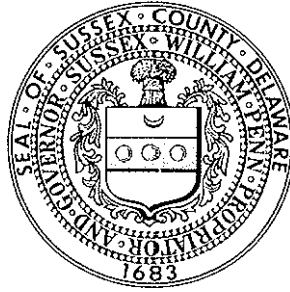


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## Sussex County

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June 13, 2008

Ms. Constance Holland, Director  
Office of State Planning Coordination  
122 William Penn Street, Suite 302  
Haslet Building, Third Floor  
Dover, DE 19901

### **RE: SUSSEX COUNTY COMPREHENSIVE PLUS PLAN RESPONSES**

Dear Ms. Holland:

In response to your review letter dated April 18, 2008, Sussex County has made the following changes to the draft 2007 Sussex County Comprehensive Plan update. The latest version of our draft plan, which is enclosed, is dated May 2008.

### **State Comment #1 - The County Source Water Protection Ordinance must meet Delaware Code.**

**County Response:** Sussex County has continued to work on adopting a Source Water Protection Ordinance for the County. The County Council and County staff have worked with representatives from the Department of Natural Resources and Environmental Control, as well as the County's Source Water Committee and members of the public, to develop an acceptable ordinance which will protect public drinking water in Sussex County. We anticipate that the County Council will adopt an ordinance in the near future. The approved ordinance will be submitted to the State Planning Office as soon as the County Council has acted.

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**State Comment #2 - State Resource Areas and their inclusion with the proposed plan; Compliance with 29 Del.C. 6956(g)(4).**

**County Response:** In response to the recent Court of Chancery Draft Ruling dated March 20, 2008, Sussex County deleted all references to State Resource Areas from our draft comprehensive plan. However, to ensure the draft plan complies with Delaware Code, Sussex County has added two maps to the draft plan's Conservation Element. These include: a) Woodlands and Natural Areas; and b) Floodplains and Wetlands (follows p. 4-11). A previously untitled map in the Conservation Element, downloaded directly from the DNREC website, is now updated and titled Water Supply, Wellhead & Excellent Recharge Areas (follows p. 6-7). These new maps, together with the maps already included in the March 2008 draft plan, provide an up-to-date depiction of Sussex County's major natural resources.

**State Comment #3 - The County shall develop a clear growth strategy detailing future growth and development patterns.**

**County Response:** Strategies for guiding growth, preserving farmland, conserving more open space and dealing with growth impacts are the component parts of Sussex County's overall approach to future development and preservation. These strategies, including the introduction of transfer of development rights to Sussex County, are described in the March 2008 draft plan and in the County's February 21, 2008 letter, which staff prepared to explain how the March 2008 draft plan responded to the State's first round of review comments.

Your review letter dated April 23, 2008 notes the State still has concerns about how the County intends to direct future development toward designated growth areas and away from designated rural areas. The May 2008 draft Sussex County Comprehensive Plan update now includes the following additional incentives designed to better direct future development into growth areas:

- a. On p.1-2 and p. 3-14, the draft plan now calls for the County to increase maximum density from 4 units per acre to 6 units per acre for cluster

developments locating in Town Center areas. This incentive would be available provided that: a) the applicant contributes additional open space fees commensurate with the density bonus received; and b) the applicant secures conditional use approval;

- b. On p.1-2, p. 3-14 and 11-11, the draft plan now calls for increasing the maximum building height and increasing permitted density to 12 units per acre for mixed use developments locating in Town Center areas. This incentive would be available provided that: a) the applicant receives certification under a County-adopted LEED-type program that rewards the use of “green” building techniques; and b) the applicant secures conditional use approval;
- c. A partial building permit rebate for projects in developing areas that receive ENERGY STAR certification (p. 11-11);
- d. Possible County and State expedited review for projects within environmentally sensitive areas that incorporate a checklist of “super green” design features (p. 11-11). County staff is now working with State staff to assist in developing “super green” criteria for this initiative.

In developing the future land use plan map, the County has considered available infrastructure that exists and is planned to support growth. County staff met with each town and reviewed developing areas surrounding each town. This input was considered in developing the future land use plan map. The staff also reviewed with the County Engineering Department existing and planned waste water service areas in determining developing areas. Developing areas were delineated based on this input, as well as input from the public. Also, in 2006, the County Council amended its zoning ordinance for cluster subdivisions to reduce the gross area by 25% in calculating maximum allowable density. The effect of this ordinance change has been to reduce the number of applications for cluster developments in Level 4 areas.

Because the County is so large, 938 square miles, a recommendation for sub-area planning areas is included. Sub-area planning areas will help by providing smaller,

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more detailed and managed growth areas. The draft plan (p.12- 36 and 12-37) endorses preparation of detailed sub-area plans for several Sussex County locations. Compared to the County-wide plan, these plans will focus on smaller geographic areas. They will establish more targeted strategies to help guide the future of these specific vicinities.

**State Comment #4 - The Plan must identify areas intended to stay rural so the State can invest its Agricultural Preservation and Forestland Preservation dollars wisely for enhanced economic development of Ag industries within the County.**

**County Response:** The techniques noted above as our response to State Comment #3 apply here, too. Transfer of development rights and the other incentives the County hopes to use to direct more development to designated growth areas should also help reduce the amount of new development proposed in low density areas as defined by the plan.

The draft plan (p.8-7 and 8-8 ) calls for establishing a zoning overlay to afford more permanent protection for properties now part of the State agricultural preservation districts. Restrictions on the use of properties now under the State program can elapse at the end of 10 years. Equivalent restrictions in the form of zoning regulations will be more permanent.

Regarding agricultural industries, the draft plan calls for creating overlay districts (p. 8-8 and 8-9) to accommodate more large-scale farm-related businesses. Associated regulation would require large minimum tract sizes, large setbacks, and convenient highway access, among other stipulations, to ensure these overlay districts are established only in appropriate areas separated from residential locations.

Permanently conserving the rural landscape is also the goal of the “Grand Preservation Loop” map prepared by the Sussex County Land Trust. Sussex County uses this concept map (follows p. 3-33) as a guide to where the County should allocate the funds it has available for acquiring open space (p. 3-25).

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**State Comment #5 - The County must correct the references and expand its discussion with regards to the Strategies for State Policies and Spending.**

**County Response:** In the March 2008 draft plan, we incorrectly titled a map State Priority Funding Areas. The title of this map has now been corrected to read Strategies For State Policies and Spending (p. 3-11). The map is in the Future Land Use Element of the draft plan.

Our sincerest thanks to the PLUS Committee and the Livable Delaware Advisory Council for continuing to work with Sussex County on finalizing 2007 Comprehensive Plan update. We look forward to receiving State certification on this plan and to formally adopting it at the County level.

Please feel free to call me if you have any questions or comments on this latest draft plan or any other related matter.

Sincerely,



David B. Baker  
County Administrator

DBB/gpk

Pc: The Honorable Finley B. Jones, Jr.  
Mr. Lawrence Lank  
Ms. Deborah Puzzo  
Mr. James D. Griffin, Esq.