



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
Budget Development, Planning and Administration
State Planning Coordination

September 23, 2009

Mr. Kenneth Bieri
Assistant Planning Manager
New Castle County
87 Reads Way
New Castle, DE 19720

RE: PLUS review –2009-08-03; New Castle County Ordinance 09-068

Dear Mr. Bieri:

Thank you for meeting with State agency planners on August 26, 2009 to discuss the proposed ordinance which is an omnibus text amendment that proposes changes to a variety of UDC sections where clarifications and changes are necessary to improve and enhance the regulations. Please note that changes to the ordinance, 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.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: Herb Inden 739-3090

The Office of State Planning Coordination has no objection to this ordinance.

State Historic Preservation Office (SHPO) – Contact: Terrence Burns 739-5685

The State Historic Preservation Office has no objections to the County's proposed changes to the UDC.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

The Department of Transportation has no objection to any of the proposed clarifications and changes, but they suggest that the definition of Collector Streets be changed further.

Specifically, they recommend removal of the sentence “Although collector streets connect all types of streets, they rarely provide direct access to individual lots.” They recommend replacing that sentence with “Collector streets provide connections between arterial and local roads. On collector streets, providing access to the abutting land is subordinate to serving the movement of through traffic.”

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

1) Sec. 40.04.110. District and bulk standards.

A. Minimum open space ratio states that ‘all **protected resources** shall be in open space and none shall be permitted on any residential lots’

The UDC provides protection for wildlife habitat in Section 40.01.015, B. Natural and cultural resources, ‘d. *Preserve and protect areas with limited development potential due to topography, hydrology, soils, or other natural conditions as habitats for wildlife;*’ however, it is unclear what constitutes ‘natural conditions.’

DNREC recommends that **Protected Resources** include Key Wildlife Habitat as identified and mapped in the Delaware Wildlife Action Plan¹. **Protected Resources** should include state-rare and unique vegetative communities, and habitat that supports Species of Greatest Conservation Need² (i.e. state-rare and federally listed species). Many of these resources are not located on land that is protected and are vulnerable to impacts from land-use changes.

2) Section 40.10.380. Water resource protection area (WRPA).

¹ DEWAP is a comprehensive strategy for conserving the full array of native wildlife and habitats-common and uncommon- as vital components of the state’s natural resources. This document can be viewed via our program website at <http://www.dnrec.state.de.us/nhp>. This document also contains a list of species of greatest conservation need as well as species-habitat associations.

² Species of greatest conservation need (SGCN) are identified in the Delaware Wildlife Action Plan (DEWAP). In a broad sense, SGCN, as defined for DEWAP, are indicative of the overall diversity and health of the State’s wildlife resources. Some may be rare or declining, others may be vital components of certain habitats, and still others may have a significant portion of their population in Delaware

Article D, which has been added to this section, allows for the contribution of like land by the applicant. This land may lie within a Recharge or Wellhead WRPA and be held in perpetuity. The Groundwater Protection Branch (GPB) would like clarification on the WRPA land held in perpetuity. If the well for which the wellhead protection area is delineated for is abandoned, and is no longer considered a WRPA, is the land still protected?

3) Section 40.20.510. Mapping criteria.

NHD stands for National Hydrography (not Hydrographic) Dataset (also appears in Division 40.33.330. General definitions., in the definitions of “Drainageway” on page 19, “Nondelineated floodplain” on page 20, “Riparian Buffer” on page 20, and “Surface water” on page 21)

4) Division 40.33.330. General definitions.

Riparian Buffer (Page 20)

- DNREC recommends the following item be added to this definition: Riparian buffer areas should not contain lot lines or infrastructure (including stormwater management ponds).
- ‘All of any size sensitive wetland, rare wetland community, or those that support SGCN (as defined by the Delaware Natural Heritage and Endangered Species Program)’ should be included as a RBA. This would include sensitive wetlands such as coastal plain ponds (also known as Delmarva Bays) which are isolated, non-tidal wetlands that typically support a high diversity of species, many of which are considered rare.

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

No comments were received regarding this ordinance.

Department of Agriculture - Contact: Scott Blaier 739-4811

The Department has no objections to the proposed ordinance.

Public Service Commission - Contact: Andrea Maucher 739-4247

No comments were received regarding this ordinance.

Delaware Economic Development Office – Contact: Jeff Stone 672-6849

No comments were received regarding this ordinance.

Delaware Division of Public Health- Health Promotion Bureau- Contact: Michelle Eichinger (302) 744-1011

No comments were received regarding this project.

Delaware State Housing Authority – Contact Valerie Miller 739-4263

No comments were received regarding this ordinance.

Department of Education – Contact: John Marinucci 735-4055

DOE has no comments or objections regarding the ordinance under consideration.

Following receipt of this letter the County should coordinate with this office on the approval/adoption of this ordinance and once a decision has been reached regarding this ordinance, the County should notify the state and, if approved, send a copy of the final approved ordinance for our records.

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