



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

October 19, 2007

The Honorable Frank Draper, Mayor  
Town of Slaughter Beach  
357 Bay Avenue  
Slaughter Beach, DE 19963

RE: PLUS review – PLUS 2007-08-08; Town of Slaughter Beach

Dear Mayor Draper:

Thank you for meeting with State agency planners on August 22, 2007 to discuss the proposed Town of Slaughter 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:

***Certification Comments:* These comments must be addressed in order for our office to consider the plan amendment consistent with the terms of your certification and the requirements of Title 22, § 702 of the Del. Code.**

There is one apparent certification issue. There does not appear to be an analysis and comparison of other relevant planning documents. Such documents could include: the Sussex County comprehensive plan; the Sussex County North Coastal Planning Study; the Milford comprehensive plan and the State Spending Strategies.

***Recommendations:*** Our office strongly recommends that the Town consider these recommendations as you revise your plan.

**Office of State Planning Coordination – Contact: Herb Inden 577-5188**

The Office of State Planning Coordination commends the Town of Slaughter Beach for preparing a top quality comprehensive plan that defines a clear vision for the Town's future. It is obvious that Slaughter Beach values its small town heritage and beach front setting. It will be important for the town to partner with Sussex County, the surrounding communities and various State departments to achieve the plan's vision to remain as it is.

Though not a certification issue, it is recommended that the Public Participation section be expanded to include a discussion of results of the public input process, especially since this process seemed to be somewhat extensive.

We do note that the next steps that include the development of the implementing land use regulations and policies will be critical. In this regard we offer any assistance that we can provide. Again, congratulations on a well done plan.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

The Town of Slaughter Beach is preparing its first comprehensive plan. Because transportation appears to be a relatively minor element of their plan and one with which the Town appears to be generally satisfied, DelDOT has no substantive comments at this time. DelDOT will continue to work with the Town as requested on issues of road and bridge maintenance and bicycle and pedestrian safety.

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

**Water Quality**

The Comprehensive Plan shows the Town of Slaughter Beach has a strong commitment to environmentally sensitive land use and growth management. Protecting ground water, surface water and wetlands appear to be of utmost importance to the Town. The Division of Water Resources comments are intended to support the Town of Slaughter Beach efforts.

It appears the Town could strengthen its proposed “Chapter 3: Implementation” through growth controls that may be stronger than state and county minimums to implement its community vision and goals.

Examples where ordinances could benefit water quality and implement the Comprehensive Plan include:

- Providing stronger wetlands protection
- Controlling impervious coverage of lots
- Promoting native plants, pervious pavement, green roofs, and rain barrels, etc.
- Best Management Practices that may reduce nutrients, bacteria and other non point pollution to the Town’s water resources like buffers, reduce impervious cover rain gardens, etc.
- Well head protection ordinance for Source Water Protection
- Promoting Leadership in Energy and Environmental Design (LEED) see the US Building Council at <http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>

### **Wastewater**

It appears the Town will continue to rely on onsite waste water treatment and disposal systems (septic systems). These systems have limited life spans that can be extended through proper operation and maintenance. The Town should promote programs that improve the operation and maintenance of these systems such as, educating the owners of these systems to have regular pump-outs of the tanks and inspections to maintain their system and to ensure proper operation which could include the addition of low flow plumbing fixtures in the home. Innovative and Alternative (I/A) systems are available to the Town in cases where site restrictions would not allow for the typical onsite wastewater treatment and disposal system. The Division of Water Resources Ground Water Discharges Section, Small Systems Branch, reviews and approves site evaluations, permit applications, and conducts installation inspections of systems with daily flows equal to and less than 2,500 gallons per day. The Small Systems Branch is available to assist the Town.

### **Water Supply**

Water supply wells should be monitored for flow and water level. A Water Allocation Permit may be required because usage could be 50,000 gallons per day or above. Chloride levels should be regularly monitored to protect against salt water intrusion.

### **Total Maximum Daily Loads**

The Cedar Creek and Mispillion Total Maximum Daily Load's (TMDLs) were approved in December 2006. Chapter 2 and 3 should be revised accordingly. The Town should develop ordinances to reduce pollutants from entering these waters if its intent is to make an effort to meet surface water quality standards.

Below are specific comments:

**Page 3, Soil Conditions – This Section should be revised to reflect soil mapping changes made in the recent soil survey update. Consider the following in lieu of the existing paragraph found in this Section.**

Based on the survey update, five soil mapping units were identified within the municipal Town limits of Slaughter Beach. These soil mapping units are the following: Acquango Beaches complex, Udorthents, Woodstown, Sunken, and Transquaking- Mispillion complex. The Acquango-Beaches complex soils are excessively well-drained soils associated with coastal sand dunes. Udorthents are soils that have been extensively modified through anthropogenic filling and grading practices with variable site-specific drainage characteristics. Woodstown is moderately well-drained soil associated with low-lying uplands not influenced by tides. Sunken and Transquaking-Mispillion complex are very poorly-drained tidally-influenced soils indicative of tidal wetlands.

**Also on Page 3, The Comprehensive Plan should include a section on wetlands within the “Overview of the Community.”**

Much of the area immediately surrounding the Town of Slaughter Beach contains large acreages of mostly tidally-influenced wetlands with small acreages of nontidal wetlands also mapped. Based on the Statewide Wetland Mapping Project (SWMP) mapping, tidally-influenced estuarine emergent and nontidal palustrine emergent were the major wetland types mapped in or adjacent to the municipal Town limits of Slaughter Beach.

The Comprehensive Plan should also note that tidally-influenced wetlands are regulated under the State of Delaware's Tidal Wetlands Regulations (Chapter 66), while nontidal wetlands are regulated by the United States Army Corps of Engineers (USACE).

**Page 15, Section 2.4, Public Water, should address Water Allocation Permitting.**

The Town's water supply is not permitted under a Water Allocation permit. Water use is not metered or recorded. Reporting of water use may be required if it is 50,000 gallons

per day (gpd) on its peak day. The statewide average daily municipal water use is approximately 80 gallons per day per capita. The Town's estimated average daily water use for permanent residents would be approximately 16,000 gallons per day using this approximation. Assuming peak day use for permanent residents would be double the average, the peak day for permanent residents would be 32,000 gallons per day.

During the tourist season, however, the Comprehensive Plan estimates the population at up to 700 people. The current tourist-season daily water use could be up to 56,000 gpd average and 112,000 gpd peak.

There are 350 to 400 tax parcels in the Town, about half of which are currently built. The full occupancy population of the Town could grow to over 1,000 at build out. The build out tourist-season water use could range from 80,000 gpd to 160,000 gpd.

The Water Allocation Program has the following recommendations about the current water use:

- Equip each of the public supply wells with water meters and water level measuring tubes.
- Obtain a Water Allocation permit.
- Protect the wells from saltwater intrusion by instituting a regular program of sampling for chloride concentrations and tabulating chloride concentration vs. water level.

Please contact William Cocke, P.G. Manager - Water Allocations (302) 739-9945 for information.

### **Page 15, Wastewater Treatment**

Central Wastewater can have the unintended consequence of stimulating sprawl and high density development. This area has very low suitability for development. Any central wastewater treatment system should only provide for water quality improvement for existing development.

### **Page 34, Wellhead Protection Areas--This is now referred to as Source Water Assessment and Protection Program.**

The Water Supply Section, Ground Water Protection Branch (GWPB), has mapped the Wellhead Protection areas within municipal boundaries (see map). There are no excellent ground-water recharge potential areas within the municipal boundary.

The quality and quantity of water derived from public wells needs to be protected. The Town's has shown initiative in planning to develop a source water protection ordinance.

GWPB recommends updating the historical reference to the 1986 amendments to the federal Safe Water Drinking Act (SWDA) because it is outdated. The SWDA 1996 amendment incorporated the Wellhead Protection Program into the Source Water Assessment and Protection Program (SWAPP). We no longer reference the Wellhead Protection Program.

GWPB recommends that the text reference wellhead protection areas and Source Water Assessment and Protection Program.

The DNREC Source Water Assessment and Protection Program was developed under the guidance of the EPA and Delaware's Citizen and Technical Advisory Committee (CTAC).

GWPB recommends that the text use Citizen and Technical Advisory Committee (CTAC) not Water Supply Advisory Board.

The Delaware Geological Survey (DGS) publication *Delineation of Ground-Water Recharge Resource Protection Areas in the Coastal Plain of New Castle County* delineates areas of excellent ground-water recharge in New Castle County. DGS Report of Investigations No. 66, *Ground-Water Recharge Potential Mapping in Kent and Sussex Counties* delineates four categories of ground-water recharge potential. DNREC Source Water Assessment and Protection Program addresses only excellent ground-water recharge potential areas.

GWPB recommends:

- The Comprehensive Plan should read, "There are no excellent ground-water recharge potential areas within the municipal boundary" not, "there are no good groundwater recharge areas."
- Use DNREC Water Supply Section's adopted grammatical variation 'ground water' as the noun tense and 'ground-water' as the adjective form.

GWPB did not find any direct language as to the intent of the Town of Slaughter Beach developing a source water protection ordinance.

GWPB encourages:

- Developing a source water protection ordinance

**Map of the Town of Slaughter Beach** The wellhead protection areas are shown in red.



**6. Page 49, Section 1.4F, TMDLs – Consider use of the following paragraph in lieu of the existing paragraph in this Section**

Under Section 303(d) of the 1972 Federal Clean Water Act (CWA), states are required to identify all impaired waters and establish total maximum daily loads to restore their beneficial uses. A TMDL defines the amount of non point and point source pollutants a water body can absorb on a daily basis without violating State water quality standards. A Pollution Control Strategy (PCS) will provide the regulatory framework for achieving the TMDL reductions necessary for meeting the State water quality standards. The Town of Slaughter Beach is located within the Cedar Creek and Mispillion watersheds. The TMDL nutrient reduction for the Cedar Creek watershed requires a 45% reduction in total nitrogen and total phosphorus from baseline conditions. The Cedar Creek watershed TMDL also requires a 96% reduction in bacteria from baseline conditions. The TMDL

nutrient reduction for the Mispillion watershed requires a 57% reduction in total nitrogen and total phosphorus from baseline conditions. The Mispillion watershed also requires an 87% reduction of bacteria from baseline conditions.

**7. Page 50, The Plan should incorporate the following as recommendations for future ordinance(s) to protect wetlands and improve water quality.**

- a) An ordinance requiring all applicants to submit a United States Army Corps of Engineers (USACE) approved wetlands delineation to the Town of Slaughter Beach as conditional approval for any new commercial and/or residential development. Additionally, this ordinance should also require proof that DNREC was contacted to ensure that tidally-influenced wetlands are also not impacted from such development activities.
- b) Where it is practicable an ordinance requiring a 100-foot upland buffer (planted with native vegetation) from all wetlands and water bodies.
- c) An ordinance prohibiting the placement of stormwater management ponds within 100-feet of water bodies and wetlands. That is, all “newly-approved” commercial and/or residential development should contain a vegetated (i.e., native vegetation) 100-foot upland buffer from all stormwater management ponds and water bodies/wetlands.
- d) An ordinance that prohibits the placement of lot lines within wetlands for all “new” commercial and/or residential developments. Existing or redeveloped lots should “maximize” – to the greatest degree practicable – the distance from building structures and the wetlands line.

**Sediment and Stormwater**

**Overall**

It is evident a lot of work has gone into the development of the plan and the town should be commended. The town has a great history and diverse ecology.

Recommend that the town assign a timeline to implementing action items and recommendations.

On page 49, Section F – TMDLs.

Please refer to comments from Division of Water Resources. Encourage the Town to get involved in the Mispillion/Cedar Creek Tributary Action Team Process and development

of a Pollution Control Strategy for the Watershed. Contact Lyle Jones, Division of Water Resources, Watershed Assessment Section for more information, 302.739.9939.

Redevelopment:

The Sediment and Stormwater Program requests the Town include language supporting the use of low impact development practices in redevelopment projects when practical and as they comply with other local ordinances and state and federal regulations (FEMA, Coastal Development, etc). These practices can greatly assist in improving water quality conditions for the rivers and bay.

### **Floodplain Management**

Section 1.4, Non-conforming uses

Should be some description as to what the 3 properties are non-conforming to, i.e. building code, floodplain regulations, zoning, etc. It is confusing that they mention FEMA regulations and then say only 3 properties are non-conforming. They should specify what their goals are towards each type of nonconforming use.

Section 2.5, Community Character

Again some decision as to what specifically type of redevelopment they are striving for and why. Are they promoting or restricting redevelopment. New buildings must comply with so much, maybe some mention should be made as to a few of the restrictions. For example, Floodplain on property VE vs. AE, DNREC building line, set backs, etc.

Page 31: Floodplains Section

As is stated in the background - state law requires that planning be an ongoing process and that municipalities identify future planning activities. However, the Floodplains section on page 31 is more of a summary of the flood maps for the Town. There are a range of planning and technical assistance grants available through FEMA, DEMA and the DNREC to assist communities is preparing Flood Management Plans. The Town of Slaughter Beach has not prepared one of these plans in the past and may want to consider doing so at this time.

In Chapter 3, Section 3.2 Environmental Issues, the Plan states that the Town hopes to expand its environmental management policies, including flooding. Since adopting floodplain regulations in 2004 to meet FEMA's requirements, the Town has proposed to amend these regulations by actually lowering the standards for construction in the coastal high hazard area, the area of highest risk, without FEMA's approval. The Town should reconsider this course of action.

## **Shoreline and Waterway Management**

- Page 40 – Should say Big Stone Beach. “These towers were located at Big Stone Beach, Mispillion Light and Fowler Beach...”
- Page 45 -“DNREC has set up ordinances and regulations governing the beach and dune areas.... “

Should say: DNREC has Regulations Governing Beach Protection and the Use of Beaches which require property owners to obtain approval prior to any construction activities on their lots. DNREC has established a building line, and construction to the east of that line is prohibited without a permit from the Department.

- Page 46- Since records have been kept, Slaughter Beach has undergone the following replenishment/ nourishment projects:
  - 1940 -1957 – approximately 20 timber (and one timber and stone) groins installed
  - 1958 – beach fill via truck haul (49,000 cubic yards)
  - 1961 – beach fill via hydraulic dredge (165,000 c.y.)
  - 1962 – beach fill via truck and heavy equipment (56,600 c.y.)
  - 1975 – beach fill via hydraulic dredge (179,500 c.y.)
  - 1976 – beach fill via hydraulic dredge (277,700 c.y.)
  - 1979 – beach fill via hydraulic dredge (20,000 c.y.)
  - 1981 – beach fill via hydraulic dredge (26,200 c.y.) **Our files show no record of this; not sure where the info came from**
  - 1985 – beach fill via hydraulic dredge (10,300 c.y.)
  - 2005 – beach fill via hydraulic dredge (114,970 c.y.)

The Division of Soil and Water Conservation is committed to providing technical assistance as needed as the Town works to revise local codes, ordinances, and local environmental management programs and policies. Please contact Jennifer Campagnini, Planner, at 302.739.9921 or [Jennifer.campagnini@state.de.us](mailto:Jennifer.campagnini@state.de.us).

### **State Fire Marshal’s Office – Contact: Duane Fox 856-5298**

At this time, the State Fire Marshal’s Office has no comments regarding the comprehensive plan.

**Department of Agriculture - Contact: Scott Blaier 698-4500**

The Delaware Department of Agriculture would like to commend and congratulate the town on a well-conceived and well-written comprehensive plan. We especially appreciate the town's desire to maintain and preserve the agricultural land and rural landscape that surrounds the town.

The only comment the Department offers is a clarification of Table 1.1 on page 6 entitled "Existing Land Use in Slaughter Beach". We suggest the title read "Existing Land Use Surrounding Slaughter Beach" as most or all of the land use presented in this table is not actually within the incorporated area and jurisdiction of Slaughter Beach.

The Delaware Forest Service would like to work with the Town of Slaughter Beach to develop a comprehensive urban forestry plan that would address relevant issues within the Town. Trees should be considered a part of the Town's infrastructure just as roads and utilities. Planning to include tree conservation during development, and tree canopy goals would dovetail with goals already stated in the current update of the comprehensive plan. Please contact the Delaware Forest Service at (302) 659-6705 for more information.

**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 Slaughter Beach's Comprehensive Plan. Since Slaughter Beach has a population of less than 2,000, they are required to state their position on housing growth. DSHA supports the Plan's position on housing growth.

**Department of Education – Contact: John Marinucci 735-4055**

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.

1. 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.
2. 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.
  3. 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.
  4. The DOE offers its support to assist and participate by coordinating with Slaughter Beach, the local school districts the County, the Office of State Planning Coordination as well as other school districts and stakeholders as future development and annexations may be considered.
  5. The DOE noted that the Comp. Plan does not reference education services or schools which serve the citizenry of Slaughter Beach. DOE suggests the Comp. Plan be adjusted to include language that indicates that the Milford School District is the Delaware Public School District serving Slaughter Beach.
  6. DOE has no objections or further comments regarding the Comp. Plan under consideration.

**Sussex County – Richard Kautz 855-7878**

The Sussex County Engineer Comments:

Sussex County is nearing completion of the North Coastal Planning Study. The study has been undertaken by Sussex County to assess the impacts of the existing sewer infrastructure and identify future system improvements. Sussex County met with officials of the Town of Slaughter Beach during the initial phases of the study. The Town indicated there was not interest in a County operated sewer system for the Town of Slaughter Beach. Therefore, the Sussex County Engineering Department has no comments regarding the draft comprehensive plan. If there is ever interest, Slaughter

Beach is in the North Coastal Planning Area and we anticipate providing service when requested.

For questions regarding these comments, contact Rob Davis, Sussex county Engineering Department at (302) 855-7820.

No additional comment about the plan. The discussion focuses within the town limits and does not directly impact County services or properties outside the town limits.

**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,

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

Constance C. Holland, AICP  
Director

CC: Sussex County