



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

July 20, 2016

Mr. Michael Deal
Town of Selbyville
68 West Church Street
P.O. Box 106
Selbyville, DE 19975

RE: PLUS review 2016-06-03; Town of Selbyville Pre-update Review

Dear Mike:

Thank you for meeting with State agency planners on June 22, 2016 to discuss the update of Selbyville's comprehensive plan. State agencies have reviewed the documents submitted and have asked that the following be considered when you update your plan for certification.

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

The Office of State Planning Coordination greatly appreciates Selbyville participating in the Pre-PLUS review for your current comprehensive plan. The Pre-PLUS review is intended to make the certification process much smoother for the Town as you will know up front what potential issues concerns there are from state agencies and also be informed of state code and departmental administrative changes since your last plan was adopted.

Our office is pleased to have the opportunity to work with the Town of Selbyville as the Town prepares the required 10 year update of the comprehensive plan.

The Selbyville Comprehensive Plan is due for an update on or before September 2017. If the Town needs an extension from this date it must be requested in writing at least 90 days prior to this deadline. The basis for the request must be clearly indicated. The request will be forwarded to the Cabinet Committee on State Planning Issues, and they will consider it at their next scheduled meeting. The decision to grant the requested extension is at their discretion.

Some of the recommendations in this letter, mostly from DNREC, are suggestions for ordinances that would be put in place to implement the plan. Although the ordinances would come after the plan, it is important to consider the need for them in the comprehensive plan.

State Agency Specific Comments:

Department of Transportation – Contact Bill Brockenbrough 760-2109

- Sections 2.2.2.4 and 2.4 of the Development Coordination Manual address Transportation Improvement Districts. If the Town wishes to work with DelDOT to establish such a district, a necessary step early in that process (See particularly Section 2.4.2.7.) would be to include in the Comprehensive Plan a statement that the Town wants to create the district and a map showing where they want to create it.

The Development Coordination Manual is available at

http://www.deldot.gov/information/business/subdivisions/changes/pdfs/Development_Coordination_Manual-Chapter_2.pdf?041116. The City may contact me with questions not addressed in the Manual.

Suggestions

- On page 32, in the Background portion of the Transportation Section, the discussion confuses DelDOT's Corridor Capacity Preservation Program with DelDOT's US 113 North-South Study. The Corridor Capacity Preservation Program is an ongoing DelDOT program regulating access on US Routes 13 and 113 and Delaware Routes 1 and 48. An introduction to this program is available at http://www.deldot.gov/information/pubs_forms/brochures/pdf/ccpp_fyi.pdf. As necessary, our manager for the Program, Mr. Tom Felice, may be contacted at (302) 760-2338 for more information.

The US 113 North-South Study is a study of the US Route 113 Corridor from the Maryland Line to Delaware Route 1 north of Milford. Information on this study and DelDOT projects resulting from it is available at <http://www.deldot.gov/information/projects/us113/>.

- Again on page 32, the Route 54 study mentioned there is now complete and the resulting project has been built. Information is available at http://www.deldot.gov/information/projects/CompletedProjects/sr54_mainline/index.shtml.
- The Transportation Enhancement Program, mentioned on page 35, has now been replaced with the Transportation Alternatives Program. More information about this program is available from DelDOT's Assistant Director for Local Systems Improvement, Mr. Jeff Niezgoda, at (302) 760-2178.

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

The Department envisions a Delaware that offers a healthy environment where people embrace a commitment to the protection, enhancement and enjoyment of the environment in their daily lives; where Delawareans' stewardship of natural resources ensures the sustainability of these resources for the appreciation and enjoyment of future generations; and where people recognize that a healthy environment and a strong economy support one another.

DNREC's intent is to offer recommendations to improve conservation and protection of the City's resources and 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 City in a collaborative manner to discuss these recommendations and possible future ordinances.

Recommendations for Comprehensive Plan Revisions

Wastewater Facilities.

- What is the status of the treatment capabilities and permitted capacity improvements that were referred to on page 26 of the 2007 Plan?

Water Facilities.

- What is the status of the Water Facilities Plan that was referred to on page 30 of the 2007 Plan? Does the Water Facilities Plan include water allocation projections based on population/employment projections?

Source Water Protection.

- The Town adopted a wellhead protection ordinance in August of 2006. One of the Next Steps, identified on page 46 of the 2007 Plan, was to improve the Town's Source Water Ordinance to protect the resource. DNREC is available to assist the Town in this much-needed improvement.

According to the 2010 Census, Selbyville's population has exceeded 2,000 persons. Because the population exceeds 2,000 persons, the Comprehensive Plan must contain the following elements per the Memorandum of Understanding between the Office of State Planning and Division of Water dated July 2011.

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

Text of the comprehensive plan must include description of source water requirements in 7 Del. C. 6082(b), 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 9 or Title 22 of the Delaware Code.

- A map of source water resources (excellent recharge areas, wellhead protection areas) shall be included in the plan. This map must be derived from the most current source water protection datasets¹ provided by the Department of Natural Resources and Environmental Control (DNREC).
- 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 datasets¹.
- The local government shall adopt, after consultation with DNREC, an ordinance that is protective of the resource. 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.

Procedures for Plan Updates:

- All municipalities and counties with a population of 2,000 or more persons (as reported in the most recent decennial Census) undergoing regular plan updates will be required to incorporate updated source water maps derived from the most current datasets¹ provided by the Department of Natural Resources and Environmental Control (DNREC). The map and plan text must clearly include the note that the regulatory provisions of any source water ordinance will refer to this map, as provided in the Comprehensive Plan update and as amended from time to time.

¹<http://www.nav.dnrec.delaware.gov/DEN3/DataDownload.aspx>

Stormwater Management.

- The Department recommends that the Town of Selbyville incorporate a requirement for a stormwater review into the Town's preliminary approval requirements for new development requests. 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:
 - Submit a Stormwater Assessment Study for the project limits of disturbance and hold a project application meeting with the reviewing delegated agency,
 - Submit stormwater calculations, and
 - Submit construction drawings

Following the project application meeting, a Stormwater Assessment Report will be completed by the reviewing agency and the developer and forwarded to the Town. 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 consider the ratings from the Stormwater Assessment Report in making a decision to

issue preliminary approval for any development request. Further, the Sediment and Stormwater Program recommends that the Town incorporate the Stormwater Assessment Report as a required element when a plan is submitted to the Town's preliminary plan approval process.

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. 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.

Recreation and Parks (page 36).

- In August of 2011, the Delaware Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information and trends on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2013-2018 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities and needs within county and municipal comprehensive plans.
- When looking at the findings from the 2011 telephone survey, it is apparent that Delawareans place a high importance on outdoor recreation. Statewide, 93% of Delaware residents indicated that outdoor recreation had some importance in their lives, while 67% said it was very important to them personally. These findings are closely aligned with the results of the same question asked in the 2008 public opinion telephone survey, indicating a continued demand for outdoor recreation opportunities throughout the State.
- For the purpose of refining data and research findings, Delaware was divided into five planning regions; the Town of Selbyville is located within SCORP Planning Region 5. Placing high importance on outdoor recreation resonates throughout the five SCORP regions. In Region 5 (Eastern Sussex County), 65% said it was very important to them personally.

Outdoor Recreation Needs/Priorities

Based on the 2011 public opinion survey, the most needed outdoor recreation facilities in Region 5 include:

High facility needs:

- Walking and Jogging Paths
- Bicycle Paths
- Public Swimming Pools
- Community Gardens
- Fishing Areas
- Off-Leash Dog Areas
- Picnic Areas
- Basketball Courts
- Playgrounds

Moderate facility needs:

- Hiking Trails
- Boat Access
- Canoe/Kayak Launches
- Camping Areas
- Ball Fields
- Football Fields
- Public Golf Courses
- Soccer Fields
- Tennis Courts

Natural Resources and Environmental Protection (Page 38).

- It is strongly recommended that the Plan discuss the TMDL reduction requirements for nutrients (e.g., nitrogen and phosphorus) and bacteria and the Pollution Control Strategy (PCS) to attain these reductions; flood management; and habitat, as it relates to buffers and Future Annexation Areas.

Total Maximum Daily Loads (TMDLs).

- The Town of Selbyville and potential annexation area is located in the greater Inland Bays watershed/basin, more specifically in the Bunting Branch, Little Assawoman and/or the Assawoman subwatersheds. In the Buntings Branch, the TMDL calls for 31% and 19% reduction in nitrogen and phosphorus from baseline conditions, respectively. The Bunting Branch TMDL also calls for a 40% reduction in bacteria from baseline conditions (17% for marine waters). In the Little Assawoman watershed, the TMDL calls for 40% reduction in nitrogen, phosphorus, and bacteria from baseline conditions (17% for marine waters). In contrast to above-mentioned TMDLs regulated by the State

of Delaware, the TMDL for N, P, and bacteria for the Assawoman Bay is regulated by the State of Maryland.

The realization of these TMDL pollutant load reductions will be through a Pollution Control Strategy (PCS). A PCS identifies the specific strategies and actions (e.g., best management practices) necessary for reducing pollutants in a given water body (or basin/watershed), thus attaining the TMDL load reductions and meeting water quality criteria or standards set forth in the State of Delaware's Water Quality Standards, ultimately leading to the restoration of a given waterbody's designated beneficial use(s). Specifically, a PCS is a combination of best management practices (e.g., wetland buffers, green technology stormwater treatment, pervious paving materials, rain gardens, etc.) that will reduce nutrient and bacterial pollutant runoff loading by optimizing BMPs. The PCS for the Inland Bays consists of regulatory requirements for stormwater and wastewater with only voluntary recommendations for agriculture. The regulatory requirements for the Inland Bays PCS can be retrieved from the following web link:
http://www.dnrec.state.de.us/water2000/Sections/Watershed/ws/ib_pcs.htm.

Flood Management.

- Regarding flood management, DNREC would look for an acknowledgement that the Preliminary Flood Insurance Rate Maps (FIRMs) for Sussex County became effective on March 2, 2015. We would also look for a discussion about the Town's floodplain regulations with respect to the new maps.

Future Annexation Areas.

- Future annexation areas appear to include forested wetlands adjacent to the Great Cypress Swamp, which is owned by Delaware Wildlands. Great Cypress Swamp is the largest freshwater wetlands and contiguous block of forestland in the state of Delaware and numerous state-rare (including state-endangered) species have been documented throughout this habitat. The forested wetlands that are contiguous to the Great Cypress Swamp may support state-rare species as well. It would be best if these forested wetlands remain unfragmented and preserved for wildlife.

There is also a forested wetland in the northeastern area of the annexation areas, to the west of Roxana Road that should be left unfragmented. This area is mapped as key wildlife habitat in the Delaware Wildlife Action Plan because it is part of a large wetland complex that can support an array of plant and animal species.

Overall, DNREC highly recommends that maintaining large, connected areas of forest be a priority when land use changes are proposed. It would be even more beneficial if there was an incentive to preserve these areas before they are earmarked for development. According to the existing land use map included in the comprehensive plan, there are very few areas devoted to Natural Resources/Open Space. There was some indication in the plan that additional recreational opportunities and open space were desirable and these forested areas could fulfill part of that need.

Buffers.

- From a wildlife perspective, not only are buffers important for maintaining the function and integrity of wetland habitat, but these buffers also provide critical habitat for wetland dependent species during portions of their life cycles. Also, buffers along riparian areas are especially important for wildlife travel.

The Plan mentions the importance of buffers, but needs to go a step further and state what measures will be put in place to ensure that the buffers are adequate for the purposes they need to serve. Upland buffers around wetland areas and along water courses should be at least 100 feet in width to provide the functions listed in the paragraph above. Buffers should be comprised of native vegetation and not simply mowed lawn areas. If there are no requirements or specifics mentioned in the plan, there will be little incentive for those developing the land to maintain adequate buffers.

Air Quality.

- With the acknowledgment of Selbyville being “an ideal location for retirement” (page 14) with roughly 17.1% of the population of Selbyville being 60 years of age or older (page 9) and with a total of 350 students in grades K-5 attending Phillip Showell Elementary School, it is imperative that actions be taken to mitigate air pollution in the area. The elderly, children and those with underlying respiratory and cardiac ailments fall under in the “high risk” category for air pollution due to the potential adverse effects of emissions.

Sussex County, Delaware is classified as non-attainment for not meeting federal and state 8-hour ozone standards. The Town of Selbyville is encouraged to implement transportation alternatives and land use measures that will substantially enhance air quality and reduce air emissions. Among these transportation alternatives are efforts to provide increased connectivity to the nearest bicycle, pedestrian and sidewalk networks as well as links to any nearby mass transport systems including parks, public and cultural facilities and residential neighborhoods. DNREC also highly encourages the inclusion of public transit as a transportation opportunity in the Selbyville area as “there is currently no public transportation [present] in the Town such as buses or taxis” (page 34). This is especially crucial during the summer month as Selbyville provides convenient access to our beaches to lower Delawareans and Maryland residents bordering the state line.

The Comprehensive Plan also mentioned that Selbyville is seeking and desires to expand their Industrial Park in order to bring economic development to the area (page 42). DNREC supports economic development in Delaware and also recommends that all sustainable clean energy and air quality measures are both considered and incorporated in development. This practice is encouraged in all new construction processes where applicable.

There are additional measures that can be implemented to reduce the impact of growth and development on air quality in Selbyville. The Division of Air Quality point of contact is Lauren DeVore, and she can be reached at lauren.devore@state.de.us or at (302)739-9437.

Economic Development.

- Brownfields are real property that may be vacant, abandoned or underutilized as a result of a reasonably-held belief that they may be environmentally contaminated (7 Del.C. § 9103(3)). Productive use of these idle properties provides “new” areas for economic development, primarily in former industrial/urban areas with existing utilities, roads and other infrastructure. DNREC encourages the development of Brownfields and can provide grant funding and other assistance when investigating and remediating Brownfield sites.

The Delaware Brownfields Marketplace is an interactive database that contains a list of market-ready Brownfield sites throughout Delaware. The inventory is designed to make it easier for potential buyers and developers to locate available Brownfield properties. Cleaning up and reinvesting in these properties protects the environment, reduces blight, and helps to create jobs for Delaware citizens, while preserving Delaware’s precious green space and natural resources.

To add sites in your municipality to the Marketplace (with owner approval) or to determine if any sites in your municipality are Brownfields, please contact Melissa Leckie at DNREC’s Site Investigation and Restoration Section at (302) 395-2600 or by e-mail at Melissa.Leckie@state.de.us. For more information online, please visit: <http://apps.dnrec.state.de.us/BFExt/BFExtMain.aspx>.

Tank Management.

- The DNREC Tank Management Section has been cooperating with other agencies and the Town to address the presence of MTBE, a former gasoline additive, in the Town’s water supply wells. There are several documented petroleum release sites within the Town; however, the investigation has not determined a definitive source. MTBE has not been present in gasoline since 2006; therefore, it is not an active release. The DNREC-TMS is aware of the Town’s plans to upgrade its water treatment facility, which will remove the MTBE from its drinking water.

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. The Climate Framework for Delaware recommends that DNREC, through the Division of Energy and Climate, provide technical support to local governments, in coordination with the Office of State Planning Coordination (OSPC), to enhance focus on climate impacts (including the reduction of greenhouse gas emissions) and long-term sustainability (through adaptation and mitigation) in the comprehensive plan and in implementing ordinances. With that in mind, DNREC requests the opportunity to work with the Town and their consultants 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.

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 in the Town's central business area, require an impervious surface mitigation plan for all residential and commercial developments exceeding 20% imperviousness outside that area, or at least in excellent recharge areas 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 TMDL for nitrogen, phosphorus, and bacteria. Reach out to Sussex County, the Conservation District, 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.

Department of Agriculture – Contact: Scott Blaier 698-4532

- The Department encourages the town to make farmland preservation an integral part of its future planning efforts, and address it in the plan update (see page 36 of 2007 plan).

Appendix: Maps

- Please make sure the town’s maps are up to date with the latest parcels enrolled in the state’s Agricultural Lands Preservation Program. It is important that these properties be taken into consideration by the town during its future planning initiatives. The latest layer can be requested through the department’s GIS specialist, Jimmy Kroon (302) 698-4530 or Jimmy.Kroon@state.de.us.

State Historic Preservation Office – Contact Terrence Burns 736-7404

- The Town of Selbyville includes an historic district that is eligible for listing on the National Register of Historic Places. We hope that the Town will pursue this process, in order to protect Town’s historic character. When a historic district is on the National Register, historic houses and buildings in the district, may qualify for preservation grants or incentive, such as state or federal credit program. These grants and incentives can also be a benefit, in the preservation, protection and maintenance of historic properties. A

complete documentation and National Register evaluation of the proposed district are included in the 2012 report. The title of that report is the **“Evaluation of National Register Eligibility for Architectural Properties in the Millsboro-South Study Area, U.S. 113 North/South Study” (1000145)**, and our office does have a copy of that report. If you have any questions, inquiries or concerns, just contact Alice Guerrant at 302-736-7412.

Since this was a Pre-update meeting for your plan update, we will need to see the completed document at a regular PLUS meeting once your Planning Commission has approved the draft plan for public review. Thank you for the opportunity to review this document. The State agencies and I look forward to working with you during the update process. 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, Office of State Planning Coordination

CC: Sussex County
Debbie Pfeil