

APRIL, 1988

SUSSEX COUNTY/DELAWARE DEPARTMENT OF TRANSPORTATION
MEMORANDUM OF UNDERSTANDING
FOR LAND DEVELOPMENT COORDINATION

WHEREAS, land development has the potential to impact adjacent highways;

WHEREAS, Sussex County is responsible for land use decisions in Sussex County;

WHEREAS, the Delaware Department of Transportation (DelDOT) is responsible for the operation, maintenance, and construction of Delaware highways;

WHEREAS, it is the desire of Sussex County and DelDOT to coordinate land development with transportation needs;

NOW, THEREFORE,

BE IT RESOLVED that Sussex County Council and DelDOT hereby adopt the following understanding:

Rezoning Coordination

1. Sussex County Council will make the final decisions on rezoning requests.
2. The Sussex County Planning and Zoning Department will request a preliminary traffic analysis from DelDOT for each rezoning request to determine if the resulting traffic impact will be negligible, minor, or major. DelDOT will respond to this request within twenty (20) working days. Exemptions to this policy would be where the County Planning and Zoning staff, in concurrence with DelDOT staff members, finds that the proposed change will have a diminutive impact upon the road system.
3. Sussex County will not consider an application for rezoning until either 1.) DelDOT supplies the County with the above information, or 2.) twenty (20) working days have passed without DelDOT responding to the above request.
4. When it is determined that the traffic impact would be negligible, no further traffic analysis will be necessary. DelDOT has the authority to make such a determination where (based on the full development of the property as limited by either the zoning code or proposed deed

restrictions) the expected average daily traffic (ADT) of the site will not exceed fifty (50) trips. When DelDOT determines negligible impact will occur, they will provide projected traffic volumes in support. The County may approve rezonings with negligible impact at their discretion.

5. DelDOT's preliminary traffic analysis shall include a capacity analysis at peak loads in cases where the impact is not determined negligible. In all cases, the traffic analysis shall include the feasibility of providing safe access and the condition, pavement, and geometry of the adjacent roadway relative to the traffic the rezoned parcel could generate. Where any of these are deemed inadequate, DelDOT shall comment to this effect and may request further study.
6. When DelDOT determines that the traffic impact will be minor, they shall provide a preliminary capacity analysis for current land use, existing zoning, and proposed rezoning.
7. The level of service on roads affected by zoning changes shall be "D", except for such specific areas where the County and DelDOT agree that it should be otherwise.
8. When DelDOT determines that the traffic impact will be major, the developer will be required to conduct an in-depth traffic impact study (at the developer's expense) to DelDOT standards. Traffic impact studies will analyze traffic volume and level of service on the adjacent highway to include the nearest significant intersection on either side of proposed development. The analysis will consider the accumulation of existing traffic, projected traffic growth, to include committed and approved projects, and traffic generated by proposed rezoning. The traffic impact study will also consider the effects of active or proposed transportation improvements in the adopted Six (6) Year Capital Improvements Program and establish staging for development as needed. DelDOT will provide technical evaluation of traffic impact studies.
9. When DelDOT determines, on the basis of a traffic impact study, that a rezoning could cause the threshold level of service to be exceeded, the County will not rezone the property unless the developer takes appropriate measures to maintain operations at the threshold level or unless Sussex County finds that the benefits to the general public outweigh the detriment caused by the decline in level of service. Sussex County, in the latter case, shall set forth in writing their reasons for approving the rezoning.
10. Phasing of land development with highway capacity and safety improvements to restore and maintain a level of service "D" may be established by the developer or imposed by the County. This could be accomplished by consideration

- of the project in phases. In evaluation of future phases, the County would consider the following:
- (a) Agreement to delay of all or part of the development until specific highway improvements are made by DelDOT or others;
 - (b) Specific highway improvements at their own expense;
 - (c) Participation in, and/or funding of, transit or traffic mitigation strategies.
11. Where measures to maintain operations are agreed to by a developer, the County shall assure that these measures are carried out by withholding building permits as necessary.
 12. When the County believes that expert testimony regarding transportation issues is required to decide on a rezoning, DelDOT will provide a suitable representative to attend meetings of the Planning and Zoning Commission or County Council. The County will provide at least one (1) week of advance notice in such cases.
 13. The Sussex County Planning and Zoning Department is responsible for coordinating all required information to Sussex County Council.

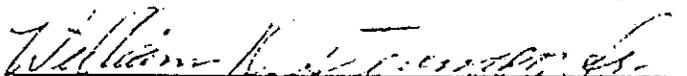
Site Plan Coordination

1. Sussex County will withhold site plan approval until DelDOT has approved the access and drainage plan.
2. DelDOT will review the site plan in accordance with its rules and regulations for access.
3. Sussex County will withhold issuance of the building permit until DelDOT has issued the entrance construction permit.
4. Sussex County will withhold issuance of the Certificate of Compliance until DelDOT has accepted the entrance construction and issued the notice to the owner that the entrance construction permit has been satisfied.
5. DelDOT will withhold an entrance permit until developer has agreed to construct access appurtenances to Department standards and to provide off-site improvements as may be required to maintain acceptable traffic operation on highways.

IT IS FURTHER RESOLVED that the Secretary of the Delaware Department of Transportation and the County Administrator will affirm this agreement by affixing their signature to the Resolution.

ADOPTED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON

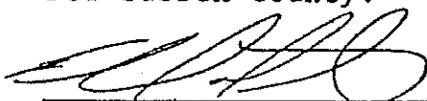
April 19, 1988 .



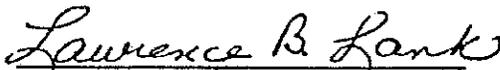
President of the County Council of
Sussex County

THE FOLLOWING SIGNATURES CONCURRING HEREIN:

For Sussex County:

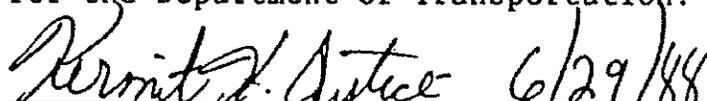


County Administrator



Director of Planning and
Zoning

For the Department of Transportation:



Secretary of Transportation



Director of Highways