanent preservation in the plan are presently in the FFO Urban Floodplain Fringe Overlay District. It is recommended that the floodplain zoning in such areas be changed to the FCO Urban Floodplain Conservancy Overlay District, which would prohibit filling and development, in accordance with the intent of the plan to preserve these areas permanently. No changes in the boundaries of the FW Urban Floodway or GFO General Floodplain Overlay Districts are recommended. The entire area proposed to be included in one of the three "no-fill" floodplain districts, including the lands recommended to be removed from the FFO Urban Floodplain Fringe Overlay District and placed in the FCO Urban Floodplain Conservancy Overlay District, is shown on Map 31. The additional areas recommended to be included in the FCO Urban Floodplain Conservancy Overlay District are specifically identified on Map 32. The areas recommended to be rezoned consist, for the most part, of rear-yard wetland areas of developed or developable residential lots. Together, the areas proposed to be rezoned encompass 76 acres within the Sanitary District.

Map 29

PROPOSED CONSERVANCY ZONING IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS



RECOMMENDED LOWLAND RESOURCE CONSERVATION DISTRICT

FLOODLANDS CURRENTLY IN AGRICULTURAL USES RECOMMENDED TO BE PLACED IN LOWLAND RESOURCE CONSERVATION DISTRICT WHEN AGRICULTURAL USES ARE DISCONTINUED

RECOMMENDED UPLAND RESOURCE CONSERVATION DISTRICT

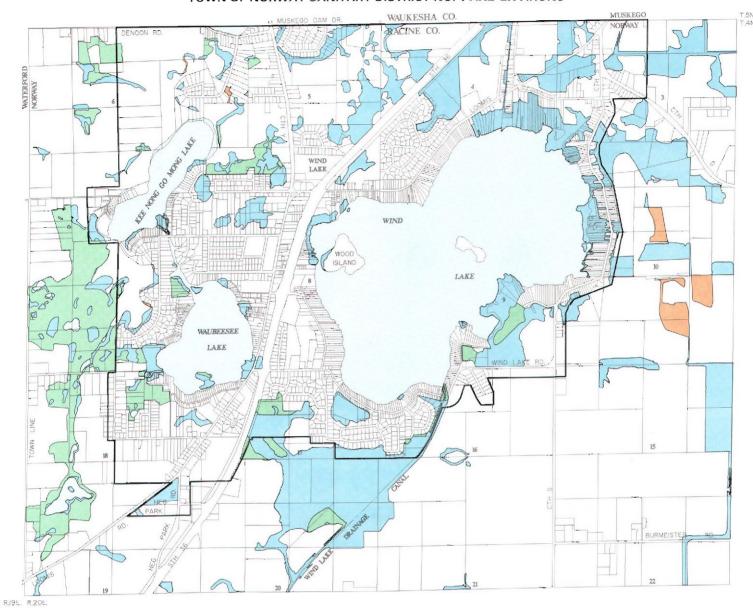
SURFACE WATER

TOWN OF NORWAY SANITARY DISTRICT NO. I BOUNDARY



Map 30

PROPOSED CHANGES TO CONSERVANCY ZONING IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS



LEGEND

LANDS RECOMMENDED TO BE ADDED TO THE LOWLAND RESOURCE CONSERVATION DISTRICT LANDS RECOMMENDED TO BE REMOVED FROM THE LOWLAND RESOURCE CONSERVATION DISTRICT AND PLACED IN APPROPRIATE BASIC ZONING DISTRICTS LANDS RECOMMENDED TO BE ADDED TO THE UPLAND RESOURCE CONSERVATION DISTRICT (THE UPLAND RESOURCE CONSERVATION DISTRICT HAS NOT TO DATE BEEN APPLIED WITHIN THE TOWN OF NORWAY SANITARY DISTRICT)

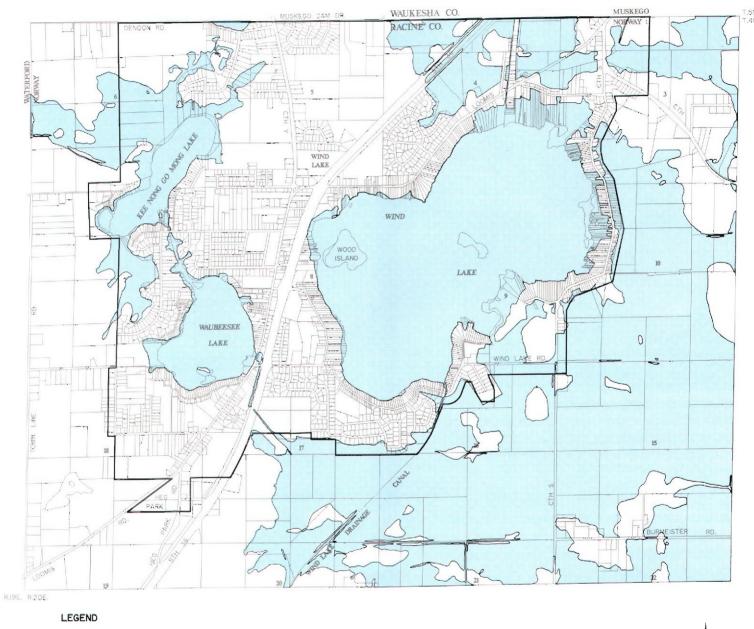
SURFACE WATER

TOWN OF NORWAY SANITARY DISTRICT NO. I BOUNDARY



PROPOSED "NO-FILL" FLOODPLAIN ZONING IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS^a

Map 31



RECOMMENDED "NO-FILL" FLOODPLAIN DISTRICTS

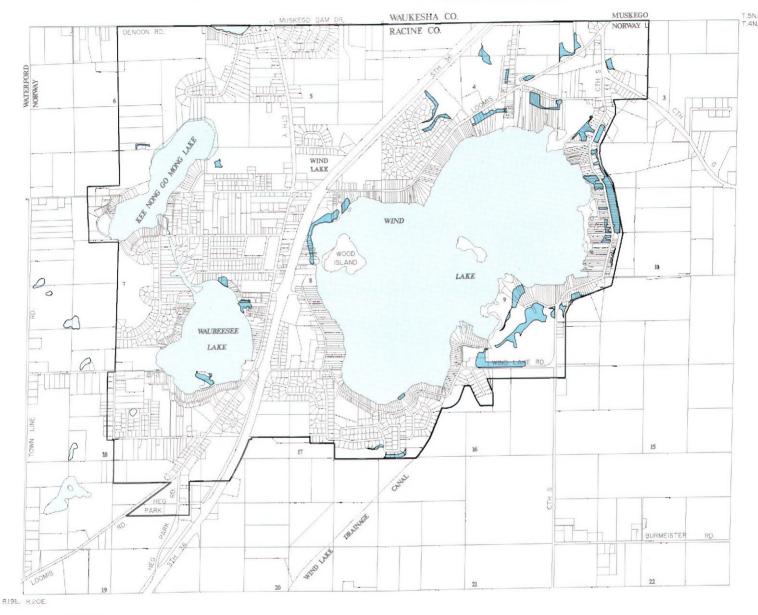
TOWN OF NORWAY SANITARY DISTRICT NO. I BOUNDARY

NOTE: "NO-FILL" FLOODPLAIN ZONING DISTRICTS INCLUDE THE FW URBAN FLOODPLAIN ZONING DISTRICT, THE FCO URBAN FLOODPLAIN CONSERVANCY OVERLAY DISTRICT, AND THE GFO GENERAL FLOODPLAIN OVERLAY DISTRICT. THESE DISTRICTS PROHIBIT



Map 32

PROPOSED CHANGES TO FLOODPLAIN ZONING IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS^a



LEGEND

LANDS TO BE ADDED TO "NO-FILL" FLOODPLAIN ZONING DISTRICTS (ALL OF THESE LANDS ARE PROPOSED TO BE ADDED TO THE FCO URBAN FLOODPLAIN CONSERVANCY OVERLAY DISTRICT)

NONE LANDS TO BE REMOVED FROM "NO-FILL" FLOODPLAIN ZONING DISTRICTS

SURFACE WATER

TOWN OF NORWAY SANITARY DISTRICT NO. I BOUNDARY

"NO-FILL" FLOODPLAIN ZONING DISTRICTS INCLUDE THE FW URBAN FLOODWAY DISTRICT, THE FCO URBAN FLOODPLAIN CONSERVANCY OVERLAY DISTRICT, AND THE GFO GENERAL FLOODPLAIN OVERLAY DISTRICT. THESE DISTRICTS PROHIBIT NEARLY ALL FILLING AND DEVELOPMENT.

98APHS SCALE 0 0 4 MILE 0 1000 2000 FEET

Source: SEWRPC.

NOTE:

A second concern pertains to the 17 residential lots which substantially consist of wetlands where it has been determined that filling and development may be sustained without violating the water quality standards for wetlands set forth in Chapter NR 103 of the Wisconsin Administrative Code. These lots are identified on Map 26 in Chapter V (see page 61). State and Federal wetland regulatory programs. including the shoreland-wetland and the Section 404 programs, should be administered in accordance with the recommendations of this plan, with permits to fill under these programs issued in accordance with the standards of Chapter NR 103, as applied under this planning program. The proposed application of the SWO Shoreland-Wetland Overlay District is shown on Map 33.

The recommended plan was prepared within the context of existing State and Federal wetland protection and other environmental regulations. It should be recognized that environmental regulations are subject to change. Should there be a change in regulations which materially affects the development potential of lands where development is now restricted, the plan should be reviewed and revised as appropriate.

Land Use Control Recommendations— Concluding Remarks

Implementation of the foregoing recommendations will help to ensure the preservation of the remaining environmentally sensitive lands in the study area. Moreover, implementation of those recommendations will help to achieve consistency among the various environmental regulations affecting the area and will help avoid the confusion due to conflicting regulations that has arisen in the area in the past. Chapter III of this report noted that certain parcels are currently subject to different development restrictions under basic conservancy zoning and under shoreland-wetland overlay zoning or floodland overlay zoning. The proposed changes in the application of the C-1 Resource Conservation District and the FCO Urban Floodplain Conservancy Overlay District would largely remedy this situation.

Specifically, under the recommended zoning, all areas in the Sanitary District that are subject to the shoreland-wetland zoning would also be included in the basic C-1 Resource Conservation District. Moreover, nearly all lands in the Sanitary District that are subject to floodplain zoning districts which prohibit filling and development—specifically, the GFO General Floodplain Overlay District, the FCO

Urban Floodplain Conservancy Overlay District, and the FW Urban Floodway District—would likewise eventually be included in the C-1 Resource Conservation District.⁵

While implementation of the plan would achieve consistency among the various regulations affecting lowland resources in the Sanitary District, upland resource areas would be subject to conflicting regulations. Basic zoning proposed for upland resource areas would allow a density of one dwelling unit per three acres, while Department of Natural Resources regulatory policy pertaining to sewered development in upland environmental corridors limits residential development density to no more than one dwelling unit per five acres.

SUMMARY

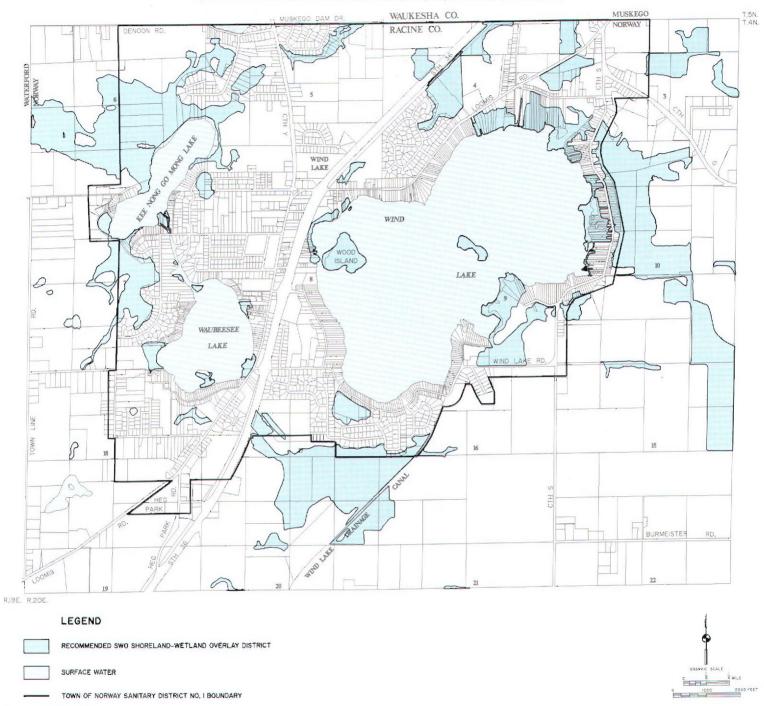
This chapter sets forth the steps recommended to be taken by the concerned agencies and units of government to implement the plan for the protection of environmentally sensitive lands in the Town of Norway Sanitary District No. 1. This chapter refines and details the public land acquisition recommendations for the area; identifies related costs; and indicates potential funding sources. It also identifies the changes in existing land use regulations necessary to implement the plan.

As set forth in this chapter, the plan recommends the acquisition by Racine County of lands which are located in or adjacent to the Sanitary District and which together encompass 392 acres. The estimated cost of this acquisition is about \$550,000. The plan further recommends the acquisition by lake management districts or nonprofit conservation organizations of lands in the Sanitary District encompassing 140 acres at an estimated cost of about \$460,000. Of special concern in plan implementation is the acquisition of 62 lots within the Sanitary District which have been platted for residential development but which may not be developed under existing State and Federal wet-

⁵Under the plan, the C-1 Resource Conservation District would eventually be applied to all lands which are located in the GFO, FCO, or FW floodplain districts in the Sanitary District except the shore-yard, floodplain portions of residential lots on Wind Lake, Waubeesee Lake, and Kee Nong Go Mong Lake which do not consist of wetlands.

PROPOSED SHORELAND-WETLAND ZONING IN THE TOWN OF NORWAY SANITARY DISTRICT NO. 1 AND ENVIRONS

Map 33



Source: SEWRPC.

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land regulations. Under the plan, responsibility for acquisition of these lots has been assigned to both Racine County and to local lake management districts, possibly complemented by local nonprofit conservation organizations. Should in any case the concerned lake management district or conservation organization be unable to acquire the undevelopable residential lots at the time they are offered for sale at fair market value, it is recommended that Racine County purchase the lots in question. The County could eventually convey such lots to the appropriate lake management district for ownership and management.

As noted in this chapter, the plan also recommends certain changes in the zoning administered by Racine County. It recommends expanded use of the C-1 Resource Conservation District, application of the C-2 Upland Resource Conservancy District, and slightly expanded use of the FCO Urban Floodplain Conservancy Overlay District. The recommended zoning changes are intended to more effectively protect existing natural features. The changes would, moreover, ensure a greater consistency among the various environmental regulations affecting the area and help avoid confusion due to conflicting regulations that has arisen in the area in the past.

Chapter VII

SUMMARY

INTRODUCTION

In February 1992, Racine County and the Town of Norway requested that the Regional Planning Commission undertake a study to address the conflicts which existed between Federal and State regulations precluding the filling and development of environmentally sensitive lands within the Town of Norway Sanitary District No. 1 and County zoning which would permit the development of such lands. This study was intended to resolve these conflicts, carefully balancing in the interests of equity the need to protect environmentally sensitive areas and the rights of private property owners. The study was to culminate in the preparation of a plan for the preservation of the environmentally sensitive lands within the Sanitary District.

The study was conducted under the guidance of a Technical Coordinating and Advisory Committee created by the Regional Planning Commission. The Committee included representatives of the Town of Norway, the Town of Norway Sanitary District No. 1, the Wind Lake Management District, Racine County, the Wisconsin Department of Natural Resources, and the U. S. Army Corps of Engineers, and citizen members. The full Committee membership is listed on the inside front cover of this report.

The plan prepared under this study identifies the environmentally sensitive areas to be preserved and protected through public land use regulations or public or private acquisition, as well as those areas which may properly be developed for urban use within the Sanitary District.

EXISTING CONDITIONS

The Town of Norway Sanitary District No. 1 encompasses about 6.6 square miles in the northwestern portion of the Town of Norway, Racine County. A descriptive analysis of the District, including historical urban development and population growth, existing sanitary sewerage facilities, land use, natural resource features, and land use and water quality management plans affecting the District is presented in Chapter II of this report. A summary description of existing conditions follows.

Population

The resident population of the District was estimated at 3,980 persons in 1990. From 1970 to 1980, the resident population of the District increased by about 150 persons, or about 5 percent, from about 2,930 persons in 1970 to about 3,080 persons in 1980. From 1980 to 1990, the resident population of the District increased by about 900 persons, or about 29 percent, from about 3,080 persons in 1980 to about 3,980 persons in 1990.

Built Environment

In 1994, urban land uses, consisting primarily of residential and transportation uses, encompassed about 2.0 square miles, or 30 percent of the total area of the District. The remaining lands, consisting of wetlands, woodlands, other open lands, lands in agricultural uses, and surface water, encompassed about 4.6 square miles, or 70 percent of the District.

A sewage treatment plant was constructed in 1978 to serve the District. About 3.4 square miles, or about 71 percent of the land area and 52 percent of the total area of the District, and about 3,920 persons, or about 98 percent of the resident population of the District, were served by public sanitary sewers in 1994.

Natural Resource Base

A number of important elements of the resource base are located within the District, including three major lakes: Wind, Waubeesee, and Kee Nong Go Mong Lakes. These lakes have a combined surface area of 1.8 square miles, or 27 percent of the total area of the District.

Wetlands in 1994 encompassed about 715 acres, or 17 percent of the District; woodlands encompassed about 250 acres, or 6 percent. Other important elements of the natural resource base, portions of which may be encompassed within the aforementioned lakes, wetlands, and woodland areas, include floodlands, which in 1994 encompassed about 2,100 acres, or 50 percent of the District, and wildlife habitat areas, which encompassed about 1,120 acres, or 27 percent of the District. Many of these natural resource features occur in linear concentrations in the landscape. These linear patterns

have been termed "environmental corridors" by the Regional Planning Commission.

Primary environmental corridors include a wide variety of important natural resource and resource-related elements and are, by definition, at least 400 acres in area, two miles long, and 200 feet wide. Primary environmental corridors in the District are primarily associated with the natural resources located around the three major lakes. Within the District, these corridors, including the area of the major lakes, together encompassed a total of about 1,800 acres, representing about 43 percent of the total area of the District, in 1994.

Secondary environmental corridors also contain a variety of resource elements which generally connect with primary environmental corridors and are, by definition, at least 100 acres in area and one mile long. Secondary environmental corridors in the District are located along two streams tributary to Wind Lake and in a large area encompassing wetlands, woodlands, and wildlife habitat in the northern portion of the District. Within the District, these corridors together encompassed a total of about 330 acres, representing about 8 percent of the total area of the District, in 1994.

Isolated natural resource areas represent other smaller pockets of natural resource elements that have been separated physically from the environmental corridors and are, by definition, at least five acres in area. Within the District, isolated natural resource areas together encompassed a total of about 70 acres, representing about 2 percent of the total area of the District, in 1994.

Previous Planning Programs

A number of plans and studies concerning land use, water quality management, and parks and open space within and adjacent to the District have been prepared. Such plans provide valuable information on, as well as recommendations regarding, land use development and natural resource preservation within the District. Plans that are of particular relevance to this study include SEWRPC Community Assistance Planning Reports No. 134, A Park and Open Space Plan for Racine County, September 1988; No. 182, A Water Use Management Plan for Waubeesee Lake and the Anderson Canal. Racine County, Wisconsin, December 1990; and No. 198, A Management Plan for Wind Lake, Racine County, Wisconsin, December 1991.

EXISTING REGULATORY FRAMEWORK

There are a variety of regulatory measures by which town, County, State, and Federal units and agencies of government can shape and guide urban development and manage land use in the public interest. The study analyzed those regulatory programs which have a bearing on the natural resource features within the Town of Norway Sanitary District No. 1. A description of the relevant existing County, State, and Federal natural-resource-related regulations in effect within the District as well as of the areas within the District that are subject to those regulations is presented in Chapters III and IV of this report. A summary description of the most pertinent regulatory programs is set forth below.

Racine County Zoning

Zoning ordinances represent one of the most important means available to county and local units of government with respect to managing land use in the public interest. In Wisconsin, counties and towns jointly administer general, or comprehensive, zoning ordinances. In addition to the general zoning ordinance, counties are required under the Wisconsin Statutes to adopt and administer floodland and shoreland zoning ordinances. Racine County adopted a combination general and floodland-shoreland zoning ordinance in 1969, and has periodically amended the ordinance since that time.

The C-1 Resource Conservation District adopted as part of the Racine County zoning ordinance is intended to protect wetland resources. Any uses which involve filling or disturbing in any way the natural conditions of the lands in this zoning district are prohibited. The C-1 zoning district was applied to about 230 acres, or 5 percent of the total area of the District, in 1994 (see Map 15 in Chapter IV, page 40).

The FW Urban Floodway District, the FCO Urban Floodplain Conservancy Overlay District, and the GFO General Floodplain Overlay District adopted as part of the Racine County zoning ordinance are intended to protect the floodplain areas to which they are applied. Nearly all filling or development within these areas is prohibited. In combination, these districts have been applied to a total of about 1,800 acres, or about 43 percent of the total area of the District (see Map 16 in Chapter IV, page 41). The Racine County zoning ordinance also includes a fourth floodplain district, the FFO Urban Flood-

plain Fringe Overlay District, which is intended to recognize existing and committed urban development in floodplain fringe areas. This district generally allows, as a conditional use, structures permitted in the underlying general zoning districts. The FFO zoning district has been applied to about 320 acres, or 8 percent of the total area of the Sanitary District.

The SWO Shoreland-Wetland Overlay District adopted as part of the Racine County zoning ordinance is intended to protect all wetlands five acres or greater in area that are located within the statutory shoreland jurisdiction area. Nearly all filling or development within these areas is prohibited. The SWO zoning district has been applied to about 450 acres, or 11 percent of the total area of the Sanitary District (see Map 17 in Chapter IV, page 43).

State Policies and Regulatory Programs

A number of policies and regulatory programs of the State of Wisconsin have a direct bearing on the use of land and water resources in the District. Natural resources intended for preservation and protection under these policies and programs include navigable waters of the State, wetlands, shorelands, floodplain areas, and those lowland and upland resources which, if protected, serve to maintain or improve water quality.

Chapter NR 103 of the Wisconsin Administrative Code establishes water quality standards for wetlands. These standards, like the more general policies set forth for wetland protection under Chapter NR 1.95 of the Wisconsin Administrative Code, are applied by the Wisconsin Department of Natural Resources in all of its decision making pertaining to wetlands, including water quality certification of Federal Section 404 permits. Chapter NR 103 establishes criteria to be applied by the Department in determining whether a wetland-disturbing activity may be approved. These criteria are particularly important within the District because they have a direct bearing on the undeveloped lots that have been created for residential use and that wholly or substantially consist of wetlands. In 1993, the District contained 79 such lots. Based upon the standards of Chapter NR 103, 62 of these lots may not be filled, while the remaining 17 lots may be filled as necessary and allowable to accommodate development (see Map 18 in Chapter IV, page 47).

Chapters NR 115 and 116 of the Wisconsin Administrative Code establish joint responsibilities between

the State and its counties for the protection of floodland and shoreland areas. In Racine County, the provisions of these chapters are embodied in the floodland and shoreland-wetland zoning districts of the Racine County zoning ordinance described above in this chapter.

Chapters NR 110, NR 121, and ILHR 82 of the Wisconsin Administrative Code are intended to protect natural resources and water quality within sanitary sewer service areas. They require that the Wisconsin Department of Natural Resources, in its regulation of public sanitary sewers, and the Wisconsin Department of Industry, Labor and Human Relations, in its regulation of private sanitary sewers, make a finding that all proposed sanitary sewer extensions are in conformance with applicable adopted areawide water quality management plans and the sanitary sewer service areas identified in such plans prior to approving such extensions. The resource areas protected include those portions of the primary and secondary environmental corridors and isolated natural resource areas that consist of wetlands or steeply sloped lands adjacent to surface water or wetlands. The Departments concerned have determined that these areas may not be developed with sanitary sewers because of the potential adverse water quality impacts involved. Through the areawide water quality management plan, the Departments have further determined that development of other portions of the primary environmental corridor generally should be limited to rural-density residential development, providing a site area of at least five acres per dwelling unit. The areas within the District where no sewered development may take place under these regulations encompass a combined total of 865 acres; the areas within the District that are limited to rural-density residential development encompass a combined total of 93 acres (see Map 20 in Chapter IV, page 51).

Federal Wetland Regulatory Program

Section 404 of the Federal Clean Water Act requires that the U. S. Department of the Army, Corps of Engineers, working cooperatively with the U. S. Environmental Protection Agency, regulate the discharge of dredged and fill material into waters of the United States, including wetlands. Under the Clean Water Act, the issuance of Federal permits for the discharge of dredged and fill material must be consistent with State water quality policies and standards. In cases where State certification is denied, the Federal permit would also be denied. Accordingly, Federal regulation of wetlands

under Section 404, as a practical matter, may be considered to be the same as the State regulation described above.

Many of the environmentally sensitive areas in the District are affected by two or more of the regulatory programs described above. In some cases, the regulatory programs are conflicting, with filling and development permitted under one program, but not another. As already noted, one of the objectives of this planning program is to eliminate these conflicts, achieving consistency among the applicable local, County, State, and Federal environmental regulations for the area.

RECOMMENDED PLAN

The environmentally sensitive lands preservation plan for the Town of Norway Sanitary District No. 1 identifies environmentally sensitive lands in the District which should be preserved in the public interest and those which are recommended to be allowed to be developed; identifies which of the lands that are recommended for preservation should be acquired in the public interest and which should be preserved through the exercise of public land use regulations; and recommends changes to the land use regulatory framework to ensure the protection of the environmentally sensitive lands to be preserved and to ensure consistency among applicable local, County, State, and Federal land use regulations. Development of the plan took into consideration the detailed, definitive information developed under the study concerning existing natural features in the District; the existing public land use regulatory framework; and recommendations of previously adopted plans concerning the preservation and public acquisition of open space lands in the area.

Recommended Open Space Preservation

Underlying the plan is the environmental corridor concept described above. A key step in preparing the plan entailed the refinement of the primary and secondary environmental corridors and isolated natural resource areas within the District to reflect the results of the detailed natural resource inventories and analyses conducted under the study and to incorporate adjacent undeveloped floodlands. The refined environmental corridors and isolated natural resource areas are shown on Map 22 in Chapter V (see page 55). These environmental corridors and isolated natural resource areas provided the basic structure for the open space preservation recommendations of the plan. Those recommendations are as follows:

- Floodlands, wetlands, and areas of steep slope within primary and secondary environmental corridors or isolated natural resource areas should be preserved in natural, open uses. Agricultural floodlands included in the environmental corridors under the plan should be allowed to revert to natural conditions when agricultural operations are discontinued.
- Primary environmental corridor lands other than floodlands, wetlands, and areas of steep slope should be preserved, or should be developed at a density of no more than one dwelling unit per five acres.
- Shoreland wetlands located outside primary or secondary environmental corridors or isolated natural resource areas should be preserved in natural, open uses.

Specifically excluded from the environmentally sensitive areas recommended for preservation under the plan are 17 lots substantially consisting of wetlands where it has been determined that filling likely would be allowed under State water quality standards; three lots located along Severt Court, here permits to fill have been approved by the Wisconsin Department of Natural Resources; and wetlands and floodlands in areas needed for highway widening within the STH 36 corridor.

The aforementioned recommendations are graphically summarized on Map 25 in Chapter V (see page 59). The plan recommends the preservation in natural, open use of lands encompassing 985 acres, or 23 percent of the total area of the District. The plan recommends that other areas, encompassing a total of 70 acres, or 2 percent of the District, be preserved, or, alternatively, be developed for residential use at a density of no more than one dwelling unit per five acres. These recommendations coincide with State and Federal regulatory requirements.

The plan also recommends that certain other areas—upland portions of secondary environmental corridors and isolated natural resource areas—be preserved to the greatest extent possible as the development of adjacent lands proceeds. These lands encompass 129 acres, or 3 percent of the District. While not mandated by State or Federal regulatory programs, the preservation of these lands is important to the overall quality of the environment and would help avoid the creation of new developmental problems. These resources can be preserved in a number of ways. In some cases, they may be reserved as open space areas on subdivision

plats. In other cases, the lands may be developed for residential use at a density of no more than one dwelling unit per five acres.

Recommended Public Land Acquisition

The plan recommends that certain of the areas proposed for preservation be acquired in the public interest. Importantly, this includes 62 undeveloped lots which have been platted for residential development but which cannot be developed under existing State and Federal wetland protection regulations. Also included are lands that have been recommended for public acquisition for resource preservation or outdoor recreation purposes in previous planning programs, including the Racine County park and open space plan and lake management plans for Waubeesee Lake and Wind Lake; and certain intervening lands which physically link or buffer other lands recommended for acquisition, thereby enabling the creation of an integrated system of readily manageable public open space land reserves. The recommended public acquisition areas include certain lands located outside the District which are contiguous to, and logical extensions of, recommended acquisition areas within the District itself. The lands recommended for public acquisition are shown on Map 27 in Chapter VI (see page 65). The areas were identified so as to adhere to real-property boundaries where feasible.

Under the plan, the recommended public land acquisition would be undertaken by Racine County and inland lake management districts. The plan recommends acquisition by Racine County of lands encompassing a total of 392 acres at an estimated cost of about \$550,000. The plan further recommends the acquisition of a combined total of 140 acres, at an estimated cost of about \$460,000, by the Wind Lake Management District and a lake management district proposed to be created to serve Kee Nong Go Mong and Waubeesee Lakes. Acquisition by the lake management districts could be complemented through acquisition by local nonprofit conservation organizations. A portion of the County and local costs could be funded through State and Federal open space acquisition grant programs.

Under the plan, the responsibility for acquisition of the 62 undevelopable residential lots is assigned to both Racine County and to the lake management districts, possibly complemented by local nonprofit conservation organizations. Should in any case the concerned lake management district or conservation organization be unable to acquire the undevelopable residential lots at the time they are offered for sale at fair market value, it is recommended that Racine County purchase the lots in question. The County could eventually convey such lots to the appropriate lake management district for ownership and management.

A number of existing single-family homesites are effectively surrounded by the proposed acquisition areas, particularly in the area along E. Wind Lake Road. Under the plan, these homesites would be permitted to be maintained indefinitely. However, the plan does not preclude the possibility of acquisition and removal of such housing units in the future where this would enhance the integrity and manageability of the open space area and where such acquisition would be mutually agreeable to the acquiring agency and the owners of the properties concerned.

Recommended Changes to Public Land Use Regulations

The plan also recommends certain changes in zoning regulations administered by Racine County. First, the plan recommends the uniform application of the C-1 Resource Conservation District of the County zoning ordinance to lowland resource areas recommended for preservation as shown on Map 29 of Chapter VI (see page 72). As already noted, that district has not been consistently applied in the Norway area.

Second, the plan recommends the application of the C-2 Upland Resource Conservation District to upland woodlands and areas of steep slope located within the primary environmental corridors. Recently established under the Racine County zoning ordinance, the C-2 zoning district has not yet been applied within the Sanitary District. It should be noted that the new zoning district establishes a maximum density of one dwelling unit per three acres and, in this respect, is not consistent with Department of Natural Resources policy, which provides for a maximum density of one dwelling unit per five acres in upland primary environmental corridors.

Third, the plan recommends slightly expanded use of the FCO Urban Floodplain Conservancy Overlay District of the County zoning ordinance to include all floodlands recommended for preservation under the plan. The areas recommended to be rezoned consist, for the most part, of rear-yard wetland areas of developed or developable lots which

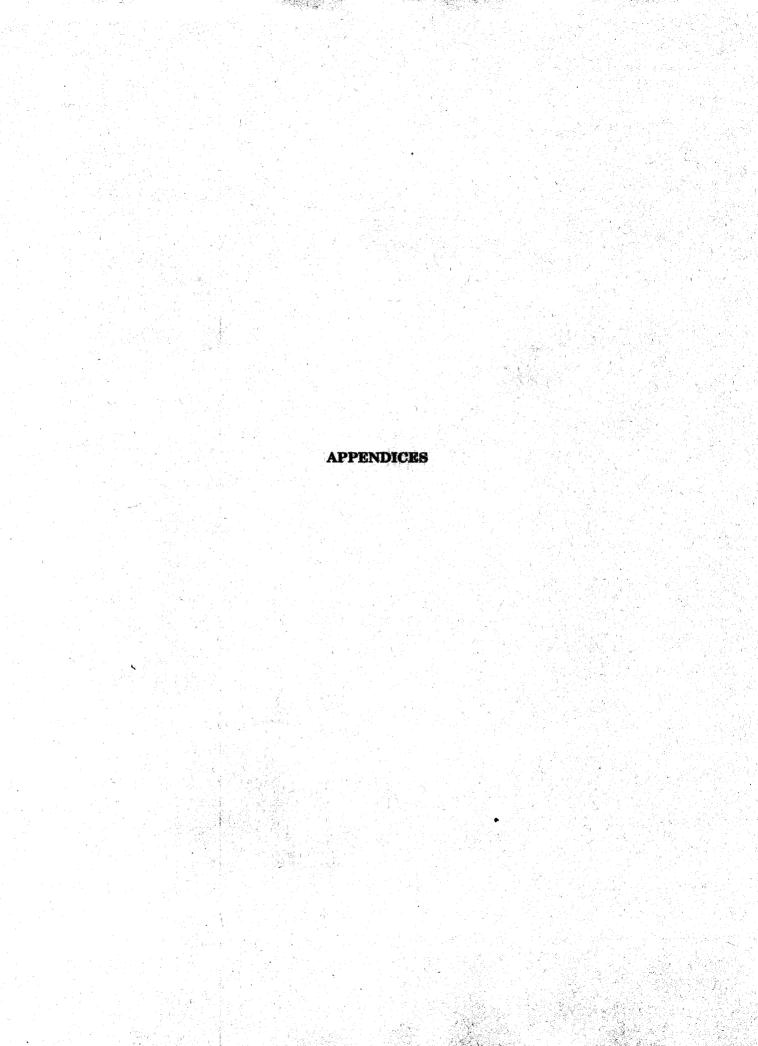
are presently in the FFO Urban Floodplain Fringe Overlay District.

PLAN ADOPTION

As an initial step toward plan implementation, the recommended plan should be adopted or endorsed, as appropriate, by each of the concerned units and agencies of government, including the Town of Norway, the Town of Norway Sanitary District No. 1, Racine County, the Wind Lake Management District, the Wisconsin Department of Natural Resources, and the U. S. Army Corps of Engineers. Such adoption or endorsement will help assure a common understanding among the several levels of government involved and will enable the concerned agency staffs to program the necessary plan implementation work.

CONCLUDING REMARKS

The environmentally sensitive lands preservation plan presented in this report attempts to resolve the conflicting land use objectives which have developed in the Town of Norway Sanitary District No. 1, particularly in areas previously platted for residential use but where residential development is now restricted by State and Federal wetland regulations. Implementation of the plan would resolve long-standing problems in a fair and equitable manner; would ensure the protection and permanent preservation of the most significant environmentally sensitive areas; and would minimize the potential for confusion arising from conflicting County, State, and Federal land use regulations which have existed in the area.



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Appendix A

WISCONSIN DEPARTMENT OF NATURAL RESOURCES PROCEDURES FOR LOCAL UNITS OF GOVERNMENT SEEKING TO ACQUIRE OPEN SPACE LAND WITH DEPARTMENT FINANCIAL ASSISTANCE

STEP 1. Buyer

Contacts District Community Services Specialist (CSS) for Site Inspection to determine if the land is eligible for assistance. If eligible proceed to step 2.

STEP LA.

Buyer

In some cases, it may be necessary for buyers to acquire property before all grant program requirements can be met. In these emergency situations a wavier to acquire the property before a grant agreement is signed by the Department may be issued.

Retroactivity: Buyers must submit in writing, requests for retroactivity BEFORE purchase of targeted property. Written statements must contain specific reasons for the request and be accompanied by location maps. All appraisal and acquisition guidelines must be followed. Ask your Community Services Specialist for information before proceeding.

STEP 2. Buyer

Contracts with a qualified licensed or certified real estate appraiser. Submits one original copy of the Real Estate Appraisal report to the District CSS. The real estate appraisal must be in conformance with the attached Appraisal Guidelines. The appraisal must be approved with the certified fair market value determined by the Department of Natural Resources prior to the initiation of negotiations over the price of the property. Wait for review and approvals in step 3 and proceed to step

STEP 3. DNR.

Reviews appraisal to insure conformance with the appraisal guidelines. Any deficiencies in the appraisal must be corrected before just compensation is established. Approves appraisal and certifies value.

STEP 4. Buyer

Negotiates a price and secures an option with appropriate deed restrictions (see examples below) based on appraised fair market value. Prepares information sheet for relocation assistance. Submits application with required attachments.

Wait for review in step 5 and proceed to step 6.

STEP 5.

DNR

Reviews, evaluates and ranks projects. Enters into agreement with the successful applicant for financial assistance.

STEP 6.

Buyer

Purchases land (executes deed which includes appropriate deed restriction clause) after a financial assistance agreement with DNR is signed. Makes relocation payments, if applicable.

NOTE: Deed must contain Deed Restriction Clauses.

Deed Restriction Clauses

Following are clauses to be included in the deed:

LAWCON

"By the acceptance of this deed the grantee, for itself and successors and assigns, hereby covenants and agrees not to sell, lease, assign or mortgage the premises herein described without the prior written approval of the Secretaries of the Department of Natural Resources and the Department of the Interior, their designee, or any successor."

ADLP and other state grant programs

"By the acceptance of this deed the grantee, for itself and its successors and assigns, hereby covenants and agrees not to sell, lease, assign or mortgage the premises herein described without the prior written approval of the Secretary of the Department of Natural Resources, his/her designee, or any successor."

Source: Wisconsin Department of Natural Resources.

Appendix B

GLOSSARY OF NATURAL-RESOURCE-RELATED TERMS

- ENVIRONMENTAL CORRIDORS: Environmental corridors are linear areas in the landscape containing concentrations of natural resource and resource-related amenities. These corridors generally lie along the major stream valleys, around major lakes, and in the Kettle Moraine area of Southeastern Wisconsin. Almost all of the remaining high-value wetlands, woodlands, wildlife habitat areas, major bodies of surface water, and delineated floodlands and shorelands are contained within these corridors. In addition, significant groundwater recharge and discharge areas, many of the most important recreational and scenic areas, and the best remaining potential park sites are located within the environmental corridors. Such corridors are, in effect, a composite of the most important individual elements of the natural resource base in Southeastern Wisconsin, and have immeasurable environmental, ecological, and recreational value. Environmental corridors have been further classified into three categories:
 - a) <u>Primary environmental corridors</u>, which have an area of at least 400 acres and have a minimum length of two miles and a minimum width of 200 feet. Such corridors generally include a wide variety of natural resource base and related elements.
 - b) <u>Secondary environmental corridors</u>, which have an area of at least 100 acres and have a minimum length of one mile. Such corridors also include a variety of natural resource base and related elements, but are generally less diverse and are smaller than primary environmental corridors.
 - c) <u>Isolated natural resource areas</u>, which have an area of at least five acres and have a minimum width of 200 feet. Such areas generally consist of those natural resource base elements that have "inherent natural" value, such as wetlands, woodlands, wildlife habitat areas, and surface-water areas, but that are separated physically from the environmental corridors by intensive urban or agricultural land uses.
- ENVIRONMENTALLY SENSITIVE LANDS: "Environmentally sensitive lands" is a general term intended to represent all of the important natural resources of a given area, the preservation and protection of which are important to the maintenance of the overall environmental health and welfare of that area. This term is often used interchangeably with the term "environmental corridor."
- FLOODLANDS: Floodlands are those lands—including the floodplain, floodway, and channel—subject to inundation by the 100-year recurrence interval flood, or where such data are not available, the maximum flood of record. The definitions of additional terms related to floodlands are presented below:
 - a) <u>Channel</u>: Those floodlands normally occupied by a stream of water under average annual high-water-flow conditions while confined within generally well established banks.
 - b) Floodplain: Those floodlands excluding the floodway subject to inundation by the 100-year recurrence interval flood.
 - c) Floodway: Those floodlands, including the channel, required to carry the 100-year recurrence interval flood.
 - d) One-hundred-year recurrence interval flood: Also termed "regional flood," or a flood determined to be representative of large floods known to have occurred in Wisconsin or which may be expected to occur on a particular lake, river, or stream once in every 100 years.
- SHORELANDS: As defined in the Wisconsin Statutes, "shorelands" are those areas lying within the following distances from the normal high-water elevation of all natural lakes and of all streams, ponds, sloughs, flowages, and other waters which are navigable under the laws of the State of Wisconsin: 1,000 feet from

- the shoreline of a lake, pond, flowage, or glacial pothole lake and 300 feet from the shoreline of a stream, or the landward side of a floodland, whichever is greater.
- STEEP SLOPES: Steep slopes are slopes of 12 percent or greater. Such slopes are considered unsuitable for all types of urban development, as well as for most types of agricultural use.
- WET SOILS: Soils which are wet, poorly drained, and organic, and when devoted to natural open space uses, contribute significantly to the ecology of an area. These soils tend to be well suited for supporting wetland plant communities and wildlife habitat and poorly suited for residential and other urban development and use.
- WETLANDS: Wetlands are areas in which the water table is at, near, or above the land surface, and which are characterized by both hydric soils and by the growth of sedges, cattails, and other wetland vegetation. It is important to note that lowland wooded areas, such as tamarack swamps and lowland hardwood forests, meet the requirements of this definition and are classified as wetlands.
- WILDLIFE HABITAT: "Wildlife habitat" is an area devoted to natural open uses of a size and with a vegetative cover capable of supporting a high and balanced diversity of wildlife. Significant wildlife habitat has been classified into three classes:
 - <u>Class I</u>: High-quality wildlife habitat containing a diversity of wildlife areas, adequate in size to meet all of the minimum habitat requirements for most of the species characteristic of its portion of the Region, and located in proximity to other wildlife habitat areas.
 - Class II: Medium-quality wildlife habitat; an area generally lacking one of the three requirements for a Class I area.
 - <u>Class III</u>: Other significant wildlife habitat; an area generally lacking two of the three requirements for a Class I area.
- WOODLANDS: Woodlands are upland areas one acre or more in area having 17 or more deciduous trees per acre, each tree measuring at least four inches in diameter at breast height, and having at least a 50 percent canopy cover. Coniferous tree plantations and reforestation projects are also classified as woodlands. Lowland wooded areas, such as tamarack swamps, are classified as wetlands because the water table in such areas is located at, near, or above the land surface and because such areas are generally characterized by hydric soils which support hydrophytic trees and shrubs.