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**REPORT TO GOVERNOR'S ADVISORY COUNCIL ON PLANNING**

**SUSSEX COUNTY, DELAWARE**

**2022-2023**

**June 27, 2023**

**INTRODUCTION**

This is the fourth 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 2022 to June 2023 reporting year, Sussex County has undertaken a number of initiatives to implement the strategies within the Comprehensive Plan.

**FY 25-30 Capital Transportation Program (CTP) 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 May 2023, Sussex County finalized its submissions for new CTP candidates for the FY 25-30 Capital Transportation Program Update. The Draft FY 25-30 CTP is anticipated to be circulated in August 2023, by the Council on Transportation. A Public Hearing is likely to be held September, 2023.

A link to an online map showing the FY 25-30 CTP Projects, which the County has requested to be included in the next CTP update, can be found at the link below:

[Capital Transportation Program \(CTP\) - Delaware Department of Transportation \(deldot.gov\)](https://deldot.gov/capital-transportation-program-ctp)

As the CTP update continues, it is anticipated that the additional projects will also be shown online.

#### Coastal Corridors

On June 6<sup>th</sup>, 2023, Sussex County worked with Delaware Department of Transportation to facilitate a joint public workshop outlining the progress and recommendation of the Coastal Corridors study group. DelDOT's Coastal Corridors Study is focused on identifying transportation solutions for east-west routes in Sussex County including Route 16 and Routes 404/9 between US 113 and SR 1 as well as Redden Road and other local roads in the area. These roadways represent the primary east-west corridors in the northern part of Sussex County that are currently congested or are at risk for congestion based on anticipated growth.

The workshop was a successful event, with the final recommendations, based upon over 12-months of study, being presented to the Public to enable the receipt of public comments. The Coastal Corridors Study group will now review the comments received as part of its goal of generating recommendations for the future of the Coastal Corridors.

#### Long Range Transportation Plan

During the review period, the County continued with Work with Delaware Department of Transportation to create a Long-Range Transportation Plan. The Plan, once complete, is likely to form a component of the Mobility Chapter in the County's next Comprehensive Plan update.

### 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, 2023, the total amount of financial commitments for the Henlopen TID now stands at \$5.8 million. The table below illustrates the new commitments that have come forward during the review period

Project Name	Total Amount
Southern Delaware Medical	\$128,200.42
Price Automotive	\$82,342.35
Lands of DGAS	\$5,634.00
Total	\$216,184.77

### Roxana Transportation District

In April 2023, the Sussex County Planning & Zoning Department began a land-use study to assist the Delaware Department of Transportation with a long-range land use forecast for a new potential Transportation Improvement District that is being explored. The TID is located in the south-east of Sussex County between Selbyville and the Indian River Bay. The land use forecast will be used by the Delaware Department of Transportation to predict likely infrastructure growth in the study area out to the year 2055.

A map showing the location of the new potential Transportation Improvement District is below.



### 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.

Following the adoption of the Ordinance, the Planning & Zoning Department has worked to implement the new requirements as part of day-to-day application processing.

#### 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 200 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. The Ordinance was reported to the State of

Delaware’s PLUS review service in Spring 2023 and the State’s comments are being explored as the Ordinance continues to be considered.

**LAND USE**

In the reporting year, there has been a change in the number and type of applications received. Since July 1, 2022, the Planning & Zoning Department has received a total of 68 applications for Conditional Uses and 25 Changes of Zone, compared with a total of 83 and 42 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
July 1, 2022 – June 30, 2023	25	68

*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 32 to 19, and the total number of lots proposed has decreased 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
July 1, 2022 – June 30, 2023	19	1556

*Total of Major Subdivision Applications by received date*

Major subdivisions include applications for the creation of more than 5 lots, or on parcels where the permitted number of minor subdivisions has been utilized. The above subdivision totals do not include Change of Zone applications for Residential Planned Communities.

Whilst the rate of growth has slowed compared with recent years, the County continues to see growth across all sectors including residential, commercial, agricultural and industrial. Along with this growth is a recent increase in applications for solar farms.

## **WASTEWATER**

Sussex County continues to increase the availability of central sewer to environmentally sensitive areas of the county. Construction is complete and connections have begun to sections of the Herring Creek project, Mallard Creek, and Mulberry Knoll projects. The balance of the Herring Creek project is scheduled to be completed by the end of 2023 and connections will be immediately available. County mainline sanitary sewer infrastructure and transmission systems for Long Neck Communities, Lochwood, and Joy Beach Phase 1 are going to construction. Several other projects currently in design are scheduled for construction of central sewer, those areas include Countryside Hamlet, Wolfe Runne, Oak Acres, Tanglewood/New Marydels, Slaughter Beach, Blackwater Village, Briarwood, and the Warwick Sewer Project. Additional areas in the unified sanitary sewer district in the pipeline for design include North Georgetown, Indian River Acres, and Bethany Forest.

The County continues its effort to utilize private utility infrastructure owned by regulated utilities under bilateral agreement(s) in an effort to prevent the installation of parallel underutilized infrastructure. One such effort is the connection for Slaughter Beach which will pump via forcemain to a private providers facility for treatment and disposal. The County will also be utilizing a portion of this forcemain to divert the effluent from North Ellendale and New Market Village to the same facility in an effort to alleviate capacity issues at the Town of Georgetown treatment facility.

There is an ongoing effort to gauge the desire for central sewer service to other areas of Sussex County including Morningside Village and Country Glen an area east of Bridgeville. The County is currently collecting letters of interest for sewer service from Red Fox Run. 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 continues its easement acquisition and design of a major transmission line 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.

### **Water**

The County completed the installation of the water transmission system for the residents of the Greater Ellendale Water District. The town requested that the county provide a loop to the existing system with funding assistance from the town. The County applied for and received a majority of the CPCNs for those additional parcels impacted by the loop, designed and completed this area and all parcels are now served.

County Council approved a Resolution creating the Optimized Winding Creek Village water district in October 2017. Following the completion of the wastewater infrastructure for the area the water infrastructure will begin. Start time anticipated in the fourth quarter of 2023. The County has applied for and been granted the Certificate of Convenience and Necessity (CPCN) for the Optimized Winding Creek Village water district.

### **Constructed Wetlands Project**

The Inland Bays Submerged Gravel Wetland constructed in 2023 is an innovative option using enhanced polishing and disposal for wastewater effluent as well as groundwater with elevated nutrient levels. Although this project does not conform to the standard wastewater disposal paradigm, it attempts to follow the applicable sections of the existing regulations for wastewater disposal. The process will provide an effective 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 was designed and constructed in coordination with DNREC under a 5-year “operational testing” program and permitted by the Sussex Conservation District. A standard wastewater operation permit application was 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 facility daily without excessive mounding under the wetlands or at the associated 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 (SCRCP) known as Coastal Tide (formerly known as The Arbors of Cottagedale Apartments) was expanded in 2023. 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 198 apartments including 1, 2, and 3-bedroom units, with 32 of the apartments set-aside as affordably priced housing units through SCRCP. To date, 18 SCRCP 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. To date, the County has provided direct homebuyer assistance to thirty-seven (37) qualifying households. 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. More than \$4

million has been awarded to projects across Sussex County for the construction and/or preservation of nearly 200 affordable housing units.

In addition, and based in large part on the findings of the LSA Report, in October 2022, Sussex County Council approved 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, one application has been submitted through the new ordinance, which will result in the creation of 42 affordable rental units in Lewes.

During the reporting year, Sussex County has expanded the home repair program with American Rescue Plan Act (ARPA) funding and assisted nearly 300 households with owner-occupied rehabilitation and emergency repairs, water and sewer hookups for low- and moderate-income households. 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.

**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:

<u>County Project Reference Number</u>	<u>Subdivision Name</u>	<u>Total # of Lots</u>	<u>Open Space Retained (in Acres)</u>
2019-02	The Estates at Bridgewater (Bent Creek Estates & Old Mill Landing South)	156	100.62

2019-13	Bridgewater (F.K.A. Bent Creek & Old Mill Landing North)	71	20.19
2019-29	Scenic Manor (F.K.A. Estates at Mulberry Knoll)	319	80.50
2020-13	Atlantic East (F.K.A. Terrapin Island & Salt Cedars)	42	19.91
2021-02	Estuary (Phase 4)	17	81.05
2021-11	Lightship Cove (F.K.A. Fisher Road)	97	26.5
2021-12	Miralon (F.K.A. Cool Spring)	119	36.16
2021-25	Four Winds Farm*	336	86.56
2021-31	Black Oak (F.K.A. Glenwood)*	127	42.043
2021-32	Riverwood*	117	32
2021-34	Suncrest (F.K.A. Marsh Homestead)*	41	7.863
2021-36	Wynford Preserve (F.K.A. Prettyman Residential)*	100	24.703
2022-03	Paradise Meadows*	191	43.85
2022-08	Walden III*	21	11.048
2022-11	Hunter's Creek*	95	6.92
2022-16	Armada*	67	33.31
S-23-25	Chapel Branch Apartments (Chapel Branch, LLC)	84	4.75
TOTAL		1,916	657.97

**Note: Developments with a \* means that Subdivision has Preliminary Approval Only**

The total new open space approved during the review period is 657.97 Acres which is a notable increase from the 453.02 Acres of open space that was created through subdivision approvals during the 2021-2022 review period. The table below illustrates the total amount of open space created over the past 3 years.

Year	Total Open Space Protected
July 1, 2020-June 30, 2021	362.33 ac.
July 1, 2021-June 30, 2022	453.02 ac.
July 1, 2022-June 30, 2023	657.97 ac.
3-Year Total	1,473.32 ac.

In addition to the above, in May 2023, as part of the County's Fiscal Budget, Sussex County announced the acquisition of four new tracts – on opposite ends of the County – that will be protected in perpetuity as open space. The properties, totaling a little more than 300 acres, include:

- A 294-acre tract known as the Forest of Broadkill Preserve, bordering Ingram Branch, off Shingle Point Road outside Milton. The property, a mix of fields and wooded areas costing \$1.85 million, will be managed by the Sussex County Land Trust, and is expected to eventually include a publicly accessible trail system;
- An 11-acre assemblage of three wooded parcels, known as the Wright properties, along the Nanticoke River near Seaford. The parcels, costing approximately \$460,000, will be managed by the Nanticoke Conservancy and feature public access at a later date.

These additions add to those lands reported in the 2022 update to the State of Delaware. The parcels previously announced 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, for \$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 addition to cooperating with State Agencies on various technical matters throughout the year, Sussex County continues to work with the municipalities within Sussex County to share and receive data to provide accurate information to the public. In June 2023, the Planning & Zoning Department provide input to the Bethany Beach 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 Coastal Corridors Study workshops held between 2022-2023.

### **CONCLUSION**

The 2022-2023 reporting period has seen solid progress toward the implementation of the Strategies contained within the 2018 Comprehensive Plan. The County looks forward to continuing to implement the Comprehensive Plan during the 2023-2024 reporting period. Based upon the solid progress made, the County does not anticipate a need for a 5-year update to the Comprehensive Plan, and will instead shift its focus to the 10-year Comprehensive Plan Update expected in 2027-2028.