



**STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION**

January 20, 2015

Mr. Bill McSpadden  
357 Bayard Avenue  
Slaughter Beach, DE 19963

RE: PLUS 2014-12-05, Slaughter Beach Comprehensive Plan Amendment

Dear Mr. McSpadden,

Thank you for meeting with State agency planners on December 17, 2014 to discuss the proposed Comprehensive Plan Amendment for the Town of Slaughter Beach. This amendment includes several changes such as the addition of a Sea Level Rise section, the addition of a “Bayshore Initiative” section, and the addition of a wharf district on your Future Land Use map.

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.

***Recommendations:*** Our office strongly recommends that the Town consider these recommendations from the various State agencies as you review your plan for final approval.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact Dorothy Morris 739-3090

The Office of State Planning Coordination had no objections to the proposed comprehensive plan amendment. Upon approval of this amendment:

- The Town of Slaughter Beach should update all the maps in your comprehensive plan to include the ‘wharf area’.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- In the last proposed paragraph on Wastewater Treatment Systems, DeIDOT recommends that the Town add a word qualifying the phrase “without harm to wetlands,” perhaps to say “without unacceptable harm,” or “without permanent harm,” as it could be argued that

construction of a sewer line by any route to the town would have some effect on wetlands.

Any use of a State highway right-of-way for a sewer line would be subject to DeIDOT review and approval. An initial contact in that regard would be Utilities Engineer, Mr. Eric Cimo. If he has not been contacted yet, DeIDOT recommends that the Town do so as part of the Feasibility Study. Mr Cimo can be reached at (302) 760-2642.

- The proposed section on Sea Level Rise could be strengthened by identifying some of the solutions the Town might implement to make them “more resilient to sea level rise and coastal storms.” One obvious solution that could be named here is the central sewer project discussed earlier in the Plan.
- The application describes proposed amendments to Maps 6 and 7, which are the Existing and Future Land Use Maps, respectively. However, the maps included with the application are zoning maps. While zoning maps and land use maps will be similar, especially in towns like Slaughter Beach, which have only a few zoning districts, the Town should understand that they are separate and should label the maps in their Plan appropriately.

The Department of Natural Resources and Environmental Control – Contact Kevin Coyle 735-3495

DNREC offers several comments and suggestions to improve conservation and protection of the Town’s resources. While the cumulative impact of various program suggestions and concerns may sound negative, the intent is to improve the plan elements related to environmental protection, open space, recreation and water quality and supply. DNREC would welcome the opportunity to meet with the Town in a collaborative manner to discuss these recommendations and possible future ordinances.

### **Recommendations for Comprehensive Plan Revisions**

The Town is to be commended for including flood management, sea level rise, and the Bayshore Initiative in their amendments.

### **Sediment and Stormwater Program**

- The *Delaware Sediment and Stormwater Regulations* have been revised and became effective January 1, 2014. A three-step plan review process is now prescribed in the regulations. Proposed development projects must submit a Stormwater Assessment Study for the project limits of disturbance and hold a project application meeting with the reviewing delegated agency as the first step, prior to submitting stormwater calculations or construction drawings, which are steps two and three. Resulting from the project application meeting a Stormwater Assessment Report will be completed by the reviewing agency and the developer and forwarded to the Town of Slaughter Beach. This Stormwater Assessment Report will rate the anticipated engineering effort necessary to overcome certain stormwater assessment items such as soils, drainage outlets, and impervious cover. The Sediment and Stormwater

Program recommends that the Town of Slaughter Beach consider the ratings from the Stormwater Assessment Report in making a decision to issue preliminary approval for any development request by incorporating the Stormwater Assessment Report as a required element when a plan is submitted into the municipal preliminary plan approval process.

- **Recommendation:** A section on stormwater management should be added to Section 2.4, Provision of Utilities, Community Facilities and Services, and Transportation (page 15).
- **Recommendation:** Incorporate a requirement for a stormwater review into the Town of Slaughter Beach's preliminary approval requirements for new development requests.
- **Recommendation:** The revised *Delaware Sediment and Stormwater Regulations*, effective January 1, 2014, have a goal of reducing stormwater runoff for the rainfall events up to the equivalent one-year storm, 2.7 inches of rainfall in 24 hours. Runoff reduction encourages runoff to infiltrate back into the soil as in the natural pre-development system and results in pollutant removal and stream protection. Best management practices (BMPs) that encourage infiltration or reuse of runoff, such as porous pavements, rain gardens, rain barrels and cisterns, green roofs, open vegetated swales, and infiltration systems should be allowed for new development sites within the Town of Slaughter Beach. Furthermore, limiting land disturbance on new development projects and limiting impervious surfaces by allowing narrower street widths, reducing parking requirements, and allowing pervious sidewalk materials will be necessary to help achieve the runoff reduction goals in the revised regulations.

### Source Water Protection Areas

- The Town acknowledges that there are no excellent groundwater recharge potential areas within their municipal boundaries and that there are wellhead protection areas within the municipal boundaries. There is no reference to 7 DE Code 60 §6082 (c).

Municipalities with populations of less than 2,000 persons, with the assistance of the Department, may adopt by ordinance the overlay maps delineating, as critical areas, source water assessment, wellhead protection, and excellent ground-water recharge potential areas. Furthermore, the ordinance shall include regulations governing the use of land within those critical areas designed to protect those critical areas from activities and substances that may harm water quality and subtract from overall water quantity. Counties and municipalities of more than 2,000 persons that have previously adopted ordinances that include the Department's overlay maps and regulations that protect public water supplies and are consistent with minimum standards identified in the guidance manual shall be exempt from the provisions of this subsection.

If the town is interested in a ordinance regarding wellhead protections, you should work with DNREC.

- The Plan contains a section on the Source Water Assessment and Protection Program. The Text inappropriately states that the plan was developed under the guidance of the U.S. EPA and the State's SWAPP. The development of the Source Water Assessment and Protection Program (SWAPP) was by DNREC and the Citizens and Technical Advisory Committee (CTAC) and then approved by the U.S. EPA.
- There is no Water Supply Protection Area Program (page 35). Any discussion of this nonexistent program should be deleted.

- **Recommendation:** Per the Memorandum of Understanding between the Office of State Planning and Division of Water dated July 2011:

Municipalities Under 2,000 Population (as reported in the most recent decennial Census):

- Text of the comprehensive plan **may** include description of source water requirements in 7 Del. C. 6082(c), and include goals and objectives related to the protection of the resource. This text shall be placed within the water and sewer element of the local government's comprehensive plan, as prescribed by Title 22 of the Delaware Code.
  - A map of source water resources (excellent recharge areas, wellhead protection areas) **may** be included in the plan. This map must be derived from the most current datasets<sup>1</sup> provided by the Department of Natural Resources and Environmental Control (DNREC).
  - If included, the map and plan text must clearly include the note that the regulatory provisions of any source water ordinance will refer to the most current source water protection datasets<sup>1</sup>.
  - The local government **may** adopt, after consultation with DNREC, an ordinance that is protective of the resource. If adopted, the ordinance shall refer to the most current official source water map and relevant data, as provided in the current Comprehensive Plan and as amended from time to time or include a map update procedure.
- **Recommendation:** Move the discussion of source water protection from Section 2.6, Natural Resources, Features, and Habitat, D. Other Vital Flora and Fauna (page 34) to Section 2.4, Provision of Utilities, Community Facilities and Services, and Transportation (beginning on page 15).

### Preparing for a Changing Climate

- Sea level rise is one of several climate change impacts that can affect communities, the others being variable precipitation and increasing temperatures. Together, precipitation and accelerated sea level rise contribute to increased flooding. Under Governor Markell's Executive Order 41, directing Delaware State agencies to prepare for emerging climate impacts and seizing economic opportunities from reducing emissions, DNREC and the Office Of State Planning Coordination are tasked with identifying actions local governments

can take to improve community resiliency, including an assessment of infrastructure vulnerabilities, land use policies, and other adaptation strategies that may be integrated into comprehensive land use plans. With that in mind, DNREC requests the opportunity to work with the Town to develop language for the comprehensive plan that addresses climate change impacts, as well as adaptation and mitigation strategies for the Town to pursue through implementing ordinances.

### **Air Quality**

- While the Division of Air Quality (DAQ) supports the proposed Town of Slaughter Beach Comprehensive Plan Update, the DAQ notes that the Town concedes there are concerns with current conditions for pedestrian and bicycle traffic on page 19. Specifically, many roads remain unpaved, lack shoulders, and have blind spots throughout the year as crops grow, blocking visibility.
  - **Recommendation:** The DAQ recommends that the Town consider improvements for safe multimodal transportation, not only for current residents but also for future visitors to new commercial sites. For every vehicle trip that is replaced by the use of a sidewalk or bike path, 7 pounds of VOC and 11.5 pounds of NOx are reduced each year, thereby improving air quality.

Should the Town have any questions, the DAQ point of contact is Rachel Yocum, and she may be reached at (302) 739-9402 or [Rachel.yocum@state.de.us](mailto:Rachel.yocum@state.de.us).

### **Recommendations for Ordinances and Plan Implementation**

#### **Wetlands Delineations**

- **Recommendation:** Require all applicants to submit to the Town a copy of the development site plan showing the extent of State-regulated wetlands (as depicted by the State Wetland Regulatory Maps), and a United States Army Corps of Engineers (USACE) approved wetlands delineation as conditional approval for any new commercial and/or residential development. Additionally, the site plan should depict all streams and ditches which are jurisdictional pursuant to the Subaqueous Act (7 Del. C., Chapter 72) as determined by DNREC.

#### **Freshwater Wetlands Protections**

- **Recommendation:** Implement regulations to protect freshwater wetlands where regulatory gaps exist (i.e., isolated wetlands and headwater wetlands).

#### **100 Foot Upland Buffer**

- Based on a review of existing buffer research by Castelle et al. (Castelle, A. J., A. W. Johnson and C. Conolly. 1994. *Wetland and Stream Buffer Requirements – A Review*. J. Environ. Qual. 23: 878-882.), an adequately-sized buffer that effectively protects water quality in wetlands and streams, in most circumstances, is about 100 feet in width. In recognition of this research and the need to protect water quality, the Watershed Assessment

Section recommends that the applicant maintain/establish a minimum 100-foot upland buffer (planted in native vegetation) from all water bodies (including ditches) and wetlands.

- **Recommendation:** Require a 100-foot upland buffer width from all delineated wetlands (approved by the USACE and DNREC) or water bodies (including ditches).

### **Impervious Surface Mitigation Plan**

- **Recommendation:** Require the calculation for surface imperviousness (for both commercial and residential development) take in to account all constructed forms of surface imperviousness - including all paved surfaces (roads, parking lots, and sidewalks), rooftops, and open-water storm water management structures.
- **Recommendation:** To encourage compact development and redevelopment, require an impervious surface mitigation plan for all residential and commercial developments exceeding 20% imperviousness outside that area. The impervious surface mitigation plan should demonstrate that the impervious cover in excess of 20% will not impact ground water recharge, surface water hydrology, and/or water quality of the site and/or adjacent properties. If impacts to groundwater recharge, surface water hydrology will occur, the plan should then demonstrate how these impacts will be mitigated. If the impacts cannot be mitigated, the site plan should then be modified to reduce the impacts from impervious cover.

### **Poorly Drained (Hydric) Soils**

- **Recommendation:** Prohibit development in poorly or very poorly-drained (hydric) soil mapping units. Building in such areas predictably leads to flooding and drainage concerns from homeowners, as well as significant expense for them and, often, taxpayers. Proof or evidence of hydric soil mapping units should be provided through the submission of the most recent NRCS soil survey mapping of the parcel, or through the submission of a field soil survey of the parcel by a licensed soil scientist.

### **Green Technology Stormwater Management**

- **Recommendation:** Require the applicant to use “green-technology” storm water management in lieu of “open-water” storm water management ponds whenever practicable.

### **Stormwater Utility**

- **Recommendation:** Explore the feasibility of a stormwater utility to fund upgrades to existing stormwater infrastructure. Upgrades to the stormwater system may reduce pollutant loads and help reach the established total maximum daily load for nitrogen, phosphorus, and bacteria. Reach out to the Sussex Conservation District, Sussex County, and the Delaware Clean Water Advisory Council as partners in funding stormwater retrofits.

### **Drainage Easements**

- **Recommendation:** The Town should pursue drainage easements along waterways and storm drains where currently there is none.

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Once a decision has been reached on this proposed comprehensive plan amendment, please forward a copy of the plan amendment to the Office of State Planning Coordination for our records. The plan amendment must include a revised version of any maps that were updated as well as any text that was approved in amending the comprehensive plan.

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

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in black ink and is positioned above the typed name and title.

Constance C. Holland, AICP  
Director, Office of State Planning Coordination

CC: Sussex County