

Natural Resource Protection Incentive Ordinance Concept

Framework as Proposed by Homebuilders Association of Delaware

This incentive concept builds into the land development process the opportunity for obtaining additional density in exchange for the protection of important Natural Resources. For the purposes of this concept, Natural Resources are defined as Wetlands, Rare Species Habitats, Forest Resources and other Natural Features determined to be important by the regulating agencies.

Key Elements:

Because Natural Resources are important to the State of Delaware and its citizens and because there are economic pressures for property owners to minimize these resources, this concept attempts to add value for the property owner for preservation and enhancement of these resources. The public will compensate the landowner for the preservation of these resources through the acceptance of higher density development in appropriate areas as allowed by this concept.

The incentives contained in this concept attempt to provide incentive commensurate with the public value of the resources being preserved and/or enhanced.

The public value of the resources will be proposed by the property owner and reviewed by the Regulating Agencies as described in this concept based on established criteria.

All incentives should be encouraged in growth areas and will not be as effective if the density approval is subject to a political vote for implementation. This does not mean that there is no review by appropriate agencies in order to help refine the site design while still achieving the allowable density. This can be accomplished by establishing a Natural Resource Protection overlay zoning that would allow alternate unit types and mixed use in appropriate areas.

Proposed Natural Resource Categories:

Category 1 – Highest Priority for Preservation, Threatened and Endangered Species Present, S1, SH or SX Species Present. Examples include: Intact Delmarva Bays, White Cedar Swamps, Intact Cypress Swamps Bog Turtle Colonies, Delmarva Fox Squirrel Colonies, Swamp Pink Colonies and other areas that meet the established criteria.

Category 2 – 2nd Highest Priority for Preservation, Rare Species Present, Threatened and/or Endangered Species Habitat Present, S2 Species, Intact Mature Forest greater than 5 acres. Examples Include: Bog Turtle Habitat (no individuals found or no search), Delmarva Fox Squirrel Habitat (no individuals found or no search), Consistent Bald Eagle Nesting Areas and buffers and other areas that meet the established criteria.

Category 3 – Typical Wetland Areas, S3, S4 Species, Natural Forest Areas deemed worthy of protection, Forested, Scrub/Shrub and Emergent Wetlands not meeting the criteria for Category 1 or 2 and other areas that meet the established criteria.

Category 4 – Disturbed or Man-Made Wetlands, Disturbed Forest Areas

Category 5 – Area dominated by Invasive or Exotic Species

How It Might Work:

The property owner will perform a Natural Resource Mapping Plan and Report (NRMPR) and submit to the reviewing agencies with a proposal for the categorization of the resources found on the site. This NRMPR can be submitted at any time in order to categorize the resources on a property. The NRMPR must be no older than 36 months old when using it to establish incentives at the time of submission of a development plan or submission of an application to sell development rights.

Review of the NRMPR and any proposed restoration, enhancement and conservation practices will be reviewed by the regulating agencies and comments provided within 60 days from the date of submittal. The NRMPR will be amended by the property owner based on the comments and final review by the regulating agencies will be provided within 15 days of the amended report submission. If the property owner and reviewing agencies have a dispute related to the Natural Resources that cannot be resolved, the case will be reviewed by the Environmental Appeals Board within 120 days of the original submittal or 60 days from the date of the reviewing agency comments.

Example Incentives:

Incentives will be determined based on the area of the preserved resources and buffers established in the NRMPR and will determine the basis for the developable area on the site and the incentives provided on the site as a density bonus or offsite credit sales.

The following equivalent density bonuses will apply to the following categories as established above:

Category 1 – 4x Density of the underlying zoning with credit sales allowed

Category 2 – 3x Density of the underlying zoning with credit sales allowed

Category 3 – 2x Density of Underlying Zoning with credit sales allowed

Category 4 – 1x Density of Underlying Zoning no credit sales allowed

Category 5 – No density bonus unless restoration plan approved and implemented to get to Category 4 status.

Examples:

See attached

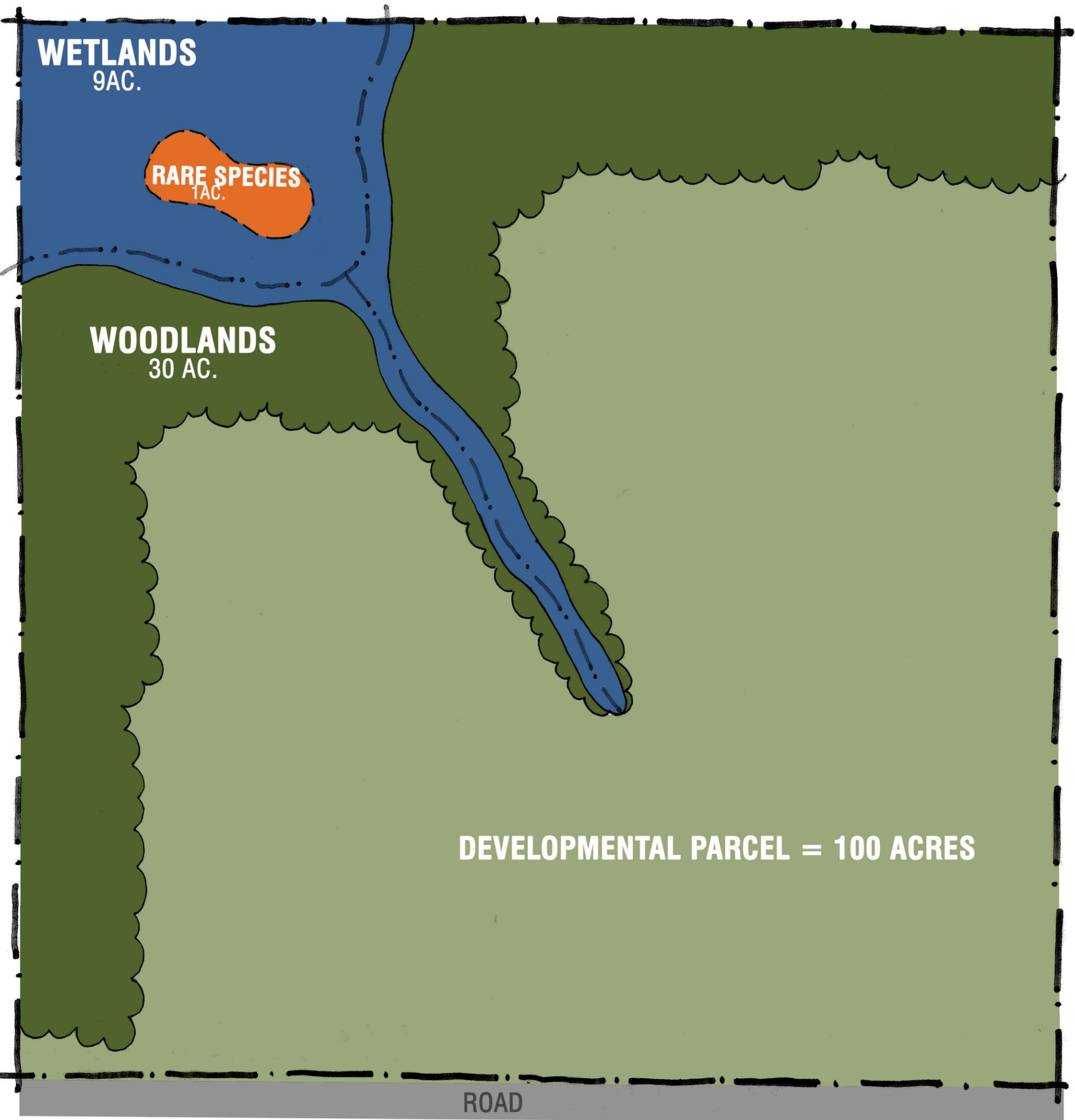


EXHIBIT 1

EXISTING CONDITIONS

LEGEND	
TOTAL SITE AREA.....	100 ACRES
 RARE SPECIES.....	1 ACRE
 WETLANDS.....	9 ACRES
 WOODLANDS.....	30 ACRES
TOTAL SENSITIVE AREA= 40 ACRES	

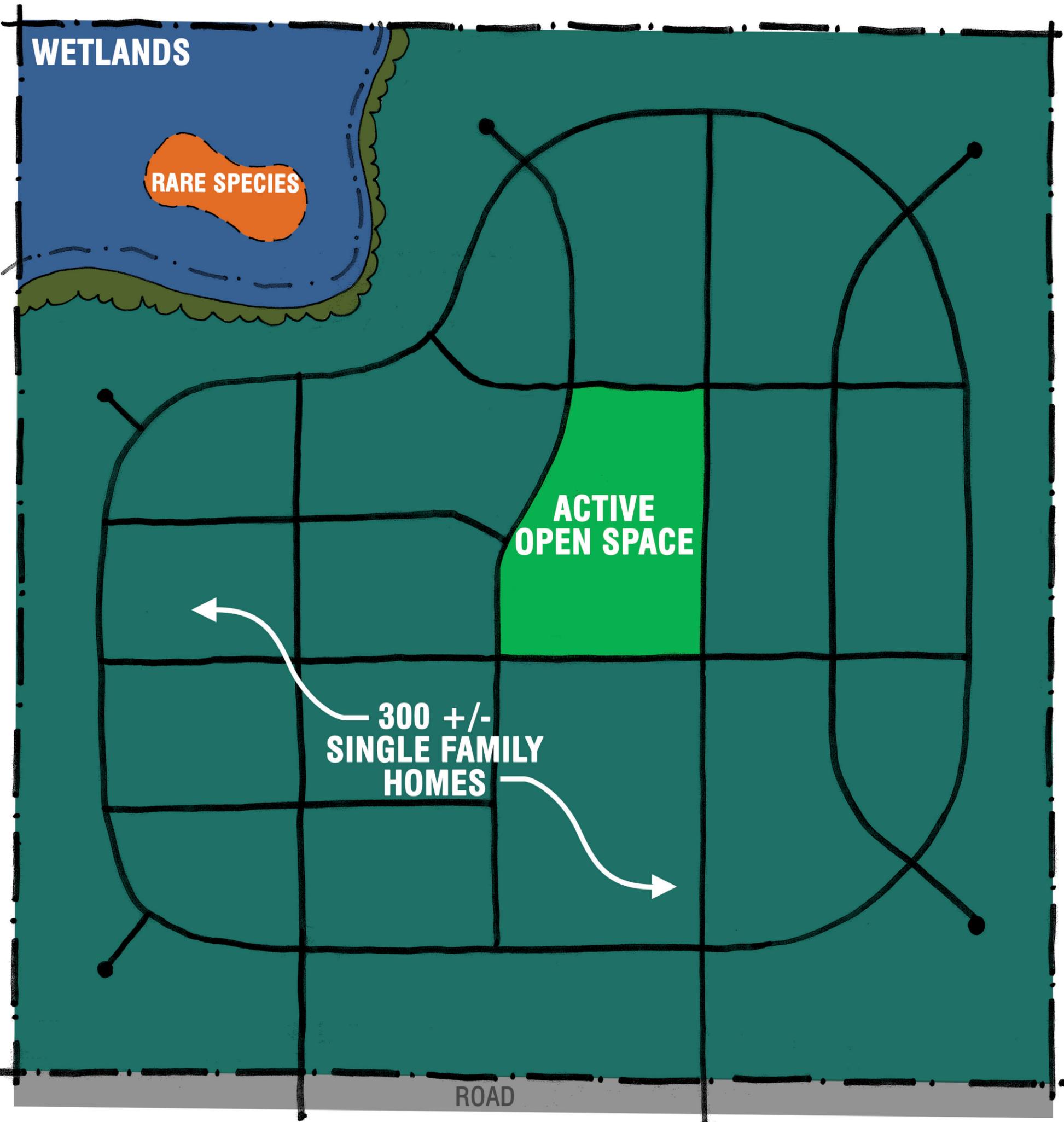


EXHIBIT 2

TRADITIONAL DEVELOPMENT

TOTAL DENSITY
= 3 UNITS/ACRE

LEGEND

- TOTAL SITE AREA..... 100 ACRES
- WETLANDS..... 10 ACRES
- ALLOWABLE DEVELOPMENT... 100 ACRES
- 100 AC X3 LOTS/ACRE..... 300 UNITS
- SINGLE FAMILY UNITS... 30 ACRES
- OPEN SPACE

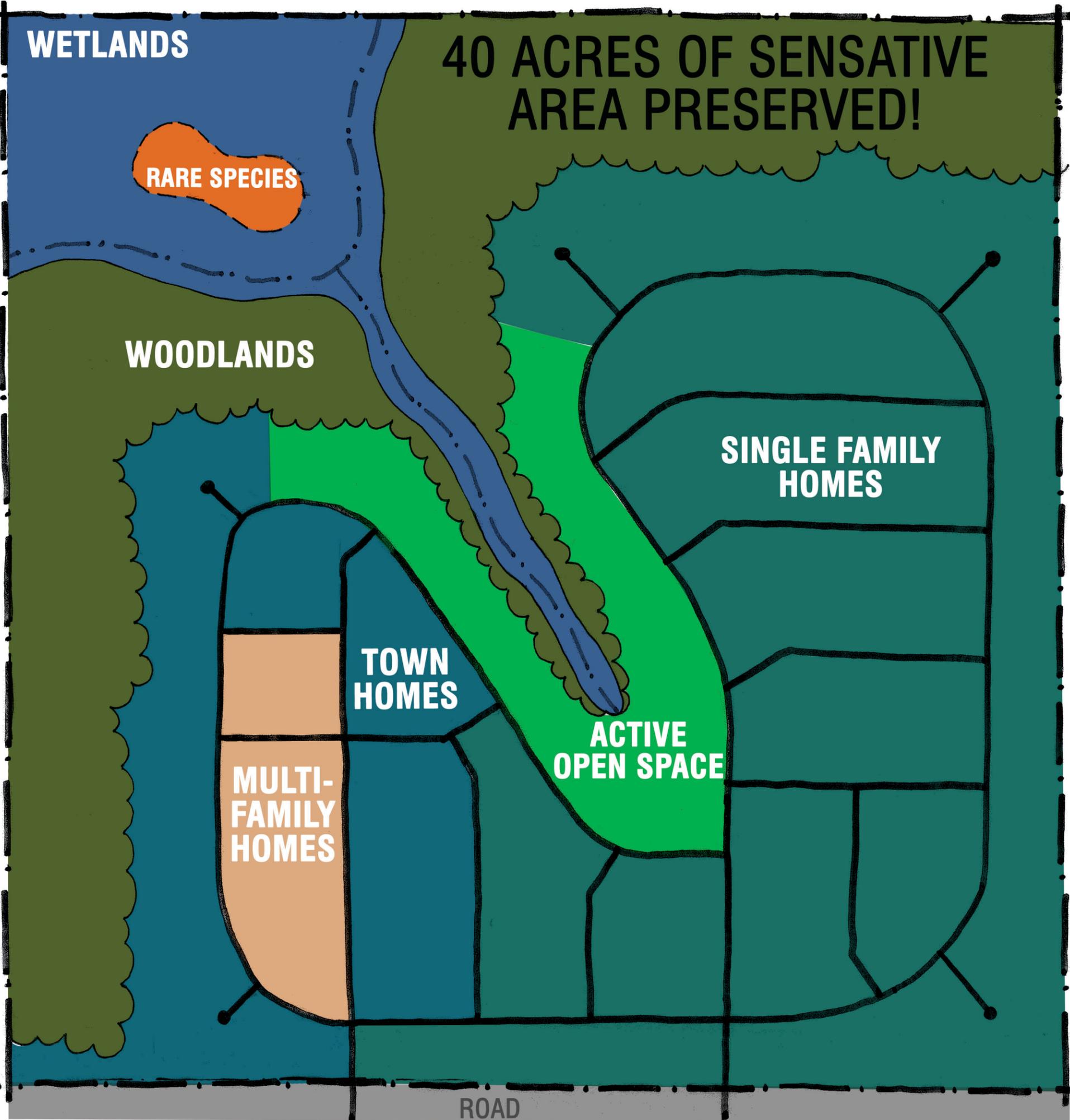


EXHIBIT 3

DEVELOPMENT UNDER INCENTIVE

**TOTAL DENSITY
= 4.56 UNITS/ACRE**

LEGEND

TOTAL SITE AREA.....	100 ACRES
RARE SPECIES.....	1 ACRES
WETLANDS.....	9 ACRES
WOODLANDS.....	30 ACRES
TOTAL SENSATIVE AREA.....	40 ACRES
TOTAL AREA REMAINING.....	60 ACRES
TO BE DEVELOPED	

CAT 1 = (4) X 1ac X (3).....	12
CAT 3 = (2) X 9ac X (3).....	54
CAT 4 = (1) X 30ac X (3).....	90
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TOTAL INCENTIVE UNITS.....	156
BASE UNITS.....	300
TOTAL ALLOWABLE UNITS....	456

UNIT COUNTS

SINGLE FAMILY-COTTAGE... AND SINGLE LOTS	202 UNITS
TOWNHOMES.....	158 UNITS
MULTI-FAMILY.....	96 UNITS
OPEN SPACE	
TOTAL LOTS.....	456