



January 29, 2007

6:00 P.M.

Councilmanic District No. 2

(Milford, Greenwood, Bridgeville, Georgetown)

Greenwood Fire Hall

Introduction:

The Sussex County Council held a series of Land Use Plan meetings throughout the County, one in each Councilmanic District, for the purpose of reviewing and discussing proposed changes to the Comprehensive Land Use Plan.

At each meeting, Paul Driscoll of Urban Research & Development Corporation (URDC), the County's Land Use Consultant, was in attendance to discuss Sussex County's Comprehensive Land Use Plan Update process and to listen to the comments of the local officials, business persons and other residents regarding the plan.

Mr. Driscoll explained that Sussex County completed its last Comprehensive Plan in 2002. Delaware law requires each County to update their plan every five years.

Mr. Driscoll pointed out that the 2007 Land Use Plan Update will deal with opportunities and challenges the County is facing in the following areas: land use, water and wastewater, housing conservation, community design, recreation and open space, economic development, historic preservation, transportation mobility, and intergovernmental cooperation.

Mr. Driscoll reported that a first draft report is proposed to be completed by URDC by late March or early April. This draft will be presented to the County for their initial review and additional public meetings will be held to discuss the draft. At that time, there will be some proposals and recommendations to put before the public and local officials for substantive comment. In addition, various State agencies and local municipalities will review the document. Suggested revisions to the draft plan will be taken into consideration and, in July, Public Hearings on the Plan will be held by the Planning and Zoning Commission and the Sussex County Council. Once the Plan has been approved by the Council, zoning and subdivision Code revisions will be addressed.

Mr. Driscoll reported that they have reviewed the 2002 Land Use Plans of New Castle County and Kent County and New Castle County's 2007 draft report. In addition, several State documents associated with the Livable Delaware initiative have been reviewed, such as State Spending Strategies and various other documents relating to development and preservation.

Mr. Driscoll also reported that meetings have been held with various individuals and organizations: each member of the County Council and the Planning and Zoning

Commission, a group from the University of Delaware, concerned citizens from the Lewes area, and the Sussex County Land Trust.

A meeting with the Center for the Inland Bays, the Farm Bureau and Sussex County Association of Towns are scheduled. These meetings are being held to get input from civic organizations and non-profit groups that are concerned about the future of the County. Mr. Driscoll stated that the purpose of all of these meetings is to get a grasp on existing conditions and to get a real sample of the variety of opinions and viewpoints.

Mr. Driscoll stated that he hoped public input would include comments on land development and preservation that affect the County's future and how Sussex County should try to influence current development and preservation trends. Mr. Driscoll stated that the following key issues have been identified to date: Agricultural Preservation, Livable Delaware, Transfer of Development Rights, Infrastructure Costs, Inland Bays Conservation, Transportation Mobility, Community Design, Economic Development, Housing, Water and Wastewater, Inter-Governmental Coordination, and Parks and Recreation.

The following announcement was made at each meeting:

As an extension of the public input process, the County welcomes comments and suggestions on the 2007 Comprehensive Plan Update. In addition to forms being available at the public meetings, comments can be made via the internet at www.sussexcountyde.gov. Citizens can fill out the comment form online or mail their comments to the following address: Sussex County 2007 Comprehensive Plan Comments, Attn: Mr. Hal Godwin, Assistant to the Administrator, P. O. Box 589, Georgetown, DE 19947.

Comments/Questions:

➤ **Connie Holland, Office of State Planning Coordination**

Mrs. Holland stated that the Comprehensive Plan is Law (House Bill No. 255).

She advised that, in regards to TDRs, the State will not have anything to do with the money; it will not be a State Bank; there will be no transactions through the State, it will be through the development community, the local jurisdictions, and the developers.

Mrs. Holland asked Paul Driscoll of Urban Research and Development Corporation and Hal Godwin, Assistant to the Administrator, to speak with her office regarding TDRs prior to future meetings.

➤ **W. D. Whaley, Sussex County Organization to Limit Development Mistakes (SCOLDM)**

Mr. Whaley stated that one of the complaints with the towns' Comprehensive Plans is that the Plans are too easily changed or amended during the interim five-year period. Mr. Whaley questioned if the County's Plan has been changed or amended.

Lawrence Lank, Director of Planning and Zoning, responded that the County's Plan has not been changed.

➤ **Lit Dryden, Sussex County Association of Realtors**

Mr. Dryden referred to Mr. Driscoll's comment about meetings that have been held with several groups. He stated that a meeting with the Sussex County Association of Realtors has not been scheduled and he questioned why they were not contacted to arrange a meeting.

Mr. Driscoll responded that a meeting with the Sussex County Association of Realtors could be arranged.

David Baker, County Administrator, responded that the meetings that have already been held or are scheduled to be held with other groups have been upon request.

Hal Godwin stated that it is likely there will be other groups that come forward that would like to schedule a meeting so that they can provide input as a group.

Mr. Dryden questioned the locations selected for the meetings and why a meeting wasn't scheduled in Georgetown, the County seat. He also questioned why there were only five meetings scheduled and that five years ago, there were approximately twenty meetings held. Mr. Dryden also commented that all of the meetings were scheduled to be held in the evening and that a meeting should be held on a Saturday for people that cannot attend at night. Mr. Dryden stated that it was his understanding that the County wants the full participation of the public.

Mr. Godwin responded that there will be more meetings; that the reference to "five" meetings is only the meetings scheduled for each Councilmanic District. Mr. Godwin noted also that later in the process, public hearings will be held in Georgetown.

Mr. Dryden questioned how the consultant, URDC, was selected.

Mr. Godwin stated that the consultant was selected through a Consultant Selection Process which is governed by State Law. A Request for Proposals (RFP) was advertised and consultant firms submitted proposals. A committee was formed to review those proposals and the top four ranked firms were submitted to the County Council. The County Council participated in the selection process and ultimately selected the firm URDC.

Mr. Dryden stated that the Sussex County Association of Realtors goes on record requesting to meet with the County and its consultant.

➤ **Carl Swanson**

Mr. Swanson requested the inclusion of policies to conserve wildlife habitat and the natural environment in the County's Comprehensive Plan Update. He stated that the current plan is not adequate to provide open space protection; that the hands of

the Planning and Zoning Commission and the County Council seem to be tied when it comes to exerting control over development to protect important farmlands and critical natural resource areas.

Mr. Swanson emphasized three points pertaining to open space protection. First, the Comprehensive Plan must comply with the State's Land Protection Act and Open Space Program by protecting designated State Resource Areas. Second, the Comprehensive Plan must use the State Resource Area maps to guide the acquisition of property or property rights in real estate. Third, since the Land Protection Act does not prohibit development in State Resource Areas, the Comprehensive Plan must contain standards so that development in these areas proceeds in an environmentally sensitive manner.

Mr. Swanson submitted a written copy of his statement.

➤ **Ed Jestice, President, Delaware Farm Bureau**

Mr. Jestice read two Resolutions into the record that were approved by the Delaware Farm Bureau in November 2006:

Resolution 2006-3 which states that the Farm Bureau supports incorporating a special development zone into any Transfer of Development Rights legislation.

Mr. Jestice explained the Resolution. He stated that there is no need in our State or in our County to implement a TDR Program unless there is a demand for it.

Resolution 2006-4 which states that the Farm Bureau requires landowner notification by the Department of Natural Resources and Environmental Control to include the right of landowners the option to remove the "state resource area" designation from their property or properties and remove said designation from any and all maps."

Mr. Jestice submitted a written copy of Resolutions 2006-3 and 2006-4.

➤ **Dan Costello, Preservation Delaware and Historic Sussex**

Mr. Costello stated that it is their hope that, once a draft plan is developed, there will be substantial opportunities for the public to read it and comment on it.

Mr. Costello stated that they propose that Sussex County include the following historic preservation strategies in the Comprehensive Plan and commit itself to enact ordinances to implement them:

1. Create an Office of Historic Preservation in Sussex County and hire a trained and experienced preservation planner to lead it. Empower the office to promote heritage tourism, historic byways and trails, Main Streets, and other preservation strategies.

2. **Enact a Historic Preservation Zoning Ordinance and begin the work of creating historic districts, as described in the 1997 and 2003 plans. Survey and identify significant historic places within the County. Nominate them for the National Register of Historic Places. Include incentives that both promote appropriate growth and, at the same time, preserve and enhance the historic character of communities by encouraging adaptive reuse of historic structures.**
3. **Enact an ordinance, as proposed in the 1997 and 2003 plans, to integrate historic preservation reviews into the County's land development process.**
4. **Encourage rehabilitation and adaptive reuse (as opposed to destruction) of historically significant structures by enacting and enforcing a demolition delay so that alternatives to the destruction or marginalization of historic places can be fully examined.**
5. **As recommended in the 1997 and 2003 plans, develop a program at the County level to support State of Delaware versions of Main Street and Enterprise communities for all municipalities in the County. Include funding initiatives.**

Mr. Costello stated that Preservation Delaware would appreciate the opportunity to work closely with the County to provide technical assistance and expertise to develop ordinances and a comprehensive strategy to conserve and protect historic structures and landscapes in the County.

David Baker announced that the County has hired a Historic Planner.

➤ **Alan Jones**

Mr. Jones referred to family property that is a tree farm. He stated that they have no plans to sell the property. He questioned if there is going to be anything in the Comprehensive Plan that would preclude private ownership/property rights and that would "lock up" a property.

Paul Driscoll stated that the only way land can be "locked up" is if the property owners themselves make that decision. He noted, however, that the zoning classification of a property also needs to be considered.

➤ **Dwayne Fox**

Mr. Fox expressed concern about the State Resource Area maps. He stated that he paid \$35,000 for a piece of property that is worth approximately \$120,000 today and that the State wants to take it for free. He stated that this is not "fair" preservation.

➤ **Daniel Fox**

Mr. Fox stated that the State Resource Area maps are a "taking" of property. Also, in regards to Livable Delaware, houses are being built next to farmland with a 30 foot buffer zone, which encroaches on his rights, as a property owner, to hunt. By

State Law, a firearm cannot be shot within 300 feet of a dwelling. Mr. Fox stated that if a house is permitted to be built 300 feet from his property line, he would lose 3/4 of his farm to hunt on. He asked that a 300 foot buffer be required between a house and farmland, unless the house is to be built on lands adjacent to another development. Mr. Fox expressed concern that the loss of land to development will eventually result in the loss of the chicken industry in Sussex County.

Hal Godwin asked Connie Holland to explain the State Resource Area (SRA) maps.

Mrs. Holland stated that the State Resource Area maps were created by DNREC in 1990 following passage of the Delaware Land Protection Act. She stated that it is a State Law, not a County Law. She stated that the SRA maps have been in use for some time and that they are already a product being used in the PLUS (Preliminary Land Use Service) Process for subdivision approvals. Mrs. Holland stated that it is not a "taking"; that the State does not intend to take any land away unless they are going to buy it. A developer may be asked to move houses to another area (out of a flood plain or critical area) on the property but density will not be taken away. She explained that what this means is that developers and landowners will be asked to use Best Management Practices, i.e. houses, businesses, chicken houses would not be placed in critical areas and but developed on higher ground. She stated that she understands that landowners want to be able to get the highest value for their land. She stated that the State is looking deeply into the equity of agriculture and trying to do agriculture zones that may be commercial or industrial so that a farmer has options other than selling land for houses. She stated that they want farmers to be able to continue farming their land while retaining the highest equity in their land. Mrs. Holland emphasized that in no way does the State want to take away any land. She stated that there may be some lands that DNREC will be looking to buy.

Mrs. Holland announced that Secretary John Hughes of DNREC would be attending the County Council meeting on February 3rd to discuss SRA maps.

In response to questions asked by Paul Driscoll of URDC, Mrs. Holland stated that the SRA Program is designed to delineate critical areas in the State. Its purpose is to give information to the local jurisdictions and the landowners to determine areas of connectivity to save forest land and to save open space.

Mrs. Holland stated that New Castle County and Kent County are already using the maps and have said they are willing to put them in their Comprehensive Plans. She stated that, with this Law, there is an appeals process.

Mr. Driscoll stated that it is his understanding that Sussex County has two obligations in regards to this issue: (1) the maps should appear in the County's Comprehensive Plan and (2) the maps should be used by the Planning and Zoning Commission and the County Council in reviewing the environmental aspects of any proposed development.

Mrs. Holland stressed that the adoption of the SRA maps does not mean “no, you cannot put a house there” or “no, you cannot put a development there”; it means you will use Best Management Practices.

➤ **Daniel Kramer**

Mr. Kramer stated that (1) everybody talks about saving land and the way to save land is to have higher density developments (8-10 houses per acre), (2) people coming into the County cannot tell the County what they can and cannot do and they cannot tell the farmers what they can and cannot do, and (3) developers and farmers have the right to do with their land what they want to do and the State should not be placing regulations on them.

Mr. Kramer stated that a lawsuit has been filed against the State in regards to the SRA maps.

➤ **Dwayne Fox**

Mr. Fox referred to Mrs. Holland’s comment that the State Resource Area Program is a State Law. He noted that the State is trying to force it on the counties. Mr. Fox stated that the State cannot enforce it so they are trying to get the counties to do it with an appeals process. Mr. Fox asked the County to reject it.

Mrs. Holland responded that with every Law, there has to be an appeal process.

➤ **Ed Jestice, Delaware Farm Bureau**

Mr. Jestice referred to the SRA maps. He stated that Senator Venables introduced Senate Bill 397 last year and that the Bill passed the House and the Senate and was vetoed by the Governor. The Bill stated the two things the Farm Bureau will request again in this General Assembly Session: that the landowner be notified about SRA map designations and then be given the opportunity to opt out.

➤ **Finley Jones, Sussex County Councilman**

Mr. Jones stated that he agrees there are certain areas that need to be preserved. He stated that people are receiving letters advising them that their land is located within a State Resource Area. Mr. Jones stated that his fear is what DNREC may do with the State Resource Areas in the future. Mr. Jones stated that if the legislators want the Law enforced, they should do it themselves. He stated that he believes the County should adopt the maps, use them as a land use tool, and that landowners should have a right to opt out.

➤ **Lynn Rogers, Sussex County Councilman**

Mr. Rogers stated that Sussex County's Land Use Plan is the peoples' Land Use Plan. He stated that this County was founded on agriculture and the Council does every thing it can to protect the farmer.

Mr. Rogers expressed concern about the underlying effects of the SRA maps that are unknown at this point.

Mr. Rogers stated that the farmer should have options other than selling out to a developer if that is not what he wants to do.

➤ **Vance Phillips, Sussex County Councilman**

Mr. Phillips encouraged public participation throughout the entire Land Use Plan Update process.

Mr. Godwin announced that additional meetings have been scheduled at the Lewes Fire Hall (January 31st), the Seaford Fire Hall (February 1st), the Selbyville Fire Hall (February 6th) and the Bethany Beach Fire Hall (February 15th). All meetings will begin at 6:00 p.m.

Mr. Godwin announced that two meetings would be held in Georgetown: a Public Hearing before the Planning and Zoning Commission and a Public Hearing before the County Council.

➤ **Lit Dryden, Sussex County Association of Realtors**

Mr. Dryden asked what kind of meetings will be held in Georgetown and whether those meetings would be meaningful in terms of input.

Mr. Godwin responded that the meetings in Georgetown will be for review of and comment on the Land Use Plan document.

Mr. Driscoll explained that, following the five meetings in the Councilmanic Districts, the County and the Consultant will take the comments received and put it into a draft plan. The public will then be given the opportunity to comment on the draft plan.

It was noted that three councilmen were in attendance at the meeting; however, no action was taken by the Council.

The meeting concluded at 7:40 p.m.

Prepared by: Robin A. Griffith, Clerk of the Council