



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
STATE PLANNING COORDINATION

January 17, 2006

Mr. Melvin Cusick
Town of South Bethany
402 Evergreen Road
South Bethany, DE 19930

RE: PLUS review – PLUS 2005-12-04; Town of South Bethany Comprehensive Plan

Dear Mr. Cusick:

Thank you for meeting with State agency planners on December 28, 2005 to discuss the proposed Town of South Bethany comprehensive plan.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State.

The following are a complete list of comments received by State agencies:

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

The plan meets most of the requirements for certification by the State. There are a few issues that must be addressed prior to the plan's certification. These are summarized below:

- In the section on Public Utilities, more detail is needed on the water and wastewater infrastructure in town. Probably a paragraph on each would fulfill the requirement, especially because the Town is fully subdivided and has only a small number of vacant lots. Specifically, regarding wastewater the plan text needs to include information on who provides wastewater services, in which county sewer district the Town lies, where the wastewater outfall is, and whether or not there

are any capacity issues of which the Town should be aware. Russell Archut from Sussex County Engineering should be able to provide this information. He can be reached at 855-7701. Regarding water, the plan needs to include information on who provides water services, well locations, water tower locations, and whether there are any capacity issues of which the Town should be aware.

- In the “Annexation and Surrounding Land Uses” section, mention should be made that the Town and surrounding area are in the Environmentally Sensitive Developing Area according to the 2003 Sussex County Comprehensive Plan update.
- DNREC comments address Total Maximum Daily Loads (TMDLs) for the Inland Bays. While significant mention is made of water quality issues, the TMDL for the Inland Bays should be mentioned specifically. Language is included in DNREC’s comments that could be incorporated into the “Environment, Recreation and Open Space” section of the plan.

In addition we ask that you consider comments made by State agencies below. We specifically concur with DeIDOT that a map depicting areas for annexation should be included to avoid confusion in the future at such time that annexations are considered.

Please let the Office of State Planning Coordination know if our staff can be of assistance as you finalize the South Bethany Comprehensive Plan.

Division of Historic and Cultural Affairs – Contact: Alice Guerrant 739-5685

The Town of South Bethany Comprehensive Plan does not deal with historic preservation in any way. This is somewhat understandable, based on a review of the town profile on pg. 14 of the plan document. The town wasn’t incorporated until the late 1960s. There is at least one historic property the town may want to be involved with the preservation of: the Cat Hill Cemetery. Discovered on a parcel of land within the Cat Hill subdivision, the identified lot is now in private hands. Members of prominent Delaware families with long ties to the area are related to those buried in the Cat Hill Cemetery. Recognition and protection of this property could provide the residents of the Cat Hill and Town of South Bethany community with a physical connection to the history of the area. Information about Cat Hill is available through the published work of Gordon Wood. The Delaware Public Archives owns a copy of his book “Letters to the Little Ones.” Faye Stocum, archeologist with the Delaware State Historic Preservation Office of the Division of Historical and Cultural Affairs, has recently worked with the landowner to consider preservation solutions for this property. She is available to provide the information she has gathered about Cat Hill to assist with developing the narrative for this historic aspect

of the history of the town. She can be contacted at 302-736-7400 or faye.stocum@state.de.us.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) The plan mentions the Town’s website, but the website does not mention the plan. It is recommended that the completed plan be made available on the website.
- 2) On page 31, in the Land Use Plan chapter, there is section on annexation. In relevant part, it says “However, in order to provide police enforcement to improve public safety, the Town may desire to annex certain limited areas of Route One at the north and south ends of Town, (south of and parallel to York Road, a portion of Kent Avenue and a portion of Evergreen Road). Appendix D contains legal descriptions and a map highlighting the four parcels the Town wishes to annex.” DelDOT has three comments in this regard:
 - a) To the extent that they understand what is proposed, DelDOT has no objection to the Town annexing the proposed portions of the Route 1 and Kent Avenue rights-of-way.
 - b) York Road and Evergreen Road are not maintained by DelDOT.
 - c) DelDOT had difficulty following some of the legal descriptions. As part of the annexation process, more precise legal descriptions and exhibits showing the areas to be annexed should be developed. For the purposes of the Plan, however, they believe the legal descriptions should be eliminated in favor of a more specific map than the one provided and a slightly more detailed description of the areas in the text of the plan.
- 3) On page 40, in the Canal Dredging and Maintenance section, there are references to “e-coli”. DelDOT suggests that the reference be changed to ‘Escherichia coli bacteria (hereinafter E. coli)’.
- 4) On page 47, in the Landscape section, there is a statement “that DelDOT has discretionary funds available for highway beautification.” DelDOT is not certain which funds are referred to but they may be DelDOT’s Transportation Enhancement Program. This program has been suspended due to the current fiscal situation, but it is administered by the Statewide and Regional Planning Section. The Town may contact the Assistant Director in charge of that section, Mr. Joseph Cantalupo, for more information regarding the program. He may be reached at (302) 760-2112.

- 5) At the PLUS meeting, the Town requested the name of someone they might contact for technical assistance regarding plantings for the median of Delaware Route 1. They may contact Mr. David Buehler, a Roadside Environmental Specialist in our Division of Maintenance and Operations. Mr. Buehler may be reached at (302) 760-2187.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071

General Comment: This document lacks clear and specific recommendations for implementation. The implementation strategies listed on pages 10 & 11 are a good start, but should be more specific and should identify those persons responsible for implementation.

Canals

One of South Bethany's main concerns is water quality in dead end canals. Dead end canals are man-made tributaries with deeper areas that fill in with matter that decays to reduce dissolved oxygen and form hydrogen sulfide. Nutrients from storm water and other sources can intensify these problems. Storm water best management practices and eliminating the dead-spots that plague the canals may reduce these problems. One long term solution may be to fill in the holes in the bottom of the canals to enhance natural circulation and flushing. Another simultaneous long term solution could be to implement best available technologies and/or best management practices.

Page 11: Substitute the word "manage" for the word "dredge" in the following statement: "Dredge canals as appropriate to improve overall water quality." The town should strongly consider as one of its strategies to "reduce non-point source pollution into canals through a range of voluntary and regulatory measures."

Page 35: This section contains several good ideas for reducing non-point source pollution into the canals of South Bethany. These ideas should be formally presented as recommendations for implementation in the document:

Recommendation 1: Ensure that best management practices are used to reduce nutrient and sediment flows into canals during construction on adjacent properties by coordinating closely with the Sussex County Conservation District. Increase efforts to report and rectify violations.

Recommendation 2: Develop and fund a voluntary (or mandatory) buffer establishment program for canal-front homeowners to reduce nutrient inputs into canals.

Recommendation 3: Develop and pass a new ordinance that will prohibit the disposal or discharge of grass clippings, soil and other organic material into canals. Enact rigorous fines and ensure establishment of a reporting system.

Recommendation 4: Develop and pass a new ordinance that prohibits the feeding of wildlife within town limits. Enact rigorous fines and ensure establishment of a reporting system.

Recommendation 5: Develop and pass a new ordinance that prohibits discharge of “grey water” (wash water, shower water etc) into the canals via direct discharge.

Page 40: This section indicates that the dredging of the Assawoman canal will have a positive impact on water quality in South Bethany; however, the additional tidal flow that would result from a deeper Assawoman canal would be unlikely to influence dissolved oxygen levels within dead-end canals.

Water Quality (Generally)

It is strongly recommended that the finalized version of the Town of South Bethany comprehensive plan include language that specifically requires (via ordinance) environmentally proactive land use practices or strategies – a.k.a. Best Management Practices (BMPs) or Best Available Technologies (BATs) – that reduce or mitigate impacts to water and habitat quality. The following are some examples of the suggested BMPs and/or BATs that should be incorporated within or included as part of Plan:

Buffers

The Comprehensive Plan makes a passing reference to vegetated buffers and their importance for reducing nutrient (nitrogen and phosphorus) and sediment runoff, but considers only canals. Since vegetated buffers are important for mitigating nutrient and sediment runoff impacts to all affected waters of the Inland Bays watershed, including wetlands, it is strongly recommended that the Town adopt language in the Plan - or better yet, an ordinance - specifically requiring the preservation and/or construction of a vegetated 100-foot upland buffer width (planted with native vegetation) from all wetlands and water bodies. Since it is also likely that this 100-foot buffer width will be codified as a regulatory requirement within the pollution control strategy, gives further reason for the Town to be proactive and adopt similar regulatory guidelines as part of

their comprehensive plan. We believe that State and local 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.

TMDLs

The Plan should specify the level of nutrient reduction required under the Total Maximum Daily Load (TMDL) mandate for this area of the Inland Bays watershed. Since future development in South Bethany and the Inland Bays watershed will be subject to TMDL regulatory requirements (via pollution control strategy), specific mention of the required reductions to attain this mandate should be mentioned in the comprehensive plan narrative. The TMDL for the immediate vicinity of South Bethany mandates a 40 percent reduction in nitrogen and phosphorus to meet water quality targets. Since the protection of water and habitat quality 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 (or something of similar meaning) in this section:

“With the adoption of Total Maximum Daily Loads (TMDLs) as a “nutrient-runoff-mitigation strategy” for reducing nutrients in the Inland Bays watershed, reduction of nitrogen and phosphorus loading from all land use activities within the town of South Bethany 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. Provisions in Section 5.6 of Delaware’s “Surface Water Quality Standards” (as amended July 11, 2004), specify that all designated ERES waters and receiving tributaries develop a “pollution control strategy” to reduce non-point sources of pollutants through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 5.6.3.5 of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree achievable and, where practicable, implementation of a standard requiring no discharge of pollutants.

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).”

Wetlands

The comprehensive plan narrative should also address the regulatory protection of wetlands. Consider the following:

“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 Plan contain language restricting lot line placement within delineated wetlands.

Stormwater Management

It is strongly recommended that the Comprehensive Plan encourage the use of “green-technology” stormwater practices. It is further recommended that the Town codify via ordinance, a regulation prohibiting stormwater management structures within 100 feet of water bodies and wetlands.

Water Resource Protection Areas

The DNREC Water Supply Division has reviewed the Town of South Bethany Comprehensive Development Plan 2005. They strongly encourage the Town of South Bethany 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.

An excellent recharge area exists within the municipal boundary. Several wellhead protection areas are wholly or partially within the municipal boundaries of the Town of South Bethany. The wellhead areas include the ones for the supply wells for the Town of South Bethany.

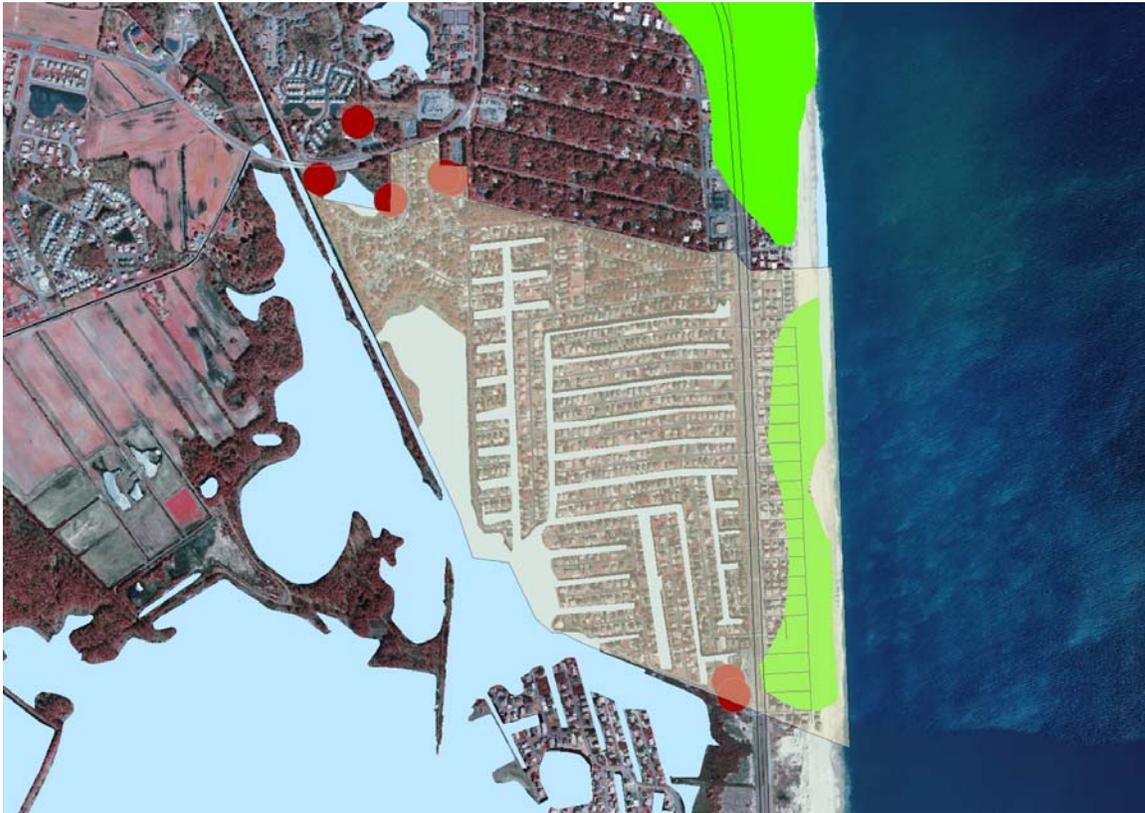
The comprehensive plan does not mention that source water originates in two wells as administered by Artesian Water Company. These wells are the sole source of water for the Town and need to be protected. DNREC strongly encourages the Town of South Bethany to adopt ordinances that protect Critical Areas (wellhead and excellent recharge) within the municipal boundaries. These can be adopted in conjunction with any voluntary measures that Artesian Water puts in place.

The DNREC Water Supply Section has delineated the wellhead protection area for the Town of South Bethany which covers a small area of the municipal boundary for the Town South Bethany. This delineation was completed for two of the supply wells that serve the town and the assessment was provided to the Artesian Water Supply.

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 South Bethany due to fact that the year-round population in the 2000 Census was less than 2000 people.

Within the Comprehensive Plan there are several instances that the Town of South Bethany expresses the desire to expand the amount of open space, recreational space and general beautification projects within the town. These uses compliment source water resource protection efforts. Some of the land use best management practices found in the Source Water Protection Guidance Manual for the Local Governments of Delaware (<http://www.wr.udel.edu/swaphome/phase2/SWPguidancemanual.html>) work directly with the goals of open and recreation space and general beautification projects.

Town of South Bethany with Excellent Recharge areas in green and Wellhead Protection Areas in dark red



State Fire Marshal's Office – Contact: Duane Fox 856-5298

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 DE 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 South Bethany. The State Fire Marshal's Office would be issuing approvals much like DeIDOT, Kent Conservation, and DNREC. This Agency's approvals are based on the DE State Fire Prevention Regulations only.

On or about page 50 of the draft the Town of South Bethany should mention a working relationship with the DE State Fire Marshal's office in regards to planning and zoning approvals, and building permit approvals. On or about page 48 verbiage should be added that any new development or large scale re-development will need infrastructure upgrade approvals in accordance with the current DE State Fire Prevention Regulations.

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Milton Melendez 698-4500

The Delaware Department of Agriculture has no objections to the Town of South Bethany Comprehensive Plan. The Delaware Forest Service has no objections to the proposed plan; however, encourages the community to develop supporting regulations and ordinances for the following:

Right Tree for the Right Place

The Delaware Department of Agriculture Forest Service encourages the developer to use the "Right Tree for the Right Place" for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

Native Landscapes

The Delaware Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and will clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

Tree Mitigation

The Delaware Forest Service encourages the developer to implement a tree mitigation program to replace trees at a 1:1 ratio within the site and throughout the community. This will help to meet the community's forestry goals and objectives and reduce the environmental impacts to the surrounding natural resources. To learn more, please contact our offices at (302) 349-5754.

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 State Housing Authority – Contact Jimmy Atkins 739-4263

The Town of South Bethany Comprehensive Plan provides a vision for the future growth and development of South Bethany. Title 22, Chapter 7, Del. Code mandates that towns of 2,000 or more develop a plan to address affordable housing. Since the Town has less than 2,000 people, this provision is not applicable. The Town of South Bethany's plan includes housing characteristics and demographic data, which underscores the Town's growing senior population. Approximately 90% of the Town's 1,328 lots are developed, leaving 128 lots undeveloped. DSHA recommends that the Town prioritize development of the remaining lots to ensure that any future growth and development is consistent with the needs of the Town.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and 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 project design or not and the reason therefore.

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

Sincerely,



Constance C. Holland, AICP
Director

CC: Sussex County