

PLANNING AND ZONING COMMISSION
SPECIAL MEETING
SUSSEX COUNTY COMPREHENSIVE LAND USE PLAN
OCTOBER 17, 1996

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 17, 1996, at 7:30 P.M., in the Court of Common Pleas Courtroom, the Courthouse, Georgetown, Delaware, with the following present: Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director. Thomas Shafer and Dennis Haskins were present on behalf of Whitman, Requardt & Associates, Consultants on the Sussex County Comprehensive Land Use Plan. Ralph Reeb, representing DelDOT, and Mark Davis, representing the Delaware Department of Agriculture, were also present, by invitation, in case the Commission had any questions relating to the transportation issues or agricultural issues addressed in the Land Use Plan.

Approximately 40 Sussex County citizens were also present.

Mr. Schrader advised those present that this meeting is not a public hearing, only a Commissioners' workshop, and that no testimony would be taken from the floor, except to answer questions raised by the Commission to clarify agency input into the Land Use Plan.

Mr. Lank submitted copies of four letters that were received by fax or were postmarked October 11, 1996 or earlier.

Mr. Shafer stated that a legal opinion on Land Use Plans has been answered by the Attorney General's Office referencing the force of law.

Mr. Shafer submitted a summary of responses to the comments received at the September 19, 1996 Public Hearing and to written comments received since the public hearing. For the record a copy of the summary is attached.

Mr. Shafer referred to the summary and suggested that the Commission could consider revisions to the Land Use Plan, stated that several concerns raised at the public hearing related to land value and equity, submitted and discussed several concepts and exceptions for development in an Agricultural Protection District, stated that development zones should not be considered as fixed boundaries and should be flexible near towns, town centers, and when the same property is on two sides of a road, that the concepts and exceptions are an effort to protect the farmer, that the original draft attempted to protect agriculture, that the Subdivision Ordinance needs to be rewritten and should reference definitions for minor subdivisions, major subdivisions, and transfer of development rights, that transfer of development

programs complicate life, create discussion and arguments, cause more paper work and record keeping, and are sometimes judgmental.

Mr. Wheatley stated that transfer of development rights needs to be an ordinance and expressed a concern that the Land Use Plan may be interpreted as an ordinance.

Mr. Schrader advised the Commission that the use of a transfer of development rights program will require an ordinance.

Mr. Shafer stated that a transfer of development rights program should be limited to a district and only lands within a district can be transferred, not lands from another district.

In reference to map changes, Mr. Shafer stated that the Development District has been expanded from the existing Development District to include areas already under development and areas that the State DNREC has recommended for future sewer service, that areas already under development should continue with the same or similar type of development, that the lot size in a conservation district should be increased from one (1) to two (2) acres for lots with septic and wells within 1,000 feet of tidal waters, that the ordinances should be amended to reference tidal waters only, that the conservation district is an overlay and doesn't have to be drawn on the land use map.

Mr. Ralph questioned the DNREC Resource District.

Mr. Shafer stated that the resource districts are a wish list of sites that the State DNREC want to protect or acquire.

Mr. Shafer added that there are several incentives that can be addressed to manage growth and referenced allowing 1/2 acre density in place in development areas, smaller lots where community sewer systems or dry systems are installed, flexible zoning with cluster housing and open space, and credits for open space, preservation of wetlands, etc...

Mr. Schrader questioned if the Development District should have more definition and questioned why the Development District should include reference to commercial and industrial uses.

Mr. Shafer stated that the Land Use Plan Map is not a zoning map, that the Development District is a growth area, that zoning is not a matter of right, that zoning must still be applied for, public hearings held, and decisions rendered.

Mr. Lynch questioned why there is no Town Center or Development District around Millsboro or Selbyville.

Mr. Shafer stated that he has met with representatives of the Town of Selbyville, that the Town has sewer capacity for additional uses, that development is occurring along Route 54, that the Town would like to provide services to the east, west, and north of the Town boundaries, that water is proposed to be run from Selbyville to Frankford, that sewer service already runs to a State housing project west of the Town, and that the map can be amended to depict either a Town Center or a Development District around the Town.

Mr. Shafer stated that the Town of Millsboro anticipates growth to the west and north, that the use of a census tract area as a boundary is unrealistic, that a Town Center or Development District can be expanded approximately one (1) mile from the town limits, and that an Agricultural Residential District should be placed around the Town Center.

Mr. Shafer stated that the City of Rehoboth Beach has requested that a Town Center be mapped within a two (2) mile radius of the Rehoboth Beach limits.

Mr. Shafer stated that strip development is a major concern and suggested that more restrictions should be placed on roadways designated as major arterial, minor arterial, and major collectors, that ordinances are needed to control access and strip development on all roads, that DelDOT should be pressed to respond or act on the Route One committee's recommendations along Route One.

Mr. Phillips questioned when and where will improvements be made along Route One.

Mr. Reeb, speaking on behalf of DelDOT, stated that the majority of the first stage of improvements recommended by the committee have been completed, that improvements to Route One south of Dewey Beach are a problem due to the Indian River Inlet Bridge and development that has already taken place, that the State Transportation Plan and the Land Use Plan need to conform, that the State Access Management Policy is ready to go out to the public for input, that access management is needed along Route One south of Five-Points, and that the Corridor Preservation Program should be a benefit to Route One north of Five-Points, U.S. Route 13, and U.S. Route 113, and that the access management policies will apply to all public roads.

Mr. Shafer questioned why Selbyville was left out of the Transit Plan and suggested that Selbyville should be listed in the long range transit plan.

Mr. Reeb stated that Selbyville could be referenced for a study to establish the demand for transit in the area, and added that the Millsboro area is being studied since the counts have been questioned by the Town of Millsboro, and that the Evacuation Routes were established by FEMA and DEMA.

Mr. Shafer stated that Sussex County should get the maximum benefit from dollars spent on road improvements for improvement to major collector roads, that all roads should be inventoried for necessary improvements and then prioritized.

Mr. Reeb stated that the need for corridor preservation is greater in Sussex County, than in Kent or New Castle Counties, that all corridors need to be reviewed to establish priorities, and that the County should recommend which roads need to be improved immediately.

Mr. Shafer stated that several questions have been raised relating to manufactured homes and why manufactured homes have not been addressed in the Land Use Plan, that the Plan relates to density, not whether a unit is a dwelling or a manufactured home, that the type of unit is a zoning issue, not a land use issue, that the Ordinance referenced in comments received from the First State Manufactured Housing Institute references permitted location for double-wide and single-wide manufactured home units, that the Institute suggests that double-wide units be permitted in any areas of the County, and that single-wide units be permitted in parks, on farms, or in GR General Residential Districts. Mr. Shafer stated that double-wide units should not be permitted in existing subdivisions, only in new subdivisions started after an Ordinance is adopted.

Mr. Shafer added that he has reviewed the Plan and has changed most of the words "should" to "shall" and cleaned up some of the language, that the reference to buffer zones around non-tidal wetlands has been deleted, that the buffer zones around tidal waters has been corrected to comply with the existing sections of the Zoning Ordinance.

Mr. Shafer stated that he has not yet received any official comments from the State on the draft submitted on September 3, 1996.

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Mr. Shafer questioned what the Commission would like to do next and suggested that he can revise the draft to show corrections in bold print and can have the updated draft to the Commission by October 24, 1996 so that the Commission can review the updated draft for consideration on October 30, 1996.

Meeting adjourned at 9:50 P.M.

1996
Sussex County
Comprehensive Plan

DRAFT

September 3, 1996

October 17, 1996
Planning Commission
Workshop

PUBLIC HEARING COMMENTS CONCERNING THE DRAFT 1996 SUSSEX COUNTY COMPREHENSIVE PLAN

AGRICULTURE

Ten speakers

Lawrence Justice	Roland West
Eddie Justice	Richard West
Halsy Knapp	Rich Collins
Marty Ross	R. C. Willin, Jr.
George Whaley	Bert Wayne

Concern

Concerned with 20 acre requirement.

Answer

We have developed options for the planning commission to consider. See Exhibit A.

DEVELOPMENT

Six Speakers

Skip Bowden	Ted Leshesky
Phylliss McKinley	Coleman Bunting, Jr.
Fred Dyer	John Slrgovic

Concern

Concerned with change from ½ to one acre also 20 acre ag district - lack of information on manufactured housing - error in conservation district wording - inadequate development district around Selbyville, Greenwood and Bridgeville - wording on rezoning criteria - clarity on commercial and industrial uses setback from 404 wetlands.

Answer

Discuss possible change to Town Center and Development District to two dwelling units per acre with Planning Commission.

Change Infrastructure wording for Commercial and Industrial Districts to clarify uses. Rewrite Conservation District and remove reference to buffer zones. See Exhibit B.

Revise DNREC Proposed Resource District to conform to revised Agriculture Protection District "Area". Add statement (Areas within the Development District that do not have environmental restrictions, such as wetlands may be rezoned to a higher density, if DNREC elects not to purchase the land. Delete section under Growth Management/Strategies that refers to negatively impacting the "quality of life..."

Delete reference to a buffer for non-tidal wetlands under Conservation Element.

MUNICIPALITIES

Speakers

Lynn Bullock, Mayor of Millsboro
Virgil Ellweanger, Millsboro Chamber of Commerce

Concern

Millsboro should be expanded with Town Center and Development Districts that include most of Census Tracts 506 and 507
Greenways should be expanded
Comments on Transportation Plan

Answer

Proposal is shown on overlay
Transportation comments must be addressed by DelDOT

COASTAL ZONE

Speakers

William Green	Mable Granke
Mary Campbell	Jim Alderman
Mike Tyler	Skipper Purnell
Til Purnell	Joanne DeFiore
Patti Shreeve	

Concerns

Heavy industry, commercial in Development zone, lack of information on public facilities such as libraries - need to expand access management south on Route 1 - not definite enough for Inland Bays - not enough Intergovernmental Coordination - lacks enough information on historic values where are new ordinances to implement plan.

Answer

Revised wording on coastal development, area to clarify intent to maintain current development patterns. Inserted wording to limit commercial and industrial development. Information on public facilities is in previously adopted plan - revised wording in conservation zone to make it stronger. Route 1 needs to be addressed by DelDOT.

ATTORNEYS AND OTHERS**Speakers**

David Blackman	David Stevenson
Grace Allen	Ed Evans
Jim Griffin	Don Roessler

Concerns

Can't understand Agricultural zoning. Should clarify, "force of law" - need another input session - comments on County Council - Federalized Control

Answer

Attorney General has rendered opinion on "force of law". Clarified agricultural zoning.

WRITTEN COMMENTS CONCERNING THE DRAFT COMPREHENSIVE PLAN*Writer*

Dean Belt

Concerns

Concerned with Walmart and Lowes. Use cluster housing - redevelopment

Answer

Commercial zoning is already in place and DeIDOT is dealing with traffic issues - will utilize more cluster zoning in future and encourage redevelopment.

Writer

Charles Adams

Concern:

Not enough local input and do not extend moratorium.

Answer

We held four workshops - had twenty meetings with organizations - two workshops with Planning Commission and collected 200 opinion surveys.

Writer

Jay Dolby

Concern

Inconsistent maps.

Answer

Maps will be revised.

Writer

Joe Conaway

Concern

Will state and particularly DeIDOT fund improvements? Doesn't address manufactured housing - how to get people to live in towns - concerned about chemical industry and environment - 20 acre zoning.

Answer

County can't control DeIDOT - Is Mr. Conaway suggesting we stop growth? Manufactured housing will be addressed.

Writer

James Lambe

Concern

Development area around Inland Bays should be changed to Environmental Protection Areas - sites on the National Register of Historic Places should be protected.

Answer

Agricultural activities can discharge more nutrients into bays than developed areas. Area is already developed and is shown on adopted plan. County would need Historic Preservation Ordinance.

Writer

Donald Green

Concern

Favors keeping existing plan. Plans do not address property rights.

Answer

Existing plan does not provide any agricultural zoning. Inconsistent with State goals and County goals.

Writer

Selbyville - Mayor Clifton Murray

Concern

Development area should extend east to Williamsville and north to Frankford. Left out of Transit plan.

Answer

Proposed expansion of Development Area is shown on overlay - DeIDOT should address Transit Plan.

Writer

Mildred Albert

Concern

Opposed to 20 acre zoning

Answer

Already addressed.

Writer

Marietta Wooleyhan

Concern

Opposed to 20 acre Ag Zoning

Answer

Already addressed

Writer

James Griffin

Concern

Plan is not specific enough in language to be interpreted in court - i.e., use "shall" not "should" - requirement "not" guide line.

Answer

Draft is being reviewed to be more specific where desirable.

Writer

Mayor Samuel Cooper, Rehoboth Beach

Concern

Town Center for Rehoboth should be extended a minimum of two miles from edge - infrastructure must be in place before development goes forward - should address protection of Columbia Aquifer.

Answer

Proposed expanded Town Center area is shown - County will need Adequate Public Facilities Ordinance - Columbia Aquifer needs will be examined.

Writer

John Sergovic, Jr. (Representing Tunnell Companies, L.P. and Lighthouse Cove Investors, Inc.

Concerns

Depiction of conservation district and text of Conservation District - Requirements for rezoning too stringent - lack of density guidelines for manufactured housing - buffer from non-tidal wetlands.

Answer

Conservation District on map will be clarified - conservation text is re-written - density for manufactured housing is added - non-tidal wetland buffer deleted - zoning requirements modified.

Writer

Michael Tyler - Citizens Coalition, Inc.

Concerns

Number of acres needed for development is too large - should be stronger language, i.e., should, ought, change to shall - does not address solid waste access management - plans should be available - towns not consulted all areas should have one dwelling unit per acre base density - delete sentence under entrances referring to more than one commercial entrance use transfer of development rights - change sunset provision to three years - need budget for transportation improvements - establish watershed overlay zones complying with Chesapeake Bay CCMP, Delaware Estuary Program CCMP and Delaware Inland Bays CCMP Change density to one dwelling unit per two acres for first 1,000 feet - establish buffer zones for tidal and nontidal - towns should share land use decisions within two miles of the town boundary other editing changes suggested.

Answer

Towns were consulted, many want larger expansion areas - access management being handled by DelDOT Committee - one acre zoning does not provide affordable housing - transfer of development rights is being considered - sunset provision may be revised - no budget for transportation from DelDOT, although regulated by County - State has opted out of Chesapeake Bay CCMP; Inland Bays CCMP is referenced in plan, Delaware Estuary Program CCMP will be examined - will consult with Commission about two acre zoning for conservation area - buffer zones already established in ordinance - Intergovernmental Coordination is being developed at State level - will incorporate appropriate editing suggestions.

EXHIBIT A

REVISIONS TO DRAFT COMPREHENSIVE PLAN

AGRICULTURAL PROTECTION DISTRICT

Insert under "Purpose"

Although the primary objective is preserving land area for agricultural activities, this plan recognizes that there must be options for the subdivision of land for family members and to support the agricultural economy.

Revise "Guidelines for Density"

1. For Scattered Development Using Existing Frontage Road
 - a. Each property containing twenty acres or more may subdivide four lots as a matter of right, plus one additional lot for each twenty acres contained in the tract. Each lot shall be a minimum of one acre.
2. For Cluster Development using Internal Roads
 - a. Each property containing twenty acres or more may subdivide four lots as a matter of right, plus one additional lot for each five acres contained in the tract. Each property containing less than twenty acres can subdivide one lot per five acres. Each lot shall be a minimum of one acre and not more than four lots shall have direct access from an existing public roadway.
 - b. Additional lots may be created by the transfer or purchase of development rights from other properties. Development rights may be transferred or purchased at the rate of one development right per five acres. The county will designate sending and receiving zones for the transfer or purchase of development rights during the zoning update process.
 - c. Any farmland lying within a designated Rural Community District can be developed in accordance with the guidelines adopted for Rural Communities.
 - d. Any property contiguous to a Town Center or Development District may apply for water and sewer extensions in accordance with the policies of the municipality or County and petition for rezoning.

EXHIBIT B

CONSERVATION DISTRICT

Location

A 1,000' zone, being landward from the mean high water line of tidal waters.

Guidelines for Infrastructures

The District's guidelines for infrastructure will be determined by the underlying zone.

Guidelines for Housing Types

Housing types appropriate for the Conservation District will be determined by the underlying zone.

Guidelines for Density

Guidelines for residential density will be determined by the underlying zone except that the minimum lot size will be two acres for on-site septic systems.

Guidelines for Non-Residential Use

Guidelines for non-residential uses will be determined by the underlying zone

DNREC PROPOSED RESOURCE DISTRICT

Guidelines for Density

The density guidelines will be the same as those adopted for the Agricultural Protection District. Within the Development District or Agricultural/residential District, property may be rezoned to a higher density if DNREC elects not to purchase the land within a reasonable time period.

AGRICULTURAL ZONING

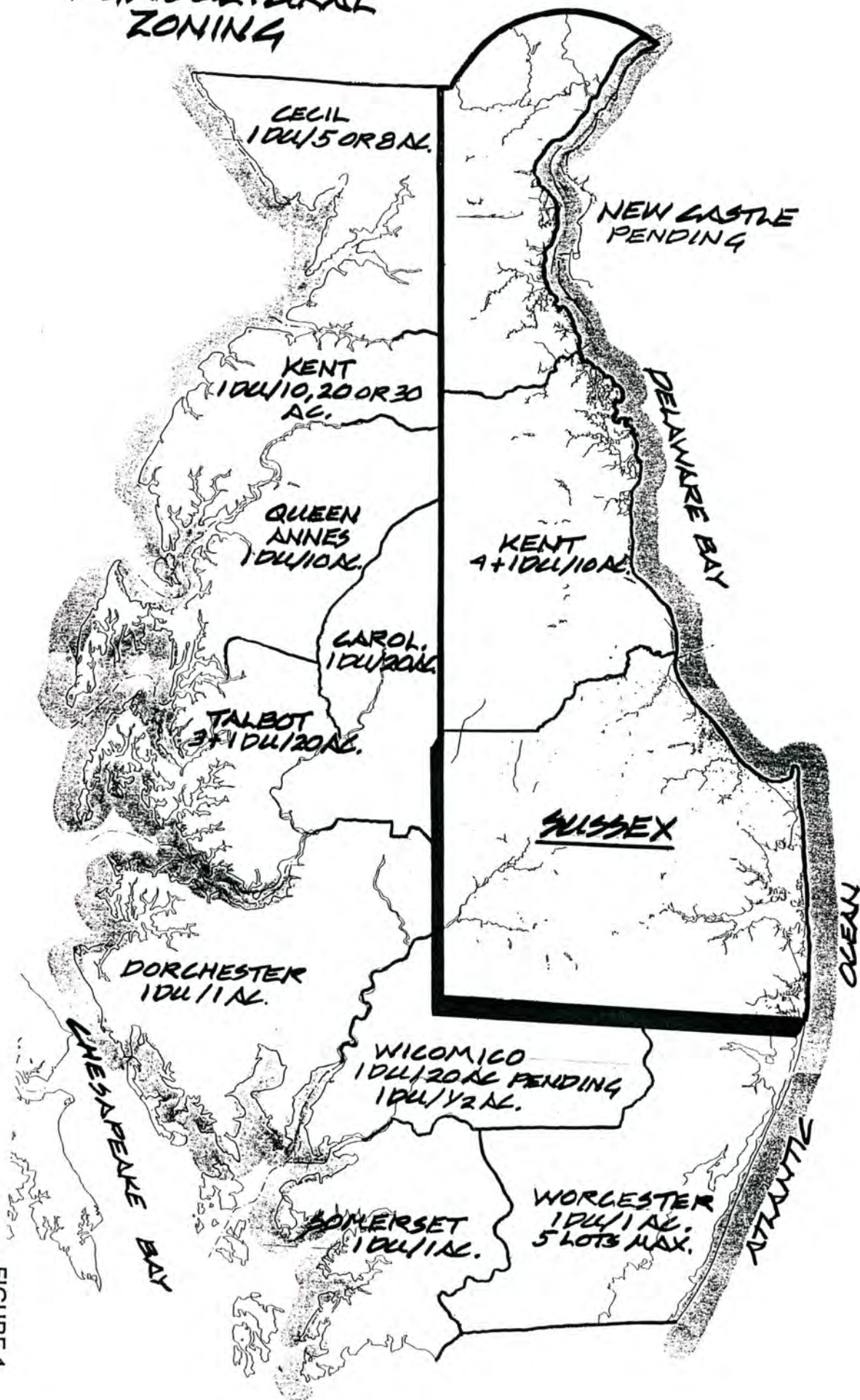
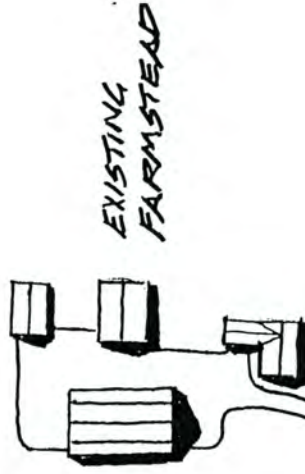


FIGURE 1

100 ACRE FARM

1 LOT PER 20 ACRES
- TOTAL 4 LOTS

91 ACRES RETAINED
IN FARMING



EXISTING
FARMSTEAD

2.5 LOTS

PUBLIC ROAD

FIGURE 2

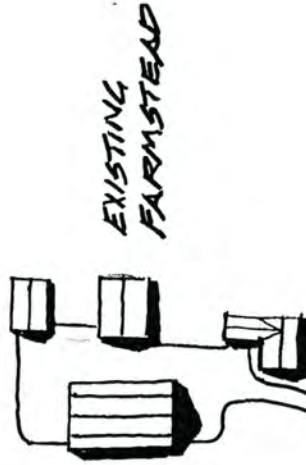
100 ACRE FARM

4 LOTS PLUS

1 LOT PER 20 ACRES

TOTAL 9 LOTS

91 ACRES RETAINED
IN FARMING



4 LOTS

2.5 LOTS

PUBLIC ROAD

FIGURE 3

100 ACRE FARM

4 LOTS PLUS
1 LOT PER 5 ACRES
TOTAL 24 LOTS

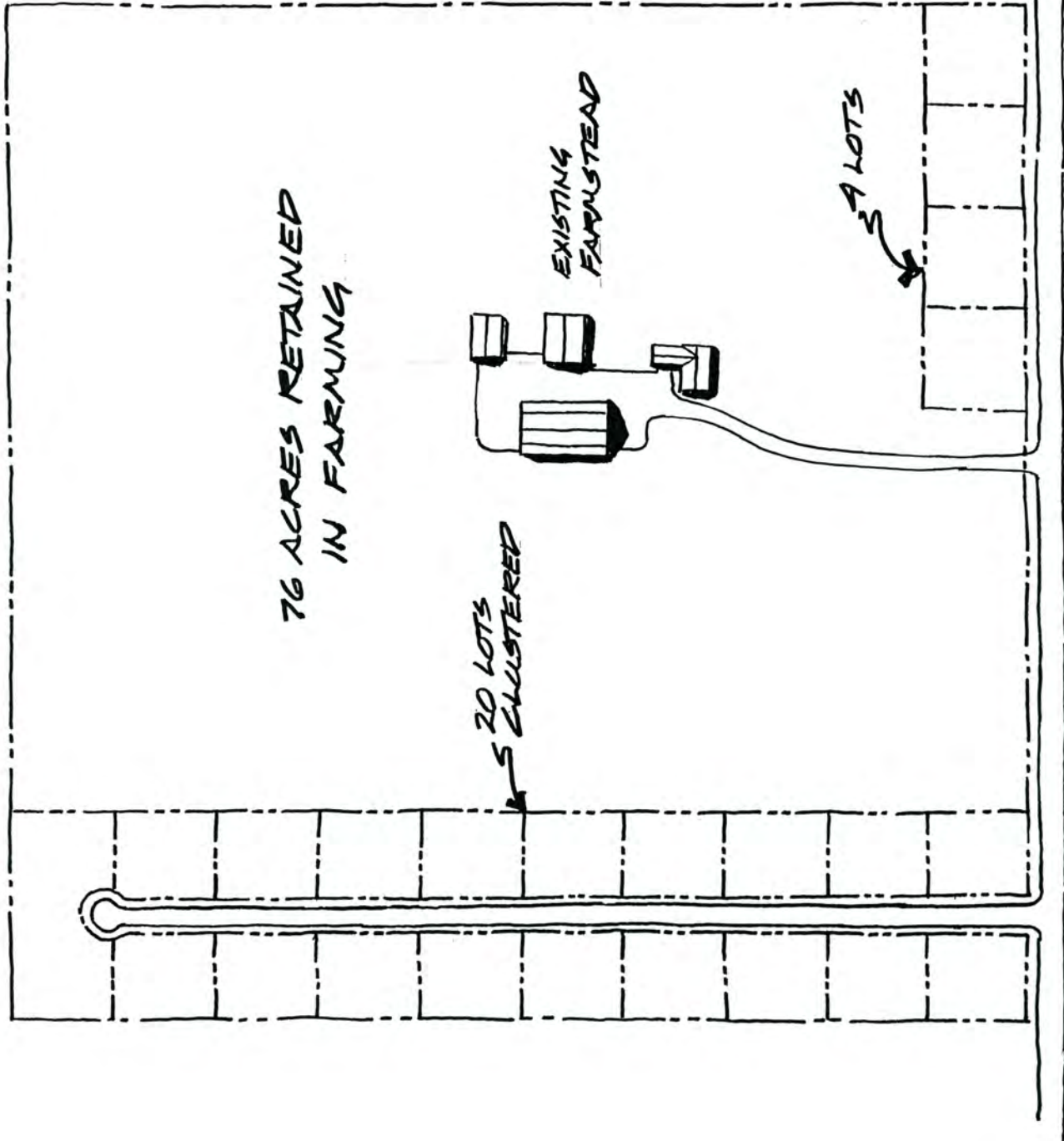
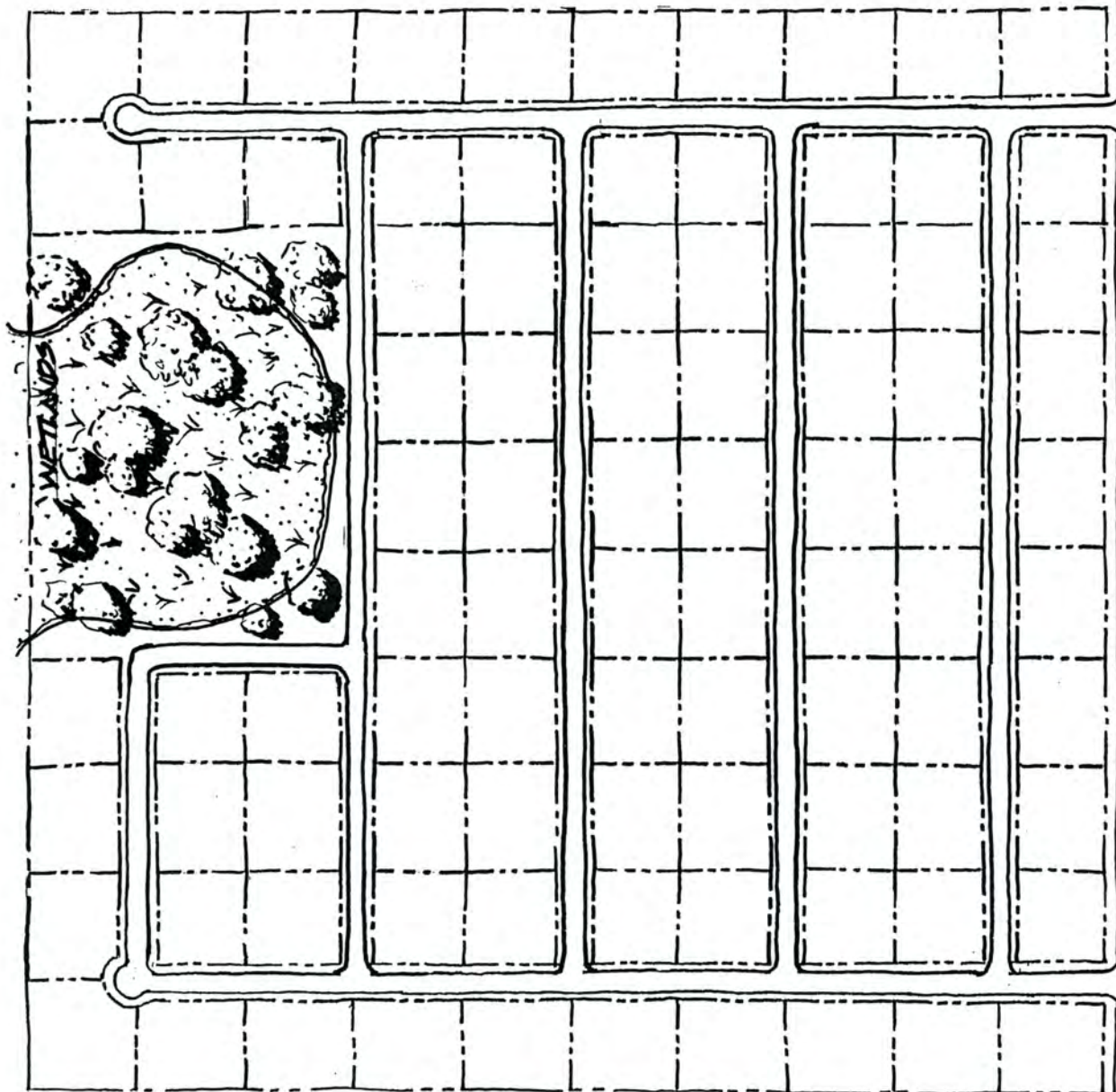


FIGURE 4

100 ACRE FARM

1 LOT PER 1 ACRE
WITH TDR

ACTUAL NUMBER
OF LOTS WILL BE
DEPENDENT ON
PARCEL SHAPE,
ROADWAY LAYOUT
AND ENVIRONMENTAL
CONSTRAINTS SUCH
AS WETLANDS.



PUBLIC ROAD

FIGURE 5

RURAL COMMUNITY

A LOTS PLUS LOTS
COMPATIBLE WITH
RURAL COMMUNITY

TOTAL ? LOT POTENTIAL

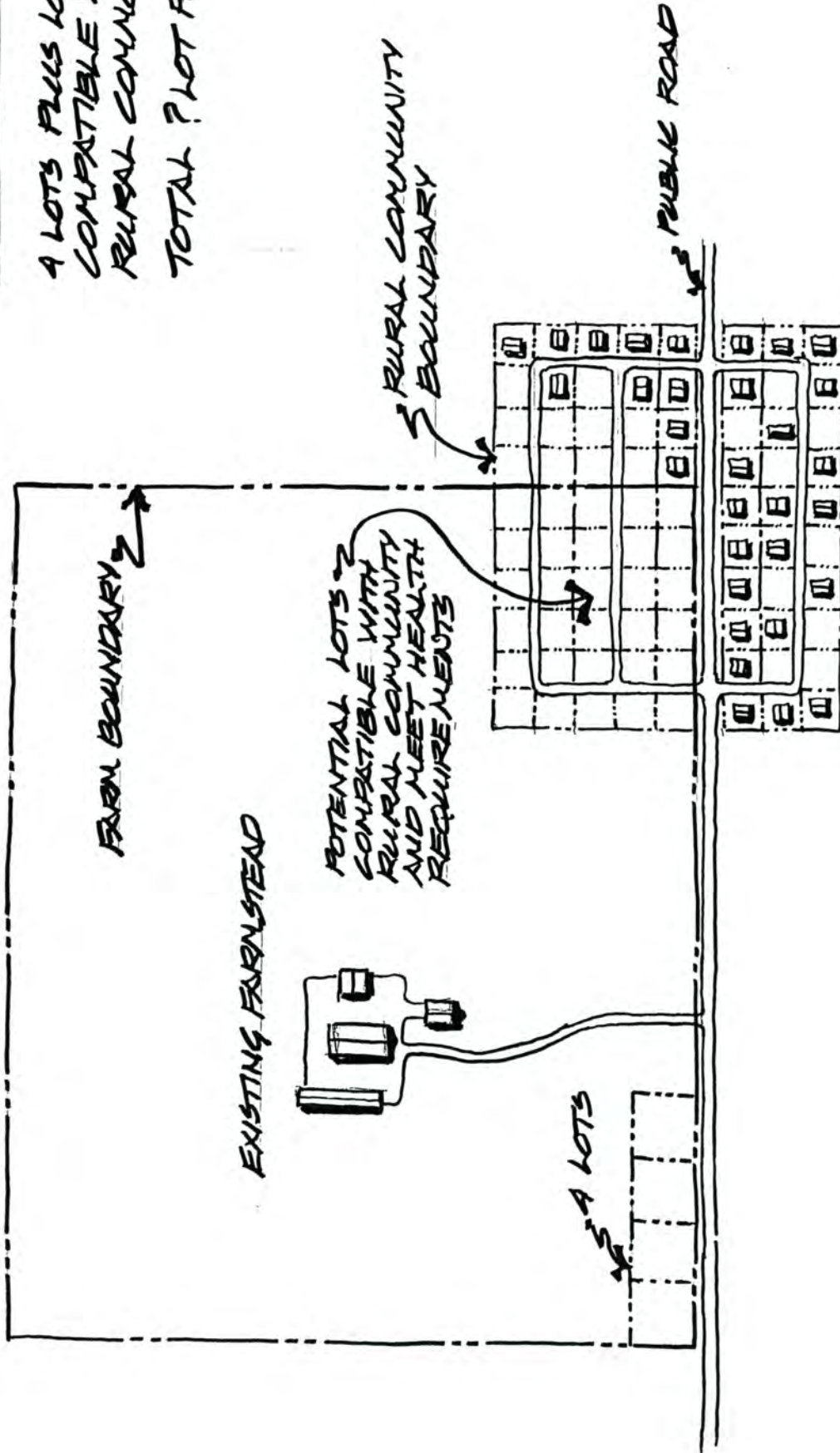


FIGURE 6