



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

April 21, 2005

The Honorable Jack Walsh
Mayor, Bethany Beach
P.O. Box 109
Bethany Beach, DE 19930

RE: PLUS review – PLUS 2005-03-03; Town of Bethany Beach Comp. Plan

Dear Mayor Walsh:

Thank you for meeting with State agency planners on March 30, 2005 to discuss the proposed Bethany Beach Comprehensive Plan.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

The following is a complete list of comments received by State agencies, beginning with general certification issues.

Certification Issues

In the Roadway Facilities Section on page 38, the Overview states that “DelDOT uses an access-management policy to guide its construction of this access...” While the sentence is technically correct because “access-management policy” is not capitalized, it could be misleading. Several years ago, DelDOT developed an Access Management Policy that met with public opposition and was not implemented. The policies by which they manage access are contained in the Standards and Regulations for Access to State Highways. DelDOT would appreciate it if the Town would reword that sentence.

The plan incorrectly states that specific TMDL standards have been planned for the Salt Pond and the Assawoman Canal. Actually, TMDL standards for these waterbodies/waterways are tied to larger watershed/subwatershed-based TMDLs, as have been developed for the Inland Bays.

Office of State Planning Coordination – Contact: Ann Marie Townshend 739-3090

The Municipal Development Strategy must consider the potential land uses, current zoning and development potential of adjacent areas within the county and/or in near-by municipalities, and how the development of these areas may impact the community in the future. While the town may not seek to annex these properties, the plan may contain some policies or guidelines for interacting and coordinating with the relevant county and/or municipal government as these lands develop. There is discussion of the rapid growth in coastal Sussex, but no real detail of what immediately surrounds the Town's borders, particularly north and south.

The comprehensive plan shows open space and park areas but does not specify that these are town-owned. A map labeling publicly-owned open space and park areas would be helpful.

It should be noted that within 18 months of the plan's adoption, the zoning map must be consistent with the future land use map. For parcels shown as either institutional or open space, the text should address what zoning categories would be consistent with these uses.

It appears that current infrastructure meets the needs of the Town. A description of current peak and off-peak usage for water and sewer should be included in the plan.

State Historic Preservation Office (SHPO) – Contact: Alice Guerrant 739-5685

The plan provides a history of the town. In the Economic and Community Development section, it gives a brief inventory of the historical and cultural properties important to the town, mentioning the historic survey conducted by the SHPO. The plan's specific historic preservation objectives include a recommendation that the town complete a local inventory and that it encourage historic preservation activities. A recommendation that is important to historic preservation, although not specifically linked to it, is to maintain public involvement in future projects.

In the Housing section, although historic preservation is not specifically noted, one major goal is to maintain the traditional character of the town. The first recommendation is the establishment of an Architectural Review Board to promote appropriate redevelopment and to establish architectural and aesthetic design guidelines. Historic preservation plays an important part in maintaining traditional character, and the review board is the logical body to determine which buildings deserve stronger protections because of their historic and cultural value and to apply those protections through the design guidelines. Such a board also provides a public forum for citizens to raise and to debate historic preservation issues, which is one of the points that we want to see in a plan. The plan should make these connections with historic preservation explicit in the Housing section.

The State Historic Preservation Office commends the town on its attention to historic preservation, and strongly encourages it to follow through on the plan's recommendations, once it is in place.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) The Town should be congratulated on the success of their public participation process. The 67 percent response rate on their questionnaire is very, very good.
- 2) In Roadway Facilities Section on page 38, the section on State Route 1 cites figures from DelDOT's 2001, 2002, and 2003 Traffic Summary reports as evidence that traffic on the road is growing at 2.9 percent per year. That may be misleading.

As the Plan indicates, the base data used for the volumes they cite is a set of traffic counts done in 1997. Every state-maintained road in Delaware, other than subdivision streets, is assigned to one of eight Traffic Pattern Groups (TPG). For each TPG, DelDOT has a set of permanent counter stations that collect data all year and are used, among other things, to develop a growth factor for that group. Where they do not have a new count in a given year, they apply the growth factor to the previous year's volume to get a new volume. The subject sections of Route 1 are in TPG 8, Recreational Routes, which has 13 permanent counter stations. In the years 1998 through 2003, the percentage growth factor for TPG 8 was as follows: +6.51, +6.51, -3.00, +5.00, +8.00, -2.30. Thus, DelDOT questions the assumption of 2.9 percent, which as they understand it was calculated as an average of the +8.00 percent and the -2.30 percent.

As alternatives, DelDOT suggests that the Town might do one of two things, either they could refer to the permanent counter station on Route 1 south of Dewey Beach, or they could use a forecast from a travel demand model, based on demographic data. The permanent counter data is published in our Traffic Summary reports. Because the Plan, as drafted, projects the Route 1 traffic 25 years from now, it is recommended that the town use a demographically based travel demand model, which would be less effected by short-term trends. Travel demand model forecasts are prepared by our Statewide and Regional Planning Section. The Town may contact Mr. Michael DuRoss, a Transportation Planning Supervisor in that section, for information in that regard. He may be reached at (302) 760-2110.

The same approach is used to project traffic on State Route 26 and DelDOT has similar concerns about that. There is a permanent counter station on Route 26 in Ocean View that could be used to project traffic west of Route 1, but again for a long-term forecast, it is recommended that you use a travel demand model.

- 3) On page 39, the Plan expresses the Town's dissatisfaction with DelDOT's planned improvements to State Route (SR) 26. Since the November 10, 2004 Public Workshop, DelDOT has received many comments regarding the need for a shared center left turn lane along SR 26 for the entire 4-mile length from Clarksville to the Canal. The concept plans DelDOT displayed at the workshop showed the shared center left turn lane for about 1/3 of that length. In response to these comments, the project team is currently evaluating the cost and feasibility of extending the shared center left turn lane to the rest of the project length. At this time, DelDOT anticipates that it is possible to add it in some areas, but probably not the entire length. DelDOT plans to hold another public workshop on May 9, 2005, from 4:00 to 7:00 p.m. in the Roxana Fire Hall, to show the results of their analysis. They anticipate a final decision and approval of the concept plan this summer. The extent of the shared center left turn lane will depend on their evaluation of costs and benefits and public feedback at the May 9 workshop. DelDOT will move into final design of the construction plans immediately after approval of the concept plans with our goal being to begin construction in the spring of 2008.

- 4) From discussion at the PLUS meeting and subsequent discussion with DelDOT staff, it appears that there may be some confusion with regard to the Town's streetscape project. Their understanding of the situation is as follows.
 - a) The project limits are Garfield Parkway from Pennsylvania Avenue to Atlantic Street.
 - b) The Town is managing the design of the project. The design is subject to DelDOT approval before the plans are advertised for construction.
 - c) Funding of the utilities relocation and the streetscape improvements will need to be separate. DelDOT will not fund the utilities relocation. The Town can seek (and may have sought) funding for the utilities relocation through the Bond Bill. DelDOT has approved \$144,000 in Transportation Enhancement (TE) funding, which will be used to reimburse the Town for the design of the streetscape improvements within the above limits. They anticipate approving TE funding for the construction of those improvements when their cost is known. If it is available from the Department of Agriculture, a grant from that Department's Urban Forestry program can be used to match TE funding of the streetscape improvements.

Questions on DelDOT's role in the project may be directed to their project manager, Mr. Jeff Niezgoda. He may be reached at (302) 760-2178.

- 5) At various places in the plan, there are recommendations that pertain to coordination with DelDOT, for example on page 42, coordination with DART on regional public transportation is recommended, and on page 43, working with

DeIDOT on pedestrian-related improvements is recommended. For this reason, below are the following contacts who can help the Town with implementation of the Plan after it is adopted:

Subject	Name	Title	Telephone Number
General	Gary Laing	Community Liaison	(302) 760-2080
Traffic and Safety	Donald Weber	Assistant Director, Traffic	(302) 659-2002
Bicycle, Pedestrian and Transportation Enhancement	Joseph Cantalupo	Assistant Director, Statewide & Regional Planning	(302) 760-2112
Delaware Route 26	Robert McCleary	Regional Group Engineer	(302) 760-2179
Public Transportation	Catherine Dennis	Planning Manager	(302) 577-3278 extension 3471

**The Department of Natural Resources and Environmental Control – Contact:
Kevin Coyle 739-3091**

Wetlands

Page 50 under the Wetlands subsection – consider adding the following text regarding regulatory protection of wetlands:

Regulatory Protection of wetlands is mandated under Federal 404 provisions of the Federal Clean Water Act. Tidal wetlands are accorded additional regulatory protection under Title 7 Chapter 66 provisions of the State of Delaware’s Code. Compliance with these statutes may require an Army Corps of Engineers approved field wetlands delineation and/or DNREC approval.

It is also strongly recommended that the Comprehensive Plan contain language restricting lot line placement within delineated wetlands.

Total Maximum Daily Loads (TMDLs)

The plan should specify the level of nutrient reduction required under the TMDL mandate for the Inland Bays. Since development in Bethany Beach is likely to impact the Inland Bays, specific mention of the TMDL mandated for this watershed should be mentioned in the narrative. Under this mandate a 40 percent reduction in nitrogen and phosphorus will be obligatory (probably June 2005) for large portions of the Inland Bays watershed including the Bethany Beach area. In order to demonstrate whether a development or changed land use will comply with the TMDL mandate, a nutrient budget will have to be calculated. Given the fact that land use and water quality are strongly

connected, development in and around Bethany Beach should be conducted with respect to environmental sustainability. Since protection of the environment is ultimately tied to the achievement of the Federal TMDL nutrient reduction(s) and the pollution control strategies to achieve these reductions, all levels of government should be unified and involved to make sure these reductions are achieved. Therefore consider inserting the following in this section:

“With the adoption of Total Maximum Daily Loads (TMDLs) as a “nutrient-runoff-mitigation strategy” for reducing nutrients in the Murderkill subwatershed, reduction of nitrogen and phosphorus loading from all land use activities within the town of Bethany Beach will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a “water quality limited water body” can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals will fall under the auspices of Section 11.5 of the State of Delaware’s Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as “pollution control strategies.”

“Nutrient reductions prescribed under TMDLs are assigned to those watersheds or subwatersheds on the basis of recognized water quality impairments. In the Inland Bays the primary source of water quality impairment is associated with nutrient runoff from agricultural and/or residential development. In order to mitigate the aforementioned impairments, a TMDL reduction level of 40 percent will be required for nitrogen and phosphorus, respectively. Any proposed development within the Inland Bays subwatershed will have to demonstrate (via scientifically-defensible nutrient budget calculations) that said development will reduce nutrients to the level specified by the individual or collective TMDL(s).”

Buffers

No mention was made regarding the implementation or use of stream or wetland buffers. Since buffers are an integral Best Management Practice (BMP) for achieving the nutrient reductions prescribed under the TMDL mandate, specific recommendations regarding their implementation should be incorporated in the plan. The proposed regulations (likely to be adopted) under the Inland Bays pollution control strategy will require an average 100-foot buffer width from all wetlands and water bodies. It is strongly recommended the Town of Bethany Beach incorporate similar buffer guidelines into their Comprehensive Plan and implementing ordinances.

DNREC believes that jurisdictional entities should work together in united/coordinated manner using clearly-defined and consistent environmental goals, hence reducing the possibility of interpretative disagreements in the future.

Water Supply

The current water allocation is adequate to provide 100 gallons per day per capita water use for the permanent population through the 5-year review period (2010). This amount is higher than the statewide average per capita water use. The Town has historically exceeded its daily average per capita during the tourist season, as can be expected when the temporary population settles in for the summer. Well capacities (total 1,675 gpm or 2.4 MGD) are adequate for a seasonal population many times the permanent total. Although the permitted monthly maximum withdrawals may have to be adjusted upward in the intermediate future, DNREC does foresee any need for additional facilities in the next 5 years. Because the comprehensive plan does not propose any annexations, the projected growth rate should be accurate.

Source Water Protection Areas

DNREC strongly encourages the Town of Bethany Beach to adopt wellhead protection areas and excellent recharge areas as Critical Areas that need to be protected to insure a sufficient supply of clean drinking water.

Two excellent recharge areas exist within the municipal boundary. Four of the five wells that supply and the wellhead protection areas are located within the southern-most excellent recharge area. The comprehensive plan mentions that source water originates in wells for the town but does not address the need to protect that source from potential contamination. DNREC strongly encourages the Town of Bethany Beach to adopt ordinances that protect Critical Areas (wellhead and excellent recharge) within the municipal boundaries.

The DNREC Water Supply Section has delineated the wellhead protection area for the Town of Bethany Beach which covers a large area of the municipal boundary. This delineation was completed for four of the supply wells that serve the town and the assessment was provided to the Town at the end of 2003. An updated assessment will be completed to include the well not included. The updated assessment will not greatly affect the size of the Critical Area.

Page 52 of the *Update* includes a Goal Statement for Environmental Protection. This would be an ideal place to include the adoption of Critical Areas and to develop a strategy for protection of source water.

These wellhead area and excellent recharge areas should be included in the comprehensive planning process as suggested by 7 Del. C. Chapter 6082. This would be entirely voluntary on the part of the Town of Bethany Beach due to fact that the year-round population in the 2000 Census was less than 2000 people.

Flood Hazards

Page 8, Goal Statement 2: Please provide a more specific definition of the “system” intended to reduce flooding to the community. For example, consideration could be given to new building standards, floodplain management, or stormwater control.

Page 23: Delaware Coastal Programs strongly encourages the reduction of flood hazards through development of specific design criteria for structures located in floodplains.

Critical Natural Areas

Page 50: The discussion of flood plains and wetlands within the “critical natural areas” section should be more specific to Bethany Beach. Please provide more specific information about these resources in this section. The current descriptions merely define and explain floodplains and wetlands, but do not provide specific information about the extent or importance of these areas to Bethany Beach. For example, wetlands can help attenuate flooding, and so preservation and improvement of wetlands can be part of an overall flood abatement program. These areas may also provide habitat for important species of wildlife, and are part of the cultural history of the town.

Page 52, Recommendation 3, “Develop policies to maintain critical natural areas”: Delaware Coastal Programs strongly encourages actions which identify and outline strategies to protect natural resources within municipal boundaries. To this end, funding is available for many types of projects ranging from on-the-ground restoration to development of environmental ordinances through the Delaware Coastal Programs “Community and Local Government Natural Resource Management Grant Program.” Contact Susan Love at (302) 739-3451 for more information.

The critical natural areas section makes no reference to the Atlantic Ocean shoreline. This beach certainly is a critical natural area for the Town of Bethany Beach. Please consider including a description in this section, and designating it as such on the maps.

Rare Species

The DNREC database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities within the town limits of Bethany. There are, however, rare species outside of the town limits. There should be no impacts to these species provided the proper wetland buffers are maintained and no annexation of additional land is planned.

Effects of Beach Replenishment Activities on Rare/Threatened/Endangered Species

The town should be aware that dredging or ‘sand mining’ for beach replenishment has the potential to impact sea turtles, which are federally protected species. If hopper dredges are to be used for sand mining, DNREC will recommend that dredging not take place

from June 1 to November 1. This work window should be taken into consideration when planning the schedule for this activity.

In addition, sand deposition has the potential to create new piping plover habitat. Piping plovers are federally protected beach nesting birds that require monitoring and protection. This is not an issue at present because plovers do not nest on Bethany Beach, but this could become an issue once beach replenishment takes place. Please contact the endangered species biologist, Holly Niederriter at (302) 653-2880, prior to the start of beach replenishment activities. The beach may need to be monitored prior to sand deposition and afterwards to ensure that there is no impact on plovers.

Recreation

Page 25, Parks and Open Space: For clarification, it is recommended that the plan define the differences between a park and open space as related to amenities and/or public access. It is also recommended (for Maps 6 and 8) that the legend colors for the Parks and Open Space vary slightly to distinguish the Parks and Open Space categories.

Page 43, Recommendation 6, Bicycle Paths: It is recommended that bike racks and related security concerns be addressed in the plan.

State Fire Marshal's Office – Contact: Duane Fox 856-5800

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office.

The Delaware State Fire Marshal's Office has the responsibility to review all commercial and residential subdivisions for compliance with the DE State Fire Prevention Regulations. This Agency asks that a MOU be established between the DE State Fire Marshal's Office and the Town of Bethany Beach Planning Commission. The Commission will be issuing final approvals on commercial and residential subdivisions. The State Fire Marshal's Office issues approvals much like DelDOT, the Sussex Conservation District and DNREC. Their approvals are based on Delaware State Fire Prevention Regulations only.

Dead-end streets over 300 feet in length shall meet the minimum requirements set forth in the Delaware State Fire Prevention Regulations. Cul-de-sacs shall be a minimum 38-foot paved radius with no parking on the cul-de-sac.

Fire department access and fire lane layout shall be provided in accordance with the Delaware State Fire Prevention Regulations.

Department of Agriculture - Contact: Mark Davis 739-4811

The Delaware Forest Service would like to thank the Town of Bethany Beach for allowing them to review their 2005 Comprehensive Plan and commend the town for taking strides toward future growth and development. The Delaware Forest Service offers its assistance for possible future projects such as in-fill planting and revitalization within the Bethany Beach area. In addition, we recommend The Right Tree for the Right Place and the use of native trees and shrubs in planting activities.

Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Delaware Economic Development Office – Contact Dorrie Moore 739-4271

The Delaware Economic Development Office (DEDO) supports the Bethany Beach Comprehensive Plan as presented. Because there will be no annexation of additional land, DEDO will partner with the town and support their plans to target select industries and services that will compliment their existing businesses and meet the needs of a changing demographic dynamic.

Delaware State Housing Authority – Contact: Karen Horton 739-4263

DSHA supports the Affordable Housing Strategy described in the plan and agrees that a regional solution is needed. The plan actually makes a weak case for such a Strategy when there is data available to make a very strong case. It is recommended that the town include more information on the disproportionate number of retail and service sector jobs in the area compared to current real estate prices (available on the DSHA website) to show that much of the housing is out of reach of the people who work in the area.

Delaware Emergency Management Agency – Contact: Don Knox 659-3362

The Town of Bethany Beach has no plans to annex additional property into the town limits. The most significant impact to public safety is the growth just outside of town limits which affects the Bethany Beach Volunteer Fire Company fire district. To date they have been able to handle this growth. Another significant impact to public safety stems from much of the Town being located within the 100-year flood plain, and containing significant areas of both tidal and non-tidal wetlands. For the above reasons, it is very important that the Town develop and exercise flood and evacuation plans on a regular basis. It is important that the Town of Bethany Beach work closely with DEMA and the Delmarva Emergency Task Force to address disaster and emergency evacuation issues. The Plan addresses the Town's awareness of the importance of these issues to their residents and visitors.

Sussex County – Contact: Richard Kautz 855-7878

Technical Comments

Page 33. The Sussex County Regional Wastewater Facility (SCRWF) is located near Ocean View, not Frankford.

Page 48. The entire second sentence beginning with, "This action" can be deleted without having an impact on the plan.

Sussex County Engineer Comments

The proposed comprehensive plan is consistent with wastewater plans that have been developed by Sussex County for the South Coastal area. The plan should follow the guidance of the Livable Delaware program and include a more detailed section on historic preservation that, in addition to describing the historic houses in the town, attempts to address their long-term survival.

Following receipt of this letter, please provide the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the proposed plan or not and the reasons therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP
Director

CC: University of Delaware