

Chapter 10

Land Use

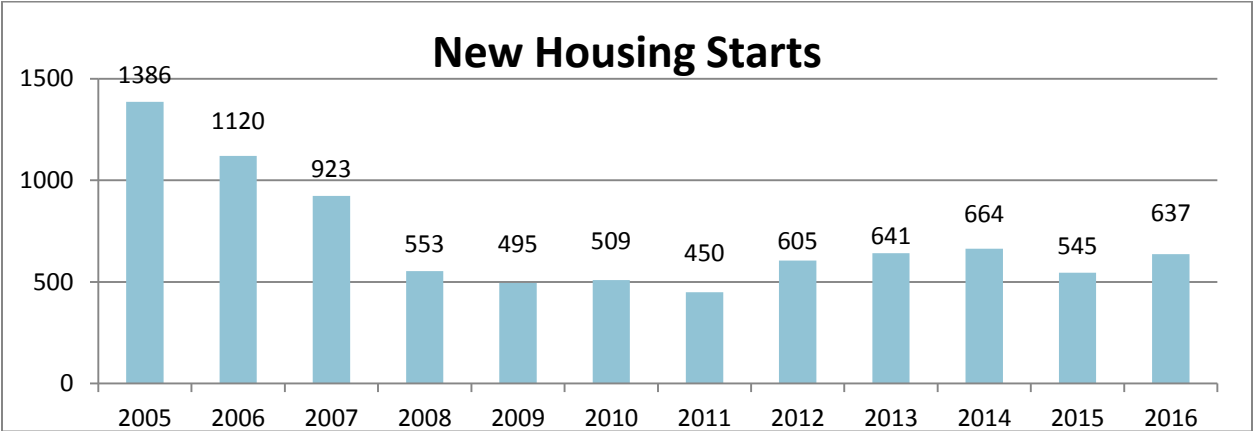


Overview

The overall theme of the Comprehensive Plan is the creation of communities, providing adequate infrastructure to those communities, enabling and encouraging economic development, and preserving the rural character and agricultural industry of the County. The Plan in general and the Land Use element in particular are designed not only to direct development but also to direct investment of public resources in infrastructure and land preservation.

Historical Trends and Current Conditions

The housing market, rate of development, and land use patterns have changed markedly since the 2008 Plan was adopted. The recession resulted in a depressed housing market, notable decline of new housing starts, and an effective end to speculative subdivision.




While the number of new housing starts has rebounded and leveled off since the recession, the number of new lots created has not rebounded partly because of substantial existing inventory and partly because of tighter lending restrictions.

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Major Subdivisions	34	8	3	3	7	1	1	5	--	--	1
Number of Lots	5234	402	384	170	896	428	35	475	--	--	105

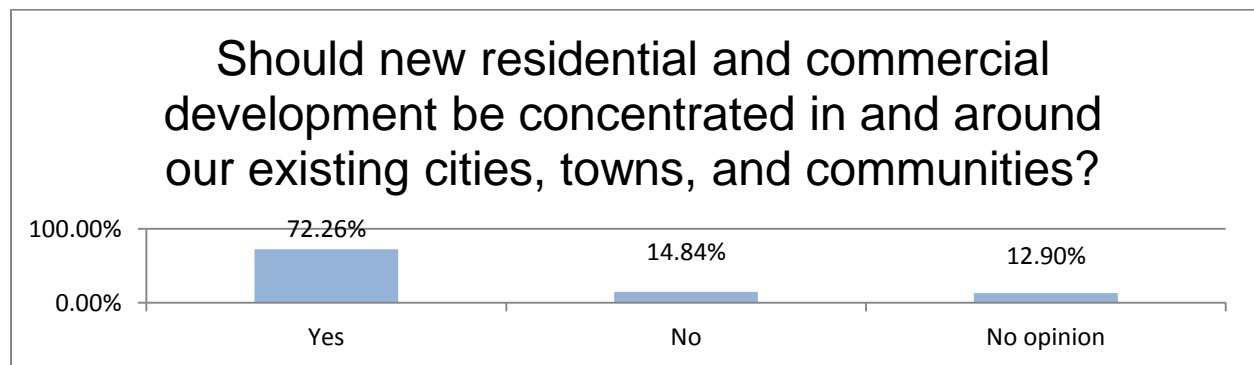
There are approximately 8,800 vacant lots within major subdivisions while just over 4,400 lots have been expunged because construction did not commence. If market demand for single family lots of 10,000 sq. ft. remains the same and the average number of new housing starts remains at roughly 650 per year, the current inventory will be sufficient for more than a decade. At the same time, the County must be mindful that market demands can change and it is quite possible that existing recorded subdivisions will be revised to satisfy that demand.

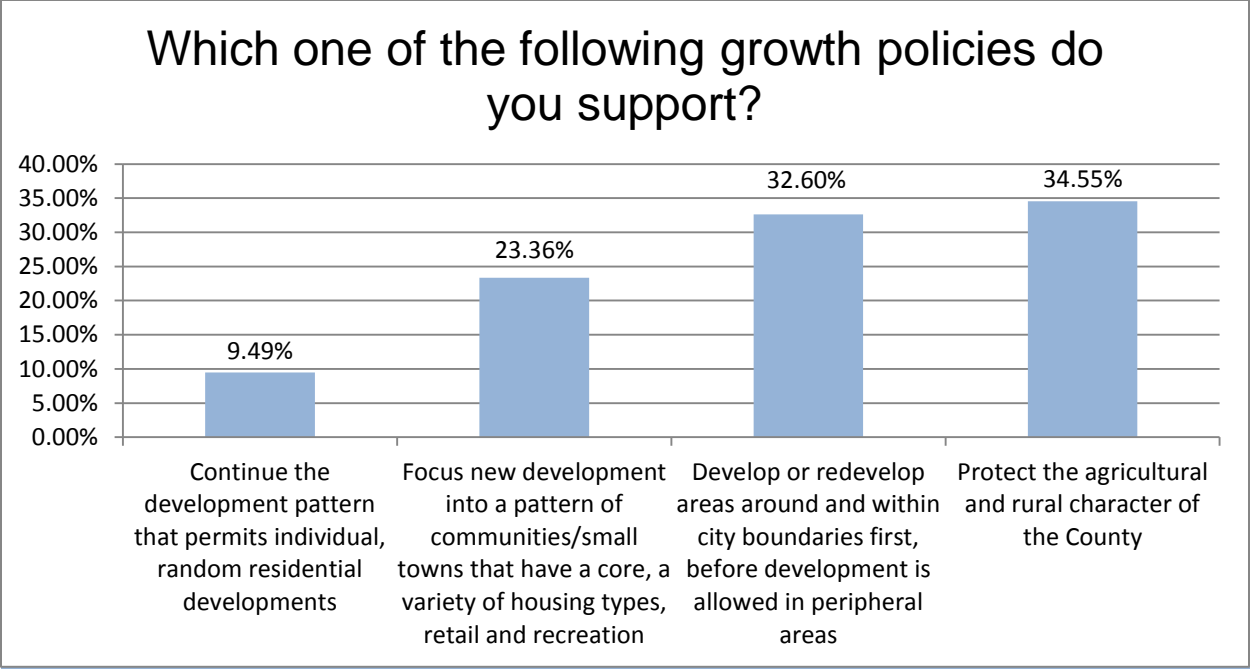
While there has been some commercial development in the unincorporated area over the past ten years, the trend continues to be that of large scale commercial and industrial development occurring within municipalities where infrastructure is available. While it is appropriate that large scale retail development and employment centers are often better suited to municipalities, the result is that much of the residential development in the unincorporated area has little access to neighborhood commercial uses, employment centers, and recreation opportunities nearby.

Since the creation of the Growth Zone Overlay District in 1996, the County’s established growth strategy has been to direct development toward areas where supporting infrastructure exists or is planned. [Map](#)  showing developing density demonstrates the strategy has been largely successful.

Goals For The Future

Feedback following the initial community outreach reveals support for the County’s existing growth strategy of encouraging growth in existing developed areas.





Based upon feedback from community outreach, available data, and emerging land use patterns the goals articulated in the 2008 Plan remain relevant:

Building on Community Centers

A central location enables greater access to employment, services, and recreation with a reduced dependence on the automobile, greater efficiencies in delivery of public services, and corresponding cost savings to the tax payers of Kent County.

Adequate Infrastructure and Public Services

There remain areas of residential development with inadequate facilities and services. One of the County’s primary objectives continues to be facilitating the provision of adequate infrastructure and services for new developments paid for by those who benefit from the development. Another objective is to identify alternatives for upgrading services in areas where development has already been approved without benefit of the County’s Adequate Public Facilities Ordinances.

Preservation of Areas for Economic Development

As stated previously, while Kent County has experienced a significant amount of residential development, commercial and industrial development in the unincorporated area have been lagging. A priority of this Plan is to preserve areas appropriate for economic development where adequate infrastructure is available or can reasonably be provided. Throughout the Plan, areas designated for future industrial, commercial, and smaller scale neighborhood development have been designated.

Protection of Natural Resources

As Kent County changes and grows, opportunities to carefully integrate development with natural features such as streams and the coastal areas will arise. Ensuring that development is responsive to Kent County’s natural amenities will help to keep Kent County beautiful, vibrant, and desirable.

Protection of Rural Character

Kent County's economy has been agrarian based for a major part of its history, since the early Swedes, Dutch and English first started arriving in Kent County in the late 1600's. As of today, 49% of the land is dedicated to agriculture with an annual production value of \$120 million¹. Protection of the rural character of Kent County is dependent on our ability to encourage and protect agricultural uses. A majority of the participants in the Comprehensive Plan public workshops indicated this issue as a major priority.

Even within designated growth areas, open space and elements of the County's rural character need not be sacrificed. Open space is either privately or publicly owned land that is vacant and provides recreational opportunities for its citizens, as well as habitat for Kent County's wildlife. Open space contributes to the local economy as well as the quality of life. In addition, open space between land use areas helps provide a sense of place by providing a visual distinction between areas.

Protection of Historic Places

Kent County has a rich history. This history is part of what makes Kent County such a desirable place to live. Preservation of remnants of this history including buildings, landscapes, and archeological sites is an integral component of this Comprehensive Plan.

Encouraging Mixed Uses Where Appropriate

Broadly defined, mixed uses incorporate, in a mutually supportive manner, more than one land use, density or type of housing, or development character. This Comprehensive Plan encourages the mixing of uses at a community scale with a variety of uses within a comparatively short travel distance of each other. Mixed uses can include the development of projects that mingle different housing densities or types; single buildings with both employment and residential areas; and areas of different uses that are coordinated and linked with transportation features including transit, architectural characteristics, or other unifying features. It is the intent of this Plan to support a broad definition of mixed use where appropriate without mandating specific details which may quickly become outdated.

Mixed use projects are supportive of more efficient transportation, encourage a wide variety of housing types to meet the broad range of residential needs, reduce costs of living, and provide an interesting built environment. A key component of mixed used projects includes the establishment and enforcement of architectural and site design standards.

Discourage Sprawl Development

The opposite of creating communities is enabling sprawl. Since the Growth Zone Overlay was established in 1996, the County has attempted to discourage sprawling development in favor of focusing new development where infrastructure can be efficiently and cost effectively provided. Sprawl development is characterized by:

¹ 2002 Census of Agriculture, USDA

- Low density residential development in a rural area that is not contiguous with or in proximity to existing infrastructure such as schools, shopping, institutions, local police protection and emergency services;
- Land use conversion/land consumption;
- Segregation of land uses and housing types; and
- Dependence on the automobile to fulfill daily needs.

The negative impacts of sprawl development include:

- Traffic congestion, severe during peak hours.
- Fragmentation of wildlife habitat: Wildlife relies on contiguous and connected habitat and a network of ecological features to survive.
- Loss of productive farmland.
- Loss of rural character.
- Increased costs to provide essential services.
- Degradation of water quality: Developments in rural areas rely on individual and community on-site septic systems. If not properly maintained, sewage can pollute ground-water and surface water.
- An increase of impervious surface which threatens water quality: Recent studies have indicated that water quality is degraded once a watershed exceeds 10% imperviousness.²
- Fragmentation of farmland which impedes agricultural uses, discourages existing and expanded agricultural uses, and increases conflict between farm equipment and increased residential traffic on rural roads.
- Degradation of air quality through increased emissions from individual vehicles.
- Threatens ability of the State and Local government to provide services such as roads, transit, schools, and emergency services.

Land Use Strategy

Map _____ reflects the County's Future Land Use Map and immediate proactive comprehensive rezoning is not contemplated. Map _____, however, reflects areas where specific mixed use, higher density, commercial, industrial, and employment center development could be supported, provided it is in keeping with the character of the area and adequate infrastructure is in place or planned to serve it. Specifically, Map _____ reflects the following:

² Holland, H.K. & Schuler, T.,R. (2000). The Practice of Watershed Protection, pp. 7-18, 145-161.

Town Areas

Description

Development in unincorporated areas in close proximity to cities and towns should be similar in nature and respect the existing development patterns of the municipalities. Higher density residential uses and a variety of nonresidential uses should be encouraged as well as provide for a full suite of public services including adequate roads, water, wastewater, parks and recreation, and fire and emergency medical services. Medium to high densities would be considered appropriate for properties near cities and towns provided the development density and design are in keeping with the character of the surrounding area.

The approach in these areas is to recognize and protect the essential land use and aesthetic character of the cities and towns and the values they foster. Protection will require close cooperation between Kent County and the towns concerning land use planning review of development proposals, extension of services and annexation. In addition, by encouraging development in and around municipalities, the Comprehensive Plan intends to reduce development pressure in other areas of the County. Development in this area is encouraged because it is contiguous with current development where it can be most effectively serviced by infrastructure including public water, sewer, and roads.

Concentrated and mixed use development along with interconnectivity and multi-modal transportation options are encouraged in areas proximate to municipalities. This development can include residential, employment, services, commercial, industrial, institutional, and shopping. Concentrated and mixed use development makes the most cost-effective use of public infrastructure. This development form may reduce the number of vehicular trips and trip lengths needed. These factors combine to lower the per capita cost of infrastructure, reduce the traffic impacts of development and cost to build, improve, and maintain roads. If not already designated as Receiving Areas as part of the County's Transfer of Development Rights (TDR) program, designation as Primary Receiving Areas could be appropriate.

Land Uses

Development should be mixed use, compact, and in keeping with land use patterns and characteristics in the municipalities. Mixed use projects should be performance-based and reviewed according to certain performance criteria. Performance criteria should be based on achieving the characteristics of nearby municipalities. Appropriate housing types include single-family, two-family, townhouses, and multiplex and multifamily. Residential use may also be permitted on upper floors of structures with first floor commercial.

A wide range of commercial uses should be considered in areas proximate to municipalities including wholesale and retail sales, personal and business services, civic uses and office space. Large shopping centers over 100,000 square feet should be located in proximity to principal arterial and major collectors. Neighborhood commercial uses should be located near or within residential areas. Light and heavy industrial uses including non-manufacturing and manufacturing should be located in areas appropriate to their intensity and infrastructure requirements.

The purpose of commercial development in these areas is to create a sense of place and destination for existing and new neighborhoods while complementing the existing commercial development in the adjacent towns. This development will serve an agglomeration of adjacent and nearby neighborhoods, the adjacent town, and the larger community. Commercial development in these areas should function as transitional passages between the towns and larger regional-scaled communities. Small blocks and frequent intersections with connecting streets and sidewalks connect residents to regional transportation, commercial services and an active streetscape. Commercial development will be typically between 0.5 and 1.5 miles in length and will be located along roadways classified as minor arterials and major collectors. While this development will be accessed by automobile, the design should appeal to the pedestrian scale. Design elements need to serve both pedestrian and vehicular traffic also with public transit opportunities in mind. Types of uses include restaurants, specialty shops, services, grocery and civic uses (i.e. libraries and fire stations).

Village Areas

Description

There are areas within the unincorporated areas of the County and within the Growth Zone Overlay where a concentration of existing approved residential development exists. The emphasis in these areas is to encourage needed infrastructure and services in order to create community centers to serve the pockets of residential development. Future development in these areas should consist of low to medium density residential and neighborhood commercial uses as well as significant investment in infrastructure. The overarching goal, however, is to equitably address the infrastructure concerns of the residential growth that occurred over the last five years and retrofit adequate facilities and infrastructure. The intent is to enable the creation of communities rather than only single-use residential subdivisions.

While this Comprehensive Plan is unable to address residential development that is already approved, it can address land uses in specific areas in an effort to create a more livable and quality community. Ideally, residential neighborhoods should have a sense of place where people enjoy living. Qualities that foster this environment include³:

- Quality of the public space;
- Variety of uses and building types;
- Connections to people and to daily needs; and
- Places to walk and ride bicycles.

Development should be focused on providing needed infrastructure and public services. Low to medium density zoning classifications would be considered appropriate in these areas provided development density and design is in keeping with the character of the surrounding area. If not already designated as

³ *Better Models for Development in Delaware, Ideas for Creating More Livable and Prosperous Communities.* Edward T. McMahon with Shelly S. Mastran and Blaine Phillips, Jr., The Conservation Fund in partnership with Livable Delaware Advisory Council Community Design Subcommittee and Office of State Planning Coordination. March 2004, Pg 52

Receiving Areas as part of the County's Transfer of Development Rights (TDR) program, designation as Secondary Receiving Areas could be appropriate.

Limited Neighborhood Commercial development should create a center that is well integrated to existing and planned neighborhood fabric, respects existing residences, and provides needed infrastructure. Neighborhood commercial centers are meant to be places of more intensive urban uses within a neighborhood. These centers should provide the most localized availability of goods and services needed daily by area residents, as well as a social and operational focus of the area. Providing needed services, these centers play an important role toward creating a sense of place for the residents. The size of neighborhood commercial centers should be scaled according to the population the center is targeted to serve. Some centers will be developed to serve the needs of the immediate neighborhood, while other centers will serve the needs of the area and still others will serve the needs of the region.

Land Uses

Appropriate housing types include single-family, two-family, townhouses, multiplex designed to resemble single-family units, and manufactured housing. Two-family, and multiplex dwellings should be designed to resemble single family dwellings in an effort to preserve the character of the area. Townhouses should be limited to TDR Receiving Areas and be of an appropriate scale and design to complement the character of the area and existing and proposed single family development. Appropriate commercial uses include neighborhood commercial, retail sales, personal and business services, and office space. Examples of these uses can include:

- Retail: grocery, books/music/videos, culinary, flowers, gifts, clothes, art/office supply
- Professional office: medical and financial
- Personal services: salon/barber, counseling
- Mini-storage
- Eating and drinking establishments
- Entertainment and culture
- Winery and microbreweries
- Public facilities: elementary schools, branch library, fire and police stations, branch and post office
- Religious facilities

Light industrial uses include non-manufacturing and manufacturing, and may be located in areas appropriate to their intensity and infrastructure requirements.

Remaining Areas Within the Growth Zone Overlay District

Description

There are areas even within the Growth Zone Overlay which are removed from the County's cities and towns as well as existing and planned infrastructure. Development within these areas should seek to preserve the rural character of the County by utilizing buffers along the road frontage and cluster design while at the same time permitting low density development. In addition, these areas can serve to

provide a break in the more intensively built environment permitted by the Primary and Secondary TDR Receiving Areas.

Land Uses

Primarily, single-family detached and single-family semi-detached dwellings are contemplated in these areas. These areas are contemplated to not be eligible for receiving TDR credits. In addition, sight design requirements such as substantial buffering and landscaping are encouraged in order to maintain the rural character of the area. Low density zoning classifications should be considered appropriate in these areas and development design should be in keeping with the surrounding area.

Areas Outside the Growth Zone Overlay District

Description

The predominant land use outside the Growth Zone Overlay is agriculture, the most significant industry in Kent County. In addition, many properties include sensitive environmental features such as wetlands, woodlands, and critical habitat. The County's primary interest outside the Growth Zone Overlay is to preserve agricultural land and rural infrastructure, protect environmentally sensitive areas, and protect the water quality of the Delaware Bay and Chesapeake Bay Watersheds.

Land Uses

Agriculture and agriculture related uses should be the dominant land uses in areas outside the Growth Zone Overlay. Large scale residential development is not encouraged in areas outside the Growth Zone Overlay. Should large scale residential development occur in these areas, single-family detached dwellings at very low densities are contemplated. In addition, **Map _____** shows limited areas where Neighborhood Commercial uses could be considered appropriate to support the existing small towns and residential communities

Designation of Nonresidential Land Uses

Map _____ designates areas for future Industrial, Highway Commercial, Neighborhood Commercial, and Employment Centers throughout the County. They have been identified based upon existing land uses in the area, as well as the availability of supporting infrastructure. The areas designated are not parcel specific but general locations where such uses could be considered reasonable. The Industrial Areas are concentrated in locations where supporting transportation infrastructure exists and/or around existing industrial development. The Highway Commercial Areas are generally located in and around areas of existing larger scale commercial development and along major roadways. Neighborhood Commercial Areas are located in and around existing residential communities that lack smaller scale retail and service amenities. Employment Centers are located in areas where infrastructure, particularly highway access and public sewer, exists or is planned and are intended for uses that create jobs – offices of all types and light industrial development are the types of uses contemplated. A new zoning district should be created to enable development of the Employment Centers.

While the Regional Planning Commission and Levy Court should use **Maps _____ and _____** as a guide in evaluating applications for rezoning, the standards included in the Zoning Ordinance regarding

compatibility with surrounding land uses and availability of infrastructure remain in effect and should have equal weight in rezoning property. Specifically, in evaluating any rezoning request, the Department of Planning Services, Regional Planning Commission, and Levy Court should use the following criteria:

1. There was a mistake in the Zoning Map or the character of the surrounding area has changed to such an extent that the Zoning Map should be changed;
2. The new zoning classification conforms to the Comprehensive Plan in relation to land use, number of dwelling units, or type and intensity of nonresidential buildings and location;
3. Transportation facilities, water and sewerage systems, storm drainage systems, schools, and fire suppression facilities adequate to serve the proposed use are either in existence or programmed for construction; and
4. There is compatibility between the uses of the property as reclassified and the surrounding land uses so as to promote the health, safety, and welfare of present and future residents of the County.

The timing of rezoning is important to consider as well particularly with respect to item number 3 above. In some cases, adequate public facilities are not currently in place to support commercial or industrial development although they are anticipated to be available within the planning horizon of 25 to 30 years.

Transfer of Development Rights

A Transfer of Development Rights (TDR) program is simply the conveyance of the ability to develop residential lots from one property to another. The existing Kent County TDR program identifies sending areas outside of the Growth Zone Overlay and receiving areas within the Growth Zone Overlay resulting in the ability of landowners outside the Growth Zone Overlay to sell their right to develop to land owners within the Growth Zone Overlay. The monetary value of a development right is determined by the free market just as the monetary value of land is determined by the free market. In addition, the existing TDR program is considered voluntary and the base development density is still relatively high as compared to the transfer density. As an example, Primary Sending Areas in the existing program may transfer at a rate of 1.5 acres to 1 (1.5 sending credits per acre) but alternatively may develop for residential purposes at a rate of 1 unit per acre. Likewise, a Secondary Receiving Area may develop at up to 5 units per acre depending upon the number of development rights purchased but alternatively may still develop at a rate of 3 units per acre without the use of TDRs.

This Plan promotes the continued and expanded use of the TDR program in order to achieve the land use patterns and densities contemplated. Incentives, in addition to TDR density bonuses, are contemplated in order to make the program more attractive to developers within the Growth Zone Overlay and encourage an active market for transfer credits. Possible incentives include:

1. Revising the review process for TDR projects to include Sketch Plan review by the Regional Planning Commission rather than the Levy Court;

2. Revise the review process for conventional subdivisions to require Preliminary Plan hearings in front of the RPC and the Levy Court;
3. Require Sketch Plan submission for both TDR and conventional projects for public hearing before the Regional Planning Commission. In addition, require that both the Sketch Plans and Preliminary Plans for conventional subdivisions be subject to public hearing in front of the Regional Planning Commission;
4. Providing TDR projects as first priority on Regional Planning Commission agendas⁴; and
5. Eliminating the Regional Planning Commission and Levy Court Final Plan review for TDR projects and instead permitting administrative review and approval.

Policy Emphasis

Enable the creation of communities, create economic development opportunities, ensure adequate infrastructure to serve those communities, and preserve the rural character and agricultural industry of the County by directing development and public investments to areas designated for growth and creating development alternatives for properties outside of growth areas.



⁴ Ordinance 07-02 adopted January 16, 2007 established a limit of three residential major subdivision applications for Regional Planning Commission public hearing and consideration in any one month.

Specific Recommendations

1. Create a zoning classification for Employment Centers. Permitted uses should include those that result in job creation as opposed to retail and service uses permitted in the Commercial Zoning Districts. Uses that support the County's Food Innovation District should be included as well.
2. Update and expand the uses permitted in the Agricultural Conservation and Agricultural Residential Zoning Districts to support the modern agricultural industry and the County's Food Innovation District.
3. Create a zoning classification or development option within existing districts to permit and encourage mixed use development in appropriate areas.
4. Conduct a complete review of Chapter 205 *Zoning* to update zoning districts and permitted uses to more modern standards.
5. Portions of the Growth Zone Overlay District boundary do not follow natural or man-made boundaries. In many cases, the boundary actually bisects individual properties creating a challenge in accurately locating the boundary. Any revisions to the boundary will require a zoning map amendment with all associated public notice and posting requirements. Individual property owners may apply to revise the boundary through the zoning map revision process although the Levy Court may also proactively alter the Growth Zone boundary.