

PLANNING AND ZONING COMMISSION  
SPECIAL MEETING  
SUSSEX COUNTY COMPREHENSIVE LAND USE PLAN  
SEPTEMBER 19, 1996

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 19, 1996, at 7:30 P.M., in the theater at Delaware Technical Community College, Georgetown, Delaware, with the following present: Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, Mr. Abbott - Assistant Director. Thomas Shafer and Dennis Haskins were present on behalf of Whitman, Requardt & Associates, Consultants on the Sussex County Comprehensive Land Use Plan.

Also present were Michael Brady, Donald Sellers, and Joyce Watkinson, Planning and Zoning Office staff, and Kaye Arrowood of Whitman, Requardt & Associates.

Mr. Schrader summarized a legal opinion on the Land Use Plan being law, being flexible, and explained how the public hearing will be conducted.

Mr. Lank thanked those present for participating.

Mr. Lank stated that a letter has been received from Consultants Unlimited and that the letter will be made a part of the record for this meeting.

Mr. Lank introduced Thomas Shafer and Dennis Haskins to summarize the Draft 1996 Sussex County Comprehensive Land Use Plan.

Mr. Shafer and Mr. Haskins presented the following with a slide presentation:

Mr. Shafer discussed the goals of Shaping Delaware's Future legislation, and described the Adopted Land Use Plans, the Zoning Map, the Soils Maps, the DEGIS Maps, the Existing Land Use/Land Cover Plan, the Existing Land Use/Land Cover Chart, existing land uses, the public participation activities that have taken place, the Future Land Use Element and referencing permanent population for 1990 of 113,000 and the year 2020 of 168,000 estimated permanent population, with 43,000 households in 1990 and 73,000 estimated households in 2020, the Future Land Use Plan Map, and described growth areas including Municipalities, Town Center Districts, Development Districts, Agricultural Residential Districts, Rural Community Districts, Agricultural Protection Districts, natural resource protection areas including Conservation Districts, briefly referenced Public and Private Resource Districts, DNREC Proposed Resource Districts, and agricultural land protection areas including Ag-Lands Preservation Foundation Districts, the Future Land Use Chart, the

Land Use Growth Management Strategies, the Mobility Element, the Corridor Preservation Plan, the Emergency Evacuation Plan, the Transportation Plan Fixed Route Transit Corridor Plan, the First Phase Fixed Route Transit Corridor Plan, the Mobility Growth Management Strategies, the Problem Areas Plan, the Mobility Five Year Priorities, the Public Water Systems Plan, the Public Wastewater Systems Plan, and the Water and Wastewater Growth Management Strategies.

Mr. Haskins described the following elements within the proposed draft: the Conservation Element, the Recreation and Open Space Element, the Housing Element, the Intergovernmental Coordination Element, the Community Design Element, the Historical Preservation Element, and the Economic Development Element.

William Green, Chairman of the legal committee for Atlantic Watergate Association, stated that the plan lacks data on hospitals, fire departments, police, libraries, expressed concern that the plan's proposed development district includes multi-family, commercial, and industrial uses, advised the Commission that development north of Bethany Beach has been limited to single family development on 1/4 acre lots, and not the uses listed in Development Districts, and quoted sections from the Coastal Sussex Land Use Plan.

Lawrence Justice, a farmer from the Laurel area, stated that the plan takes away his property rights, that the plan takes away his future income source and destroys property values, and that it sounds like the plan is creating a dictatorship.

Eddie Justice, agreed with his father, and stated that he is a 3rd generation farmer, that the number one business in Sussex County is agriculture, that he supports preservation, but disagrees with the County taking away development rights.

Lynn Bullock, Mayor of the Town of Millsboro, and Virgil Ellwanger, Chairman of the Economic Development Committee for the Town of Millsboro, submitted a packet of comments on behalf of the Town and the Chamber, and stated that they support a plan having the force of law, that the Town is trying to expand, that the Town is centralized in Census Tracts 506 and 507, that the Town is a center for employment, that they support the Plan directing growth toward the Towns by creation of the Town Center and Development District concepts, that the Town Center should include almost all of Census Tract 506, that the Development District should include both sides of Route 24 to Road 297, that both sides of Route 24 should be within a investment area and multi-modal transportation area, that Route 297 from Route 24 to

Route 48 and Route 48 to Route 113 should be added to emergency evacuation routes, that a transit corridor should be added between Seaford and Millsboro, that Route 24 at Route 113 and Route 24 east of Millsboro should be added to the problem area listing, that traffic counts in some areas around Millsboro are in error since they reference a lower count than counts 4 years ago, that Route 20 and Route 24 to the west of Millsboro seem to be ignored in the Plan, that Water and Wastewater Districts should be suggested within all of Census District 506 and east to Road 297, and that a Greenway should link Rehoboth and Route 113 through Millsboro.

David Wideman questioned who's ideas have been incorporated into the Plan, where the Plan was prepared, why the consultants are from Baltimore, why density is proposed to be limited to one unit per twenty (20) acres in Agricultural Protection Districts, why density is proposed to be limited to one unit per acre in other areas, and if the towns have to follow the plan once adopted.

Mr. Schrader advised Mr. Wideman that the County has no jurisdiction in the Towns, except the Town of Ellendale.

Halsey Knapp, a resident of the Five Points area near Lewes, stated that the people are being taken hostage by the State, questioned why the farmers are the only ones being impacted by the Plan, stated that the Delaware Department of Transportation, DelDOT, has not kept pace with development in the area, and that the Plan is being driven by DelDOT which has no plans to build new roads in Sussex County.

Grace Allen, a resident of the Seaford area, stated that she can't sell her house on Stein Highway because of the moratorium, and questioned why she can rent it, but not sell it.

Skip Valliant, a resident of the Bayville area between Selbyville and Fenwick Island, and speaking on behalf of the Sussex County Board of Realtors, stated that the Board is concerned about the density of one unit per twenty (20) acres in Agricultural Protection Districts vs the present one unit per 1/2 acre, that growth should be directed by incentives, not forced by regulations, that more incentives should be established for cluster housing developments, that the Plan should include a zoning map for comparison, that Conservation Districts should not require one acre lots where sewer and water exist, and that although he disagrees with a lot of the Plan, he applauds the effort.

Mable Granke, a Rehoboth resident and member of the Rehoboth Beach Planning Commission, read and submitted a letter into the record, expressed concerns about public safety, arterial roads, curb cuts, Route One problems from Nassau to Fenwick Island, Ordinance No. 768, that the word "should" should not be utilized, that if corridor preservation of Route 13 and Route 113 are not established we will end up with two more Route Ones, that the maps in the draft are hard to interpret, and requested that additional time be permitted for public input.

Mary Campbell, a Rehoboth resident and member of the Rehoboth Beach Planning Commission, read and submitted a letter from Samuel R. Cooper, Mayor of the City of Rehoboth, advising the Commission that the City has purchased copies of the Plan and that the Commissioners have not had sufficient time to study and discuss the Plan, that he questioned the proposed public water system expansion area as depicted on Figure 9 within the Plan and request close coordination in this matter with the City, that sufficient time is needed to study the overlay maps to respond to the land use districts in Figure 3, especially the Development District and transportation initiatives, and requested the opportunity to submit more detailed analysis during the open record period after the public hearing.

Marty Ross, a resident of the Delmar area, stated that he looks at plans when purchasing properties, questioned if the Plan fulfills the it's purpose or intent, that one unit per twenty (20) acres is 95% property reduction in development value of farm equity and does not protect farming, that small farmers will be hurt, referenced transfer of development rights, that 50 foot wide buffers along wetlands causes additional expense on farmers, questioned the 25 foot wide buffer from non-tidal wetlands, and asked the Commission to reject the Plan as drafted.

Jim Alderman, Chairman of the Citizens' Advisory Committee for the Inland Bays, submitted and read a statement into the record, and stated that the Plan does not address all of the concerns of the Comprehensive Conservation and Management Plan for the Inland Bays, that the Plan uses the words "should", "could", and "may", and that the words should be replaces with "shall", that the Plan is signed to and agreed to by the Citizens' Advisory Committee, the Department of Agriculture, the Department of Natural Resources and Environmental Control, the Scientific and Technical Advisory Committee, the Sussex Conservation District, the Sussex County Association of Towns, the Sussex County Council, the Governor of Delaware, and the Secretary of the U.S. Environmental Protection Agency, and that the Committee request time to prepare more input into the Plan.

Mike Tyler, a resident of the Lewes area and President of the Citizen's Coalition, stated that the Plan has neglected the goals for intergovernmental coordination, that the Town and Cities should have received complimentary copies of the draft and should not have been required to pay for copies, and that the County need to work directly with the Town and Cities in developing this Plan.

James Griffin, a Lewes resident and local Attorney, objected to a fee being required for the Plan, objected to the limited time for review of the Plan, that the record should be left open for additional comments, that the Plan should have the force of law, that the Plan should state how the goals and objectives will be implemented and how the County shall interpret the Plan, that the Plan should have positive wording, and referenced the word "shall", stated that the Plan is subject to challenges in the Courts if the wording is not revised, and suggested to the Commission that the Commission also needs more time to make decisions on the Plan.

Mr. Schrader advised all parties present that the record will be left open for written comments until October 11, 1996.

Skipper Purnell, a resident of the Angola area, stated that the Plan is not perfect, that there never will be a perfect Plan, that the Plan needs a lot of fine tuning, that there is nothing firm in the Plan, that the Plan should have a set of objectives, guidelines, time lines, ordinance changes, questioned what power the Commission will have in enforcing the Plan, and expressed a concern that the Historical Element of the Plan is only two (2) pages, while New Castle County's Plan has twenty-one (21) pages.

Pret Dyer, a resident of the Rehoboth area, developer, and local Attorney, stated that the Plan is inconsistent and ill conceived, questioned the criteria that a rezoning will not in any manner negatively impact the quality of life, questioned the reasoning for the Agricultural Protection Districts and densities, and stated that land owners will not have any rights, that the Plan has obvious errors in the requirements for the Conservation Districts, questioned how commercial and industrial uses are determined by adjacent districts, stated that there is no latitude for an appeal to an Appeals Board, and stated that the Commission should be permitted to continue to permit a landowner to subdivide if the landowner can meet all appropriate conditions for approval.

Til Purnell, a resident of the Angola area, stated that she does not like a lot of the Plan, particularly development along the sensitive areas of the Inland Bays, suggested that

development be permitted in farming areas, that the agricultural community cannot have everything both ways, noted that the Plan has been prepared based on four workshops and numerous meetings with various groups, that she supports the need for sunsetting subdivisions and some zonings that have not developed, that properties should be taxed based on zoning, and supports the concept of revitalization and re-use of abandoned sites and buildings, rather than creation of additional projects.

Phyllis McKinley, Executive Director of the First State Manufactured Housing Institute, stated that manufactured housing is only address once in the entire text of the Plan, that a need exist for affordable housing, that manufactured housing provides more opportunities for first time home buyers, that 39% of housing in Sussex County is manufactured homes, that 50% of the area residents cannot afford the average cost of \$80,200 for a new residence, that manufactured home developments must presently apply for Conditional Uses, but should be considered cluster housing, and submitted a copy of an draft Ordinance relating to manufactured homes that was presented to the County Council several months ago.

Coleman Bunting, a resident of the Selbyville area and developer, stated that Selbyville has adequate sewer and water, but has been excluded from the Development District, that the map should be expanded from Sebyville to the north, and to the east towards the Williamsville area where a Village Center is presently located on the Coastal Sussex Land Use Plan, stated that the Plan is correct to encourage the Town Center concept and Development Districts, and stated that the proposed one unit per twenty (20) acres is unreasonable.

Joanne DeFiore, a resident of the Dewey Beach area and a representative of the concerned citizens along the "Forgotten Mile", submitted and read a letter, questioning why Corridor Preservation and Access Management is not being applied to Route One from Nassua to Fenwick Island, and was specific about safety concerns between the entrance to Rehoboth Beach and the entrance to Dewey Beach.

Patti Shreeve, a resident of the Rehoboth area, expressed concerns about development along Route One, and added that the Plan seems to intend to protect farmland at the expense of the beaches and bays.

Byrd Whaley, a resident of the Laurel area, stated that his interest is in farmland, that the Plan is an injustice to the farming community to restrict density to one unit per twenty (20) acres, that most farmers have worked all of their lives knowing

that they may, if they desire to, sell a lot or lots when times are bad, and stated that he is opposed to the Plan.

George R. Whaley, a resident of the Laurel area, stated that his family has farmed in the area since 1676, that if farmers can't make money farming they should be able to sell property, that large lot density takes up more farmland, that smaller lot sizes should be permitted.

Roland West, a resident of the Millsboro area, stated that farmers are getting older and the younger farmers can't afford to buy farms, questioned how the Agricultural Protection District will save farms when twenty (20) acre parcels will have to be sold to comply, stated that he purchased three (3) separate parcels and the County combined them into one parcel, and questioned how he could redivide the parcels.

Richard West, a resident of the Millsboro area, stated that the Plan is not acceptable to the farming community, questioned if a dictatorship is being created, stated that it may be time to join a militia against the government, that the Plan is not fair to property owners, that everyone should be treated equally, that if the required density in an Agricultural Protection District is to be one unit per twenty (20) acres then all areas should be required the same density, i.e. beach, towns, etc..., that the present density requirements should remain, that the County will loss revenue, that there will be fewer homes in the County due to the proposed twenty (20) acre requirement, and that the requirement economically impacts retailers and the building industry.

John Sergovic, a resident of the Lewes area and a local Attorney, stated that the County is charged with an important task, that the Delaware Code provides that the County comply with the land use map and text of the Plan, that the Plan provides no density for manufactured housing, that the Plan needs to be corrected to meet the existing code in Conservation Districts, and questioned why the twenty-five (25) foot setback from Federal wetlands is proposed.

Ted Liszewski, a resident of the Greenwood area and a developer, stated that he is opposed to the proposes density of one unit per twenty (20) acres, that the density impacts the trade and building industries, surveyors, realtors, and farmers, that the density eliminates affordable pricing for properties, that he objects to the existing moratorium, that he has never agreed with the present requirement of five (5) acres for placement of a manufactured home, and stated that the proposed

Land Use Map does not indicate any Development District in the Greenwood or Bridgeville area.

David Stevenson, a resident of the Lewes area, stated that he opposed the Plan since it has gone to an extreme, that an applicant for rezoning needs to prove that he is creating no negative impact on others, that the County must act on the Plan by December 31, 1996, and suggested that a time extension can be requested.

Rich Collins, a resident of the Lewes area, stated that the Plan impacts every interest group in the County, that if this Plan passed we can dissolve the County government and turn everything over to the State, that the Plan appeared to have been written by the State, that the deadline seems to be a major problem, that individuals are losing their property rights, that the proposal forces people to move into already congested areas, that the Plan creates a bias against commercial developers, land owners, and retirees, that the Plan has loopholes and will cause most farms to be subdivided, that the Commercial development section is only two pages, that farmland will end up being controlled by a few wealthy farmers, and that restrictions should be taken off of developments.

R.C. Willin, Jr., a resident of the Seaford area, stated that the Plan should respect property rights, that the one unit per twenty (20) acre density is detrimental to farmers, questioned what the density will accomplish, questioned if it will impact future farmers and farmland values, stated that the Plan affects inheritance and estate planning since it may be necessary for an heir to sell half of a farm to protect the residual acreage, stated that a larger portion of a farm can be protected if smaller lots can be conveyed to allow a farmer to pay inheritance taxes, stated that the Plan has incompatible uses adjacent to each other, stated that an area mapped as a Development District between Route 13, Route 20, and Route 9 has a high concentration of commercial poultry farms, that the Land Use Map need to be thoroughly checked for compatibility of uses.

Ed Evans, a resident of the Milford area and a member of the Property Rights Foundation, stated that the Plan will alter the form of government in the County, that the word "should" should be "shall", that the Plan causes the loss of property rights, the right to privacy, and affects a representative form of government.

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Don Roessler, a resident of the Lewes area, requested more time to review and comment on the Land Use Map, suggested that a time extension be allowed for additional comments and that another public hearing be held on the final comments.

Mr. Schrader advised all parties present that the Commission is scheduled to hold a workshop meeting on October 31, 1996 at 7:30 P.M. to discuss and make a recommendation on the Plan, and that the County Council is scheduled to hold a public hearing on the Plan on November 19, 1996 at 7:30 P.M.

Mr. Allen thanked all parties present for their participation and comments.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to defer action and to accept written comments until October 11, 1996.

Meeting adjourned at 10:45 P.M.