



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

May 29, 2007

Gordon Elliott
Town of Dewey Beach
105 Rodney Avenue
Dewey Beach, DE 19971

RE: PLUS review – PLUS 2007-04-01; Town of Dewey Beach comprehensive plan

Dear Mr. Elliott:

Thank you for meeting with State agency planners on April 25, 2007 to discuss the proposed Town of Dewey 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 are a complete list of comments received by State agencies:

Office of State Planning Coordination – Contact: Bryan Hall 739-3090

Certification Issues: The Office of State Planning (OSPC) has received a request from the State Housing Authority to work with the Town of Dewey Beach before certification of the comprehensive plan to include language that addresses the need for work force housing. The Town should review and include comments addressing this issue (work force housing) so that certification may be considered.

Other Issues :

The Office of State Planning and Coordination would like to commend and thank the Town of Dewey Beach for their efforts in the development of this DRAFT of the

comprehensive land use plan. The OSPC has only several broad comments for consideration by the town, these are:

- The annexation of the Delaware Bay: This office defers comment to the various state agencies that may share jurisdiction of this resource; however, the OSPC would encourage the creation of a master plan to address all aspects of management of this site to include the environment, law enforcement, land use and development, etc.
- The Areas of Concern: OSPC would ask that a uniform Area of Concern be developed for both the north and south ends of town.
- Finally, this office would ask that you consider the additional comments provided by state agencies to build upon this effort. If you have any questions, please call.

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

The DHCA has reviewed the Comprehensive Plan for Dewey Beach. There are some ways preservation programs can assist them in attaining their goals.

Despite the damage of the 1962 storm, the town still has more than 10% of its housing stock that is greater than 50 years old. In addition, the reconstruction of the town in the mid-1960s means that a large number of buildings (33% of their stock) will reach the 50-year threshold in the next decade. The town should undertake an architectural survey to help flesh out the basic data in the comprehensive plan and provide the basis for further initiatives to preserve and protect their older housing. One tool to explore is being used by the City of Wilmington, conservation district zoning. Not as restrictive as historic zoning, a tool more widely used across the city and in other Delaware towns, conservation zoning provides a basic level of protection from demolition, being moved, new additions, and infill construction, all potential threats to community character. Conservation zoning protection would qualify the government of Dewey Beach for Certified Local Government designation and access to the Historic Preservation grant funds available to those select communities. Incentives like state and federal tax credits and low interest loans and grants are available for National Register-listed properties, so evaluation for listing in the National Register of Historic Places would also be recommended. The contact for any of these initiatives is Robin Bodo, the National Register and Certified Local Governments coordinator, at 302-736-7400

Department of Transportation – Contact: Bill Brockenbrough 760-2109

The Town of Dewey Beach is preparing to adopt its first Comprehensive Plan. DelDOT comments are as follows:

- 1) The Department of Transportation congratulates the Town on what they consider to be a well-written plan.
- 2) On page 21, there is a proposal, illustrated on Map 7, to extend the Town border 300 feet west into Rehoboth Bay by annexation. DelDOT understands what the Town seeks to accomplish in terms of enforcing nuisance ordinances and preserving the environment, but annexation may not be the best way to achieve those goals. While they will defer to their colleagues in the Department of Natural Resources and Environmental Control, DelDOT believes a better approach would be for the Town to enter an agreement with the Division of Fish and Wildlife, whereby their respective police forces would work together to enforce each agency's laws and regulations within a certain area.
- 3) DelDOT has several specific comments on Chapter 2 of the Plan:
 - a) In Section 2-1, Demographics and Population, the first recommendation is "to develop and implement a strategy for collecting and reporting comprehensive data and information regarding the local population." One source of data that is not mentioned is utility billing. DelDOT suggests that water usage, perhaps something as simple as a comparison of January and July bills, could provide a good indication as to what properties are occupied year-round.
 - b) In Section 2-4, Transportation, there is discussion of the traffic projections contained in the DelDOT Traffic Summary, although that publication is not mentioned by name. Those projections are based on data from sets of automatic traffic recorders (ATRs) placed in permanent locations around the State. In the case of SR 1 through Dewey Beach, that data is from 12 ATRs on arterial roads that are subject to significant seasonal variations in traffic flow. More information about how the projections are done can be found in the introduction to the Traffic Summary and still more can be obtained from Mr. James Ho in our Statewide and Regional Planning Section. Mr. Ho can be reached at (302) 760-2163.

However, as the Plan suggests, these projections do not reflect location-specific factors such as increased development within Dewey Beach. To

the extent that better projections are needed, we recommend that the Town contact Mr. Michael DuRoss, of the same section. Mr. DuRoss' office maintains travel demand models, which are based on population and employment, so forecasting traffic in a resort town presents special challenges, but for long-range forecasts (more than 5 to 10 years in the future) these models are the best tools that we have. Mr. DuRoss may be reached at (302) 760-2110.

- c) Again in Section 2-4, the first recommendation is that "The Town should work with DelDOT to develop strategies for generating accurate and timely data regarding motor traffic, pedestrians, and bicyclists." The second recommendation is that "The Town should work with DelDOT to develop a long-range plan for improvements to the design and safety of S.R. 1 within Dewey Beach." DelDOT would like to remind the Town that they have previously worked with DelDOT on the development of a project (DelDOT Project Number 24-013-01) to improve Route 1 corridor through Dewey Beach. If funds are available, we anticipate beginning the design of that project in Fiscal Year 2008, acquiring right-of-way for it in Fiscal Year 2009, and beginning construction in Fiscal Year 2010. More information about this project is available from Ms. Roberta Geier of our Statewide & Regional Planning Section. She may be reached at (302) 760-2119.
 - d) Yet again in Section 2-4, the fourth recommendation is for a "Bay Walk" to be built through the Transportation Enhancements program. Mr. Jeffrey Niezgoda of our Statewide & Regional Planning Section may be contacted for information on how to initiate this effort. He may be reached at (302) 760-2178.
 - e) Finally in Section 2-4, the fifth recommendation concerns a mobility-friendly assessment with regard to pedestrian and bicycle traffic in the town. For technical assistance regarding pedestrian and bicycle issues, the Town may contact Mr. Anthony Aglio, of our Statewide & Regional Planning Section. Mr. Aglio may be reached at (302) 760-2509.
- 4) One of the recommendations regarding cultural resources is that the Town "will pursue the federal scenic-highway designation," presumably for Delaware Route 1. We note that the federal program is quite selective and recommend that the Town seek designation in the State Scenic Highways program as a first step. The guide to this program is available on the internet at http://www.deldot.gov/static/pubs_forms/manuals/scenic_hwys/toc.shtml. More

information is available from Ms. Maria Andaya, a planner in our Statewide and Regional Planning section.

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

Subaqueous Lands

The State of Delaware supports the Town's proposed annexation for the purposes of enforcing Town ordinances and regulations. However, it should be noted that the underwater lands within the annexation area remain State public trust lands subject to the Public Trust Doctrine and all applicable State laws and regulations. In addition, we can offer assistance by convening the U.S. Army Corps of Engineers (USACE) and the Marine Police with our Coastal Programs and the Wetlands and Subaqueous Lands through the Joint Permit Processing Committee to clarify any issues for the Town. Contact with the U.S. Coast Guard must be made separately.

Wetlands

Since development in the Town of Dewey Beach is likely to impact wetlands, we suggest the following in the Wetlands Section:

“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 Delaware Code. Compliance with these statutes may require a U.S. 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 all delineated wetlands.

Buffers

The Town should implement a buffer width recommendation consistent with that currently made by the Department. Since there is a high probability that the proposed Inland Bays pollution control strategy (PCS) will require a 100-foot buffer width from all wetlands and water bodies, a similarly-sized buffer width should be considered or adopted as a recommendation for a future ordinance. Specifically, this recommendation should be contained under the Plan recommendation subsection in the Natural Resources Section of the document.

Drainage and Stormwater Management

The inclusion of stormwater management as a critical element of the infrastructure section of the Dewey Beach Comprehensive Plan is to be commended. The plan identifies drainage concerns in the town and has identified a solution in part of the problem areas. The Drainage and Stormwater Section recommends developing a goal for surface water management (stormwater and drainage) in addition to the goals already established in the plan. In addition, the Division of Soil and Water Conservation has the following comments and recommendations.

- The Drainage and Stormwater Section strongly recommends and encourages the Town of Dewey Beach to consider drainage and stormwater infrastructure and management options in future revisions to their Comprehensive Plan. Municipalities need to emphasize drainage as a necessary infrastructure element in areas targeted for growth and development, and in areas of redevelopment. State stormwater regulations do not provide specific guidance for development in areas of poor drainage or historic flooding problems except for requiring a downstream study. Site-specific engineering solutions often end at the property line of the parcel being developed. A more comprehensive approach to providing solutions for drainage issues in areas designated for growth will require coordination between the town, DNREC, and DelDOT.
- Dewey Beach lies in the Inland Bays watershed, which is impaired for nutrients and bacteria. Dewey Beach can do its part to help improve water quality by encouraging the implementation of best management practices for surface water quality and drainage. Generally, the preferred option for surface water quality protection for stormwater treatment, as stated in the Delaware Sediment and Stormwater Regulations, are those practices collectively known as Green Technology best management practices which achieve stormwater management objectives through filtration, infiltration, and storage. These practices are typically associated with natural vegetation and undisturbed soils while minimizing reliance on structural components (such as wet ponds) and promoting the natural hydrologic process. Examples include, but are not limited to low impact development and conservation design practices, vegetative filtration, riparian buffer plantings, bio-retention areas, vegetative flow conveyance, as well as recharge and surface storage in undisturbed natural areas. Requiring maintenance access ways along drainage ditches helps to provide a buffer along ditches and waterways that act as a conveyance for pollutants while providing unencumbered access to remove blockages.

- The Drainage and Stormwater Section also encourages the town to consider drainage and stormwater management as a component of ordinances and codes. It is also strongly recommended that you consider developing your own drainage code as well to address private drainage issues as land develops. Representatives from the Division of Soil and Water Conservation's Drainage and Stormwater Section will be happy to meet with the Town to provide assistance and/or draft language for consideration as you develop any ordinances. Please contact Jennifer Campagnini at 302.739.9921 or at Jennifer.campagnini@state.de.us to set up a meeting or to provide additional assistance.

The current Sediment and Stormwater Law and Regulations are available online at <http://www.dnrec.state.de.us/DNREC2000/Divisions/Soil/Stormwater/StormWater.htm>. The regulations are due to be revised in the coming year.

Beach Strand

Page 32: "Recently Dewey Beach received assistance from the U.S. Army Corps of Engineers through an ongoing beach-replenishment program." The Department of Natural Resources and Environmental Control was the local sponsor for this project.

"The U.S. Army Corps of Engineers has designated Dewey Beach as part of its "50-year commitment" area targeted for long-term beach-nourishment activities; however, the execution of future projects may depend on the local jurisdictions' capacity to fund them." Funding is provided by the Federal and State governments.

Recommend deleting the language in brackets and adding the underlined language: "The Building Line, which parallels the coastline, is designated on DNREC Building Line maps." No construction activities may take place seaward of the building line without a Coastal Construction Permit or Coastal Construction Letter of Approval from the Department. Construction, expansion, or modification of any structure within the [beach] area [landward of the Building Line], including all buildings and amenities, requires [a Letter of Approval] approval from the Department. The alteration, removal, or deposition of any substantial amount of beach sand or other materials [landward of the Building Line] and within the beach area also requires [a Letter of Approval] approval.

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

The DE State Fire Marshal's Office has the responsibility to review all commercial and residential subdivisions for compliance with the Delaware State Fire Prevention Regulations. This Agency asks that a Memorandum of Understanding be established between the Delaware State Fire Marshal's Office and the Town of Dewey Beach. The

State Fire Marshal's Office would be issuing approvals much like DelDOT, Kent Conservation, and DNREC. This Agency's approvals are based on the Delaware State Fire Prevention Regulations only.

The Delaware State Fire Marshal's Office has no objection to the Municipal Comprehensive Plan application submitted.

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: Scott Blaier 698-4500

The Department would like to commend the Town on a well-conceived and well-written Comprehensive Plan, and offers no objection. The Department of Agriculture would to encourage the Town to continue working with the Department's Forest Service where trees and urban landscape are at issue.

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 Vicki Walsh 739-4263

DSHA has reviewed the Town of Dewey Beach comprehensive plan and offers the following comments:

Provisions were not made for affordable housing because the Town perceives this to be an unobtainable goal, due to increased property values and because allowing higher density housing has not alleviated the problem. However, housing opportunities are still needed for low- and moderate-income persons, such as those that work at the Town's service and retail establishments.

The 2003 Statewide Housing Needs Assessment indicates that much of the housing in the coastal resort area is outside of the affordability level of low- and moderate-income households. The majority of the owner units are beyond the affordability range of households, earning 100 percent of the Area Median Income. Households that cannot afford to live in the coastal resort area have been displaced to western Sussex County.

As a result, the Delaware State Housing Authority does not support certification of the Town of Dewey's Comprehensive plan as the housing needs are tremendous and the town has too many resources at its disposal to respond to the need. Just some of the tools and mechanisms that the Town can outline in their comprehensive plan and implement are:

- Innovative zoning techniques to provide additional affordable housing opportunities within the existing housing stock such as permitting accessory dwelling units in residential areas as a matter of right. This would help address at least some of the seasonal housing issues.
- Require as part of all annexation agreements for parcels being annexed, that some of the units be set aside to be affordable for low- and moderate-income persons via long term affordability restrictions.
- Partner with the Diamond State Community Land Trust (DSCLT) to ensure long-term affordable homeownership opportunities to low- and moderate-income households. This can be done by donating land to the DSCLT, within the Town of Dewey, or through contractual agreements for monitoring long-term affordability restrictions on units that have been set aside to be affordable.
- Encourage the provision of employee-occupied rental units within commercial and public facilities.
- Provide developer incentives, such as density bonuses or expedited review, to facilitate affordable housing opportunities.
- The Town can also ensure that some of the housing units attained, through the above mechanisms, be targeted for employees of the Town, local businesses or local emergency service providers.

The Delaware State Housing Authority will like to meet with the Town of Dewey to further discuss planning for affordable housing. Please contact Vicky Walsh at (302) 739-4263 or via e-mail at Vicky@destatehousing.com if you have any questions or are interested in learning more about these programs.

Department of Education – Contact: John Marinucci 739-4658

1. The DOE supports the State Strategies for Policies and Spending, to the extent possible and practicable within the limits of the Federal and State mandates under which the Department operates.
2. In its review of Comprehensive Plans and Comprehensive Plan Amendments, the DOE considers:
 - Adequate civil infrastructure availability within the region to accommodate current and future educational facilities.

- Transportation system connections and availability to support multimodal access within the community, to include but not limited to walk paths, bike paths, and safe pedestrian grade crossings.
 - Transportation road system adequacy to accommodate bus and delivery vehicle traffic to current, planned or potential educational facilities.
 - Recreation facilities and opportunities within the community and their respective proximity to current and planned or potential education facilities. The DOE also recognizes the potential that the educational facilities are to be considered recreational facilities by and within the community.
3. The DOE *typically* considers industrial/commercial development incompatible with educational facilities, however, residential development and educational facilities *are typically* considered to be compatible. As a result, the DOE is interested in the proximity of current and planned or potential education facilities to commercial/industrial development zones.
 4. The DOE recognizes the integral role of educational facilities within communities. As such, the DOE seeks to assure that residential growth, that generates additional demand on educational facilities, is managed with adequate educational infrastructure being made a part of sub-division plans as appropriate.
 5. The DOE offers its support to assist the town and participate in coordination between the town, the affected School District, the County, the Office of State Planning Coordination as well as other school districts and stakeholders as Comprehensive Plan approval process moves forward.
 6. The DOE requests the Town of Dewey Beach coordinate with the Cape Henlopen and the Indian River School Districts as this Comprehensive Plan is developed and revised.

Sussex County – Contact: Richard Kautz 855-7878

The County will be completing its Comprehensive Plan Update this year and requests that all Town Plan and any amendments be completed ASAP and sent to the County for inclusion in the Plan.

The town is encouraged to avoid the creation of new enclaves when annexing, to eliminate existing enclaves during its negotiation of the annexation agreement, and to notify the Sussex County Planning Department when the annexation becomes effective.

The Sussex County Engineer Comments:

Sussex County operates the wastewater system and water system that serves the incorporated area of the Town of Dewey Beach and an additional surrounding area.

Wastewater treatment and water supply is provided by the City of Rehoboth in accordance with contracts Sussex County has with Rehoboth.

It is unclear how proposed changes to zoning and land use will relate to flows at this point. It concerns us that some areas are identified for changes that are more intense. Anything that increase flow should be approved by the Sussex County Engineering Department. The Sussex County Engineering Department feels building uses with commercial uses on lower floors and residential above could increase flows and concerns us. The additional commercial zone areas concern us as well. There are limits on the wastewater we send to the City of Rehoboth.

The Town of Dewey Beach should contact the Sussex Engineering Department for proposed mixed-use renovation and rezoning to commercial. Sussex County would like to review and approve those changes on a case-by-case basis.

On page 27, it is noted that wastewater treatment for Dewey Beach is provided at the Wolfe Neck Treatment Facility. That is incorrect. Wastewater for the Town of Dewey Beach is treated at the City of Rehoboth Beach wastewater treatment facility. The Wolfe Neck Regional Wastewater Facility is operated by Sussex County and treats wastewater from an area west of the Lewes and Rehoboth Canal and the Town of Henlopen Acres. In addition, it is recommended that maps indicate the extents of RB-1, RB-2 and RB-3 zones.

Following receipt of this letter, the Town should make any certification changes noted in this letter and review all other comments for consideration. The plan should then be resubmitted to this office for review before final adoption by the Town. A written response regarding the changes made to the plan should accompany the resubmitted plan.

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