



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

October 26, 2016

The Honorable Pat Voveris
Mayor, Town of South Bethany
402 Evergreen Road
South Bethany, DE 19930

RE: PLUS review 2016-09-06; Town of South Bethany Comprehensive Plan

Dear Mayor Voveris:

Thank you for meeting with State agency planners on September 26, 2016 to discuss the proposed update of the Town of South Bethany's comprehensive plan. State agencies have reviewed the documents submitted and offer the following comments. 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.

Certification Comments:

1. The town should include the following maps in the plan:
 - a. A map which clearly shows the municipal boundaries of the town.
 - b. Future Land Use Map
2. The plan must include a section on Intergovernmental Coordination. This section should include information on what neighboring jurisdictions were asked to review the plan and if or how they responded.

Recommendations: In addition to the certification items above, our office strongly recommends that the Town consider these recommendations from the various State agencies as you review your plan for final approval.

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

The State congratulates the Town of South Bethany for working with State agencies and submitting a comprehensive plan that meets the goals of the community. Your plan, as designed, maintains the small town character of South Bethany while continuing to plan for the natural

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hazards associated with coastal communities. Below are a list of recommendations from the individual State agencies which we feel will enhance your current plan. While the comments are recommendations, we encourage you to consider these comments both for additions to your plan before certification and for action items once the plan is certified.

OSPC recommendations:

- Other maps to consider including
Climate Change and Sea Level Rise Adaptation maps,
Environmental Features/Natural Resources map,
- If the town has any desire to annex property within the next 10 years, an Annexation Map should also be included. If these maps are not included and the town decides to annex a comprehensive plan amendment would be required at that time.
- Page 29, Summary 2 (c) Change annually updating to reflect that the town is responsible for submitting an annual report to the OSPC on or before July 1st of each year. At this time, the town should consider if changes are needed to the plan.

Delaware State Housing Authority – Contact Karen Horton 739-4263

- As a Town with a population of less than 2,000, DSHA reviewed the Town of South Bethany's Comprehensive Plan for their position on housing growth which is included. However, their position on housing growth is to remain a single-family community of primarily second homes. While DSHA understands that South Bethany is small, being a municipality carries with it the responsibility to allow for all citizens the opportunity to live within the Town. DSHA is concerned that the current zoning of allowing only single-family homes and the draft Comprehensive Plan's stated position could have an exclusionary effect when combined with no strategy for providing affordable housing.
- Providing affordable housing for current and future residents is a state *and local issue*. At a time when Federal resources for housing are diminishing, this is especially critical given the substantially documented need for affordable housing within the coastal resort region. The draft Comprehensive Plan indicates a lack of younger adults and children in the Town's population base as well as an excess of citizens over 65 years of age. DSHA recommends that the Town of South Bethany revise their position on housing to reflect a willingness to facilitate affordable housing opportunities for people of all income levels, which will also contribute to a more diverse community.
- The following are examples of strategies that could be particularly helpful in a coastal resort town such as South Bethany:
 - Provide additional housing opportunities within the existing housing stock such as permitting accessory dwelling units in residential areas as a matter of right. This can help residents age in place and address some of the seasonal housing issues.

- Consider long-affordability programs and tools to preserve public investment and to ensure a sustainable affordable housing stock. One way to do this is by partnering with the Diamond State Community Land Trust (DSCLT). This can be done by donating land to the DSCLT, within the Town, or through contractual agreements for monitoring long-term affordability restrictions on units that have been set aside to be affordable.
- Coordinate with other area beach towns to identify and implement regional strategies for addressing affordable housing needs.
- DSHA encourages municipalities to be aware of recent enforcement activity of the Fair Housing Act (FHA) in Sussex County.
 - In 2012, Sussex County settled with the U.S. Department of Justice (DOJ) to resolve a claim that the county discriminated against a group trying to develop affordable housing. In addition to a \$750,000 payment to the affected party, the county was required take affirmative steps to provide for future affordable housing, communicate its commitment to fair housing, provide training for all County officials and state, as well as establish mechanisms to ensure affordable and fair housing in Sussex County.
 - In June 2016, The Arc of Delaware settled its disability discrimination complaint against Sugar Maple Farms Property Owners' Association, Inc. which represents a single-family community of 55 homes just south of Milford. That complaint, filed in March 2015 with the U.S. Department of Housing and Urban Development (HUD) and the Delaware Division of Human Relations (DHR), sought a declaration that Sugar Maple violated the FHA when it refused to approve The Arc of Delaware's acquisition of property meant to house four individuals with intellectual and developmental disabilities in a single family home integrated within the community. In addition to a \$55,000 payment to the Arc of Delaware and payment of attorney fees, the Sugar Maple board had to receive comprehensive training on the FHA, and undertake other activities to ensure compliance with the FHA.

State Historic Preservation Office – Contact Terrence Burns 736-7404

The Town of South Bethany's Comprehensive Plan, shows no content about historic preservation According to the history and profile of the town, it was not incorporated until the late 1960s. There is at least one historic property the town may want to be involved with the preservation of, the Cat Hill Cemetery. Discovered on a parcel of land within the Cat Hill subdivision, the identified lot is now in private hands. Members of prominent Delaware families with long ties to the area are related to those buried in the Cat Hill Cemetery. Recognition and protection of this property could provide the residents of the Cat Hill and Town of South Bethany community with a physical connection to the history of the area. Information about Cat Hill is available through the published work of Gordon Wood. The Delaware Public Archives owns a copy of his book "Letters to the Little Ones." Faye Stocum, archeologist with the Delaware State Historic Preservation Office of the Division of Historical and Cultural Affairs, has recently worked with the landowner to consider preservation solutions for this

property. She is available to provide the information she has gathered about Cat Hill to assist with developing the narrative for this historic aspect of the history of the town. You can contact her at 302-736-7400 or faye.stocum@state.de.us.

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 Town'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 Town in a collaborative manner to discuss these recommendations and possible future ordinances.

Implementation Strategies

Goal 1 Consider establishing a Tax Lagoon Association to fund canal dredging and other improvements. The State provides assistance for the development of such associations, which provide a consistent revenue stream for repairs. Please see Title 7, Del. Code, Chapter 43 for additional information.

Energy Efficiency: Goal 3, #5 suggests developing a lighting plan. South Bethany should be aware that funds for use of energy saving LED bulbs for municipal applications could be available through a variety of sources including the Energy Efficiency Investment Fund administered through the Division of Energy and Climate and the Sustainable Energy Utility and other opportunities through the USDA Rural Development Agency.

A new funding database is available that may help you find resources in the future for resiliency projects: <http://www.completecommunitiesde.org/>

Recommendations for Comprehensive Plan Revisions

Water Quality

- The Town may wish to include the following information about water quality in the Inland Bays in their discussion of water quality beginning on page 16:

TMDLs

- 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

(TMDLs) to restore their beneficial uses (e.g., swimming, fishing, drinking water, and shellfish harvesting). A TMDL defines the amount a given pollutant (i.e., or the pollutant loading rate reduction for a given pollutant) that may be discharged to a waterbody from all point, nonpoint, and natural background sources, thus enabling that waterbody to meet or attain all applicable narrative and numerical water quality criteria (e.g., nutrient/bacteria concentrations, dissolved oxygen, and temperature) in the State of Delaware’s Water Quality Standards.

The Town of South Bethany is located within the greater Inland Bays Basin. Within this Basin, the designated nutrient (nitrogen and phosphorus) and bacterial TMDL load reduction requirements are displayed in Table 1.

	N	P	Bacteria
Inland Bays Basin	40% Low Reduction zone	40% Low Reduction zone	40% Fresh

Table 1: TMDL reduction requirements for the Inland Bays

The Town may also wish to consider providing education for homeowners regarding lawn care practices, which can increase the nutrient input into the bay and canals. There is a new initiative help homeowners apply fertilizer properly to avoid water quality degradation – the Town could partner or help distribute this information to help reduce nutrient inputs into canals, which in turn may improve water quality over time. The initiative is called Delaware Livable Lawns: <https://www.delawarelivablelawns.org/seven-steps/step-6-fertilize-in-the-fall>. And, as was recommended earlier, the Town may want to consider establishing a Tax Lagoon Association to fund canal dredging and other improvements.

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 Sussex County, the Sussex Conservation District, and the Delaware Clean Water Advisory Council as partners in funding stormwater retrofits.

Flooding and Sea Level Rise

- South Bethany has been a leader in the state for assessing vulnerability to sea level rise and working to find solutions. This is in large part because flooding is one of the main natural issues facing the Town of South Bethany. As an example, in 1962, numerous houses in South Bethany were completely destroyed by flooding from a Nor’easter. In 2012, nearly every property in Town west of State Route 1 was flooded. Most of the historical efforts made in

the Town of South Bethany to address water damage have been about reducing the impacts of flooding. The new dune system, improvements to Ocean Drive, floodplain maps, floor elevation requirements, foundation and utility protection requirements, and flood insurance itself are all efforts to reduce the impacts of flooding.

The Town of South Bethany is very vulnerable to flood damage, and while the Plan discusses sea level rise, it contains almost no content related to how the Town will address existing flood hazards in the short term in its land use authority, zoning responsibilities, or code enforcement to for the future development of South Bethany.

The Delaware Coastal Programs may have Community Grants available for Coastal Resiliency and Sea Level Rise Adaptation. The grant requires matching of federal funds or in-kind services at a ratio of at least one to one. If you would like any additional information please contact Delaware Coastal Programs at (302) 739-9283. In addition, a new resiliency grant funding tool has been created by the University of Delaware that may prove useful as you begin implementing portions of your plan: www.completecommunities.org.

Recommendations:

The Town should consider renaming the Sea Level Rise section on page 20 to “Flooding and Sea Level Rise

The comprehensive plan should contain a section containing information and data about existing flooding issues

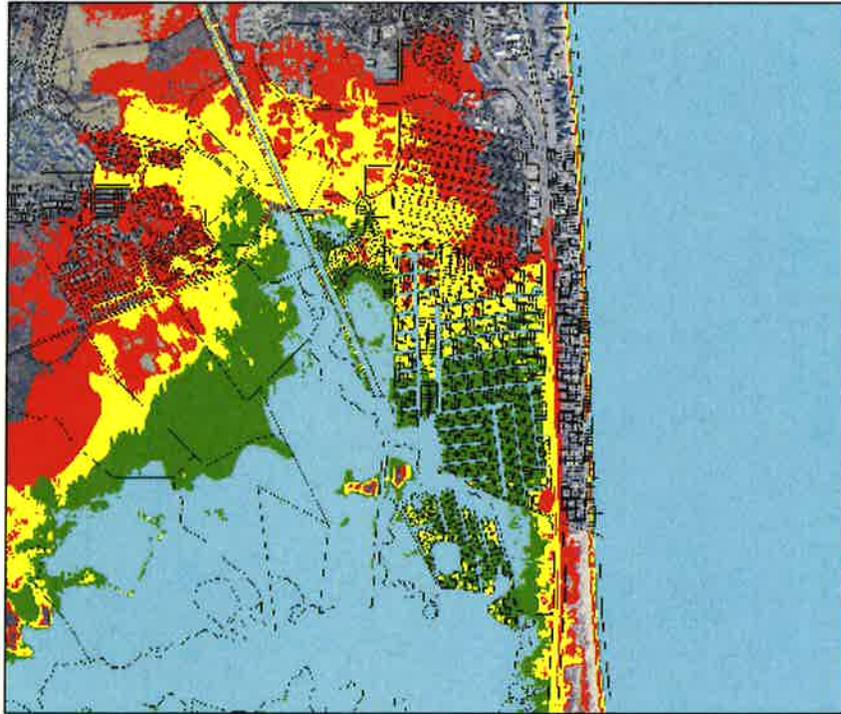
The Town should consider including recommendations for responding to existing flooding issues, in addition to those for the longer term problem of sea level rise. These could include recommendations for evaluating floodplain codes, flood preparedness outreach to residents and other emergency preparedness measures.

The Town should ensure that information and recommendations in the Comprehensive Development Plan are consistent with and echo those that may be contained in the “Sea Level Rise Vulnerability Assessment for the Town of South Bethany (2016)”. In addition, the Town may also wish to ensure that the Comprehensive Plan is consistent with the recommendations in the County Hazard Mitigation Plan.

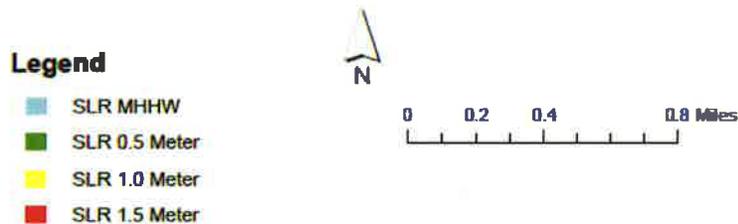
Add a new specific goal objective or implementation strategy that addresses sea level rise.

Include the “Sea Level Rise Vulnerability Assessment, Town of South Bethany” in your plan as an appendix and reference it on top of page 21 to help illustrate that the Town has been actively working on issues of flooding and sea level rise.

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



South Bethany 2012 Ortho Photo



This map produced by the Delaware Coastal Programs.
This map is not intended to be a depiction of Regulatory Authority,
Jurisdiction, or Territorial Claims. Its use is intended for planning
purposes related to effective coastal management

Parks and Recreation

- DNREC recommends that you consider adding the following information under a section of the Plan that discusses community facilities.

In August 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. For the purpose of refining data and research findings, Delaware was divided into five planning regions. The Town of Fenwick Island is located within SCORP Planning Region 5.

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 very close to 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.

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 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

Air Quality

- According to a Town estimate, “85% of South Bethany’s population is comprised of persons above 65 and 1% are persons below age 18” (page 7). Both of these demographics (the elderly and the young,) as well as those with pre-existing respiratory or cardiac conditions such as emphysema or asthma fall under the “high-risk” or “sensitive” category in terms of negative health effects of air pollution.

Recommendation:

Include improving air quality in the Town of South Bethany under Goal 6 to “Promote South Bethany as a “Healthy Community” and to ensure the protection of natural resources for the enjoyment and health of existing and future residents of South Bethany and the surrounding region (page 14).

- The Town of South Bethany 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 supports South Bethany’s efforts to create a more walkable and bikeable Town (page 32).
- DNREC supports efforts to beautify the Town of South Bethany through the planting of urban trees, landscaping and shrubbery that would aid in both cleaning the air of pollutants and replenishing oxygen into the air. Also, urban trees provide shade for parking areas, help to reduce heat island impacts, and, by extension, help to minimize the potential for localized ground-level ozone formation. Such measures can also have the additional benefit of channeling or infiltrating storm water.
- Lastly, the Town of South Bethany is also encouraged to continue to expand upon the existing alternative fueling (alternative fuels meaning compressed natural gas (CNG), propane or electric chargers) infrastructure of surrounding areas. The State of Delaware has submitted a request for State Route 1 from Fenwick Island to Lewes to be designated by the FHWA as an Alternative Fuel Corridor and this would not only aid in that goal, it carries with it a shared goal of having South Bethany recognized as a portion of this corridor. Dewey, Rehoboth and Lewes both now contain electric vehicle (EV) charging stations and it is recommended that South Bethany look for an opportunity to also take this important step to a cleaner and greener future for transportation (and possibly the merit of being included in this corridor in the future!). For a map listing of alternative fueling locations, please visit the following website: <http://www.afdc.energy.gov/locator/stations/>. A new program will soon provide rebates for public or workplace electric vehicle charging stations. See www.de.gov/cleantransportation for more information.

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.

Recommendations for Ordinances and Plan Implementation

- **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.

Approval Procedures:

- Once all edits, changes and corrections have been made to the Plan, please submit the completed document (text and maps) to our office for review. **Your PLUS response letter should accompany this submission.** Also include documentation about the public review process.

- Our office will require a maximum of 20 working days to complete this review.
 - If our review determines that the revisions have adequately addressed all certification items (if applicable), we will forward you a letter to this effect.
 - If there are outstanding items we will document them in a letter, and ask the town to resubmit the plan once the items are addressed. Once all items are addressed, we will send you the letter as described above.
- Once you receive our letter stating that all certification items (if applicable) have been addressed, the Planning Commission and Council should adopt the plan pending State certification. We strongly recommend that your Council adopt the plan by ordinance. The ordinance should be written so that the plan will go into effect upon receipt of the certification letter from the Governor.
- Send our office a copy of the adopted plan along with the ordinance (or other documentation) that formally adopts your plan. We will forward these materials to the Governor for his consideration.
- At his discretion, the Governor will issue a certification letter to your Town.
- Once you receive your certification letter, please forward two (2) bound paper copies and one electronic copy of your plan to our office for our records.

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

Sincerely,



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

Cc: Sussex County