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REPORT TO GOVERNOR'S ADVISORY COUNCIL ON PLANNING

SUSSEX COUNTY, DELAWARE

2021-2022

June 28, 2022

INTRODUCTION

This is the third annual report regarding Sussex County's 2018 Comprehensive Plan ("the Plan"), which was adopted by County Council on Tuesday, December 4, 2018. The Plan was subsequently certified by Governor John C. Carney on March 19, 2019 as being in compliance with Title 9, Chapter 69, Subchapter II (The Quality of Life Act) of the Delaware Code.

This report is intended to comply with Title 9, Section 6958 of the Delaware Code. Delaware law mandates that all counties and municipalities have a Comprehensive Plan in place. Counties and municipalities must review and update those plans for State certification every 10 years, while also providing annual updates on the progress of implementation.

NEW INITIATIVES

In the July 2021 to June 2022 reporting year, Sussex County has undertaken a number of initiatives to implement the strategies within the Comprehensive Plan.

FY 23-28 Capital Transportation Program Update for Sussex County

Every two years the Department of Transportation develops a 6-year Capital Transportation Program (CTP) that identifies anticipated capital investments. This program is developed in cooperation with the Salisbury-Wicomico Metropolitan Planning Organization, and Sussex County. The program



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provides information on various DelDOT capital and maintenance programs and on the estimated cost expenditures for the project phasing of a capital project that are anticipated in each specific fiscal year. In June 2021, Sussex County finalized its submissions for new CTP candidates for the FY 23-28 Capital Transportation Program Update. The Draft FY 23 CTP was released on August 18, 2021, by the Council on Transportation. A Public Hearing was held on September 29, 2021.

A new project added to the CTP is the Mulberry Knoll Road Extension from Cedar Grove Road to US 9 at Old Vine Road. The project includes a new two (2) lane roadway to connect communities and alleviate congestion on parallel routes. This new road segment was recommended by the Five Points Working Group and was studied as an alternative to widening Plantation Road from Robinsonville to Cedar Grove because of the high cost of the widening project. Based on the findings of the Henlopen Transportation Improvement District (TID), if Mulberry Knoll Road was extended to US 9, the Plantation widening would not be necessary prior to 2050.

A link to an online map showing the new FY 23-28 CTP Projects, can be found at the link below:

[DelDOT FY23-FY28 CTP New Projects \(arcgis.com\)](#)

Henlopen Transportation Improvement District

The County has successfully implemented Strategy 13.1.1.2 of the Comprehensive Plan by working with Delaware Department of Transportation to implement the County's first Transportation Improvement District for the 24 square mile Henlopen area south of Rt. 9 and west of SR.1. The Henlopen TID was adopted on October 29, 2020 and unless a development falls within a specified exemption, is required to contribute to planned transportation infrastructure improvements within the District.

Projects have continued to come forward for consideration during the review period. As of June, 2022, the total amount of financial commitments for the Henlopen TID now stands at \$4.4 million. The table below illustrates the amount of the existing commitments and the number of residential units and new floor area:

Property Identification	Use	Size (units/sf)	Contribution
Cambria Hotel	Hotel	96,481	\$ 281,724.52
Cambria Hotel	General Office	7,200	\$ 21,024.00
Cardinal Grove	Residential SF Detached	98	\$ 486,864.00
Chase Oaks	Residential SF Detached	253	\$ 1,256,904.00
DGAS, Inc. Minor Subdivision	Residential SF Detached	4	\$ 19,872.00
Howeth Property	Residential MF Low-Rise	84	\$ 338,520.00
Lands of Hete4, LLC	Residential SF Detached	3	\$ 15,498.00
Lands of H&S Properties, LLC	Home office expansion	1,571	\$ 4,587.32
Scenic Manor	Residential SF Detached	319	\$ 1,584,792.00
Turtle Drive Commercial	Office	800	\$ 2,336.00
Turtle Drive Commercial	General Light Industrial	4,200	\$ 12,264.00
Turtle Drive Commercial	Wholesale/Warehouse	14,050	\$ 41,026.00
Wil King Station	Residential SF Detached	68	\$ 337,824.00

Resource Buffer Ordinance

Objective 4.3.1 of the Future Land Use Element outlines an objective to consider strategies for preserving environmental areas from development and the protection of wetlands and waterways. Objective 4.3.2 promotes new development that incorporates preserved usable open space and mitigates for the protection or replacement of environmental resources in subdivision design. There are multiple strategies within the Comprehensive Plan that flow from these objectives including, Strategy 4.3.2.1 and 4.3.2.2 and 4.4.1.1.

County Council, at its Tuesday, May 17, 2022, meeting, adopted an Ordinance that overhauls the County's environmental safeguards for critical waterways and wetland areas as development springs up near and around those features. The action represents the most significant update to the County's environmental protection laws in more than 30 years including greater distances between development and nature – for protecting and preserving some of the County's most critical environmental areas.

The Ordinance follows a yearslong process – called for under the County’s adopted Comprehensive Plan – that began in early 2019 and involved nearly two dozen stakeholders with expertise or interests in various disciplines, including land use, environmental science, agriculture, and public policy. The County conducted numerous workshops, as well as Public Hearings, that culminated in County Council’s decision.

Among the most significant changes, the Ordinance will:

- Double, from 50 feet to 100 feet, the size of buffering along and around new residential communities that adjoin tidal wetlands and waterways, such as rivers, bays, and streams;
- Add a 30-foot buffer requirement – up from none currently – for new developments along non-tidal wetlands and intermittent streams;
- Prohibit the clear-cutting of trees and other vegetation in buffer areas, leaving them largely in their natural state;
- Give project designers flexibility and incentives in certain zones to ‘average’ a buffer’s size in order to preserve worthwhile ecological features;
- Require site plans to show points of access to buffered waterways for maintenance work, such as removing debris and sediment, that can cause blockages and lead to flooding;
- Establish penalties, up to \$10,000 a quarter-acre per occurrence, for intrusion into and/or damage caused to buffers and forested areas.

Potential Master-Planned Zoning District (MPZ)

As part of Strategy 4.4.1.5, Strategy 12.2.2.2, Strategy 13.1.1.3 & Strategy 13.6.2.1, the County has continued to explore the creation of a new Zoning District designed to secure a superior planned design in new larger-scale mixed-use developments. The potential new Zoning District, which would be targeted at developments of more than 400 units, or with gross site areas greater than 400 acres, would allow for a more streamlined approach to decision making by front-loading larger amounts of information into the application process. It is anticipated that work will continue on the preparation of this Ordinance during the upcoming reporting year.

LAND USE

In the reporting year there has been a change in the number and type of applications received. Since July 1, 2021, the Planning & Zoning Department has received a total of 83 applications for Conditional Uses and 42 Changes of Zone, compared with a total of 55 and 21 respectively for the previous 12-month period.

	Change of Zone	Conditional Use
July 1, 2019 – June 30, 2020	30	41
July 1, 2020 – June 30, 2021	21	55
July 1, 2021 – June 30 2022	42	83

Total Conditional Use and Change of Zone applications by received date

During the reporting year, the total number of Major Subdivision applications has decreased from 34 to 32, and the total number of lots proposed has increased from the previous year, as outlined below:

	Total Number of Applications	Total Number of Lots Proposed
July 1, 2019 – June 30, 2020	24	942
July 1, 2020 – June 30, 2021	34	1,817
July 1, 2021 – June 30 2022	32	3,334

Total of Major Subdivision Applications by received date

Major subdivisions include applications for the creation of more than 4 lots, or on parcels where the permitted number of minor subdivisions has been utilized. The above totals do not include Change of Zone applications for Residential Planned Communities. The increase over the prior year was associated with a reduction in the number of applications received in the July 1, 2019 - June 30, 2020, reporting period due to COVID-19.

WASTEWATER

Sussex County continues to increase the availability of central sewer to environmentally sensitive areas of the county. The County mainline sanitary sewer infrastructure and transmission systems for Herring Creek, Conley's Chapel Village and Mulberry Knoll are under construction at this time. Several

projects are preparing to go into construction in the near future including Pintail Pointe, Mallard Creek and Lochwood. There are multiple additional projects in various stages of design scheduled for installation of central sewer. Those areas include Oak Acres, Joy Beach, Long Neck Communities and Slaughter Beach. Other areas being brought into the Unified Sanitary Sewer District and in the pipeline for design include Briarwood Estates, Blackwater Village, North Georgetown, and Indian River Acres.

The County has been continuing its efforts to utilize private utility infrastructure owned by regulated utilities under bilateral agreement(s) in an effort to prevent the installation of parallel underutilized infrastructure. There is an ongoing effort to gauge the desire for central sewer service in the Oak Orchard area including John Burton Manor, Warwick Park, Warwick Cove, and Gull Point. The County circulates polling letters, at the request of the homeowners to determine if there is sufficient interest in a central water system for their community. If deemed sufficient a public hearing will be held addressing the potential impacts and a proposed boundary prior to annexation or scheduling a referendum of legal voters.

The County is designing a major transmission line for sewer to redirect flows from the Piney Neck Regional Wastewater Facility to the South Coastal Regional Wastewater Facility for treatment and disposal. This transmission line will eliminate the need for the Piney Neck facility. The County has entered into numerous utility interconnect agreements in an effort to continue the prevention of the installation of parallel underutilized infrastructure.

WATER

The County has completed the installation of the water transmission system for the residents of the Greater Ellendale Water District. County Council approved the water district in October 2018. Subsequently, the Engineering Department submitted a State Drinking Water SRF capital funding package which made it on the State's Project Priority List with the highest ranking, the design was completed, and the project is now complete. The town has requested that the County provide a loop system for the existing system with funding assistance from the town and Sussex County will apply for CPCNs for the additional parcels served by the loop system.

County Council approved a Resolution creating the Winding Creek Village Water District in October of 2017. The water infrastructure is scheduled to be installed in parallel with a sanitary sewer project for the community. The County has applied for and been granted the Certificate of Public Convenience and Necessity (CPCN) for the Winding Creek Village Water District and the system is in the bidding stage.

Constructed Wetlands Project

The Inland Bays Submerged Gravel Wetland (SGW) is an innovative land application enhanced polishing and disposal option for wastewater effluent and groundwater with elevated nutrient levels. Although this project does not conform to the standard wastewater disposal paradigm, it will attempt to follow the applicable sections of the existing regulations for wastewater disposal. The process will provide an effective and enhanced treatment of effluent and contaminated groundwater in terms of nutrient uptake while using a smaller, runoff-controlled footprint than the conventional spray irrigation systems.

The Project will be designed and constructed in coordination with DNREC under a 5-year “operational testing” program. A standard wastewater construction permit application will be submitted concurrently with this request for “operational testing.” Based on the data from the basin test and the information provided in the preceding sections, it is estimated that between 750,000 and 900,000 gallons of treated effluent, supplemental groundwater and stormwater could be passed through the SGW daily without excessive mounding under the SGW or at the infiltration gallery.

HOUSING

Sussex County continues to promote fair and affordable housing through the Planning & Zoning Department and the Community Development and Housing Department. The construction of the first large-scale housing project approved under the Sussex County Rental Program (SCRIP) known as Coastal Tide (formerly known as The Arbors of Cottagedale Apartments) remains underway in 2022. Coastal tide is an 18.08 ac. parcel of land located in Lewes and Rehoboth Hundred (Tax parcel 334-6.00 504.02). The Final Site Plan includes 168 apartments including 1, 2 and 3-bedroom units, with 26 of the apartments set-aside as affordably priced housing units through SCRIP. In June 2022, Sussex

County Council approved an additional building for the project, thereby increasing the number of SCRP units to 32 and total units to 198. As of June 2022, six apartment buildings are constructed, with two awaiting Certificates of Occupancy. To date, 18 SCRP units are occupied by eligible tenants earning less than 80% of Area Median Income for Sussex County.

The County continues to work with applicants proposing residential developments to explore ways to deliver an increase in affordably priced units within the County.

Following the final report and recommendations in October 2019 from LSA Planning, the organization contracted to provide an intensive housing study, an internal County working group composed of Administration, Community Development and Housing, Planning and Zoning, and Legal worked to develop an implementation plan to expand affordable housing opportunities. The plan was approved in the County's FY2022 budget and includes a Housing Trust Fund and updates to the County's inclusionary zoning programs. The Sussex County Housing Trust Fund (SCHTF) was officially launched in April 2022, funded by Sussex County Council and American Rescue Plan (ARPA) dollars. SCHTF includes two main components: a direct homebuyer assistance program and a developer grant program. The homebuyer assistance program provides grants of up to \$30,000 for down-payment and closing for households below 120% AMI seeking to purchase a home in Sussex County. The developer grant program offers up to \$500,000 per project for applicants seeking to create or preserve affordable housing for households earning 65% or below AMI.

In addition, and based in large part on the findings of the LSA Report, Sussex County introduced an ordinance seeking to provide more affordable rental opportunities for Sussex County residents. This ordinance not only amended Chapter 72 of the Sussex County Code to streamline the SCRP process, but also added a new and substantial change to the zoning code to allow "by-right" multi-family housing projects at a density of twelve units per acre if at least thirty percent of those units are set aside as SCRP units. As of this writing, the ordinance received a favorable recommendation from the Sussex County Planning & Zoning Commission with suggested improvements. It is currently under consideration by Sussex County Council.

During the reporting year, Sussex County has assisted 270 households with owner-occupied rehabilitations and emergency repairs, water and sewer hookups for low- and moderate-income

households, with a total value of \$2+ million. The County continues to work and partner with the Sussex Housing Group and its affiliates to coordinate public/private partnerships that leverage dollars for community development efforts in impacted communities.

In addition to the above, an Ordinance was introduced by County Council on March 29, 2022 regarding affordably priced rental units and the Sussex County Rental Unit (SCRUP) Program. This Ordinance was considered at Public Hearings before the Planning & Zoning Commission in April and May 2022. The Ordinance is due to be heard by the County Council as part of a Public Hearing on June 28, 2022.

RECREATION AND OPEN SPACE

The Sussex County Subdivision Code allows for applicants to apply under the cluster development option whereby the lot size and lot width requirement of the AR-1 Zoning District is reduced for subdivisions that provide a minimum of 30% of the site area as open space. This option is also available within the Coastal Area. During the review period, the following areas of open space were approved or recommended for approval under this option:

P&Z Reference Number	Name	# of Units	Open Space (Acres)
2022-01	Henlopen Properties, LLC	267	11.74
2021-30	Independence (Phase 13)	37	5.79
2021-26	Harpers Glen (F.K.A. Workman Subdivision)	34	6.09
2021-22	The Woods at Burton's Pond (Phase II)	19	5.74
2021-19	East Gate	102	14.48
2021-15	Cobb Property	68	34.64
2021-12	Miralon (F.K.A. Cool Spring)	119	36.42
2021-11	Lightship Cove (F.K.A. Fisher Road)	97	26.5
2021-10	Graywood Springs	38	10.17
2021-09	Brookland Farm	92	19.33
2021-08	The Knoll	33	6.2
2021-05	Turnberry (F.K.A. Unity Branch)	196	88.14
2021-04	Autumndale (F.K.A. Autumndale & Fairmont)	104	50.73
2020-19	Monarch Glen	246	37.66

2020-13	Terrapin Island (F.K.A. Salt Cedars)	42	16.14
CZ 1942	Twin Cedars GR-RPC	254	41.36
CZ 1931	Lands of Lighthipe, LLC MR-RPC	173	14.39
CZ 1922	Baywood Gardens HR-RPC	514	27.5

The total new open space approved during the review period is 453.02 Acres which is an increase from the 362.33 Acres of open space that was created through subdivision approvals during the 2020-2021 review period.

In addition to the above, on June 21, 2022, as part of the County's Fiscal Budget, the Sussex County Council announced a series of open space purchases that will protect four parcels in eastern and central Sussex, where the landscape is under increased pressure from residential development. In total, the purchases will cost more than \$5 million and preserve in perpetuity 151 acres of agricultural and wooded lands, including a portion of the prominent Lewes-area Hopkins Farm. Funding comes from County reserves, specifically savings accumulated through the County's portion of Delaware's realty transfer tax. The parcels include:

- Fifty-one acres known as the Hopkins Preserve, along Sweetbriar Road, just north of U.S. 9, outside Lewes, for a price of \$1.5 million. The property owner, Walter Hopkins and his family (a fourth generation farmer), discounted the sale price by 50 percent in exchange for the parcel being used at a later time as open space and a recreational amenity, specifically as part of a trailhead that will be developed and managed by the Sussex County Land Trust for the still-under-construction Georgetown to Lewes Trail;
- Forty-seven acres known as the Jones Family tract, at a cost of \$650,000, located off Conaway Road adjacent to the State-owned Midlands Wildlife Area, west of Millsboro;
- Forty acres, named the Dawson Bros. tract, for a price of \$2.5 million, located along the south side of Del. Route 24, near the Nanticoke Indian Center, east of Millsboro;
- Thirteen acres, for a sale price of \$400,000, adjoining a larger parcel acquired by the County in 2020 and collectively known as the Dorman Family Farm Preserve, located along Herring Creek and Sarah Run, near Angola.

INTER-GOVERNMENTAL COORDINATION

In July 2021, the County's Planning & Zoning Department provided comments to both the City of Seaford and the Town of Ellendale on the proposed Comprehensive Plan updates for those municipalities. In May 2022, the Planning & Zoning Department worked with the Town of Ellendale to update the County's online maps to reflect the annexations to the north and east of the Town that were approved in Spring 2022. In March 2022, the Planning & Zoning Department provided comments to the City of Rehoboth in relation to the City's draft Comprehensive Plan update.

In addition to providing comments on emerging Comprehensive Plans, the Planning & Zoning Department has continued to participate in Delaware Department Public Workshops and events held throughout the year, including the DelDOT Five Points group, the Southeast Sussex Study, and the five Coastal Corridors Study workshops held in Spring 2021.

CONCLUSION

The 2021-2022 reporting period has seen solid progress towards the implementation of the Strategies contained within the 2018 Comprehensive Plan. The County looks forward to continuing to implement the Comprehensive Plan during the 2022-2023 reporting period.