

## Planning and Land Use Subcommittee Meeting Notes

April 3, 2009

1:30-3:30 pm, DeIDOT Smyrna-Clayton Room

In attendance: George Haggerty (NCCDLU), Jennifer Mihills (DNS), Chuck Adams (DAS), Hans Medlarz (Kent County Public Works), Lee Ann Walling (DNREC Sec. Ofc.), Rodney Smith (Sussex County Planning & Zoning), Jenn Volk (DNREC DWR), Elaine Webb (DNREC S&S), Jamie Rutherford (DNREC S&S), Jim Sullivan (DNREC Drainage & Stormwater), Kelly Crumpley (Kent County Planning), Mark Davidson (DC Group), Anne Mundel (DNREC Sourcewater Protection), Rich Collins (PGA), Dierdre Smith (Duffield), Steve Wright (DNREC DSWC), Keith Rudy (McCrone), Doug Seavey (JCM Env, rep HBA/DE), Solomon McCloskey (Landmark Eng), Jared Adkins (KCD), Wes Allen (Envirotech), Tim Metzner (DBF)

Following introductions of attendees, Elaine Webb presented the background for the revisions to the regulations and explained the themes into which the comments received were separated. Staff and the subcommittee chair chose three topics to focus discussion: (1) local vs. state control of land use decisions, (2) plan review process, and (3) designated watersheds and watershed master plans.

The plan review process was discussed at length. Based on comments received, staff has committed to rewriting portions of Section 3 to clarify the intent. It is anticipated that much of the “process” in Section 3 will be removed from the regulations and clarified and expanded in the technical document to accompany the regulations.

The plan review process is seen as a disconnected process and it was suggested that a design charrette be held to produce a better product as was the intent with the original PLUS idea. The plan reviewed at PLUS would be conceptual and then everyone would come back to the table once the designer has had time to do some more work on the project.

Kent County has suggested that a County planning representative be present at the KCD pre-application meetings with DeIDOT and Drainage when necessary. DeIDOT, DNREC, and Conservation Districts have overlapping responsibilities for drainage and stormwater. The Level of Service analysis in Kent County is working on recommendations for management of drainage in the county. One of the items is to find out what portion of the drainage system DeIDOT takes under their jurisdiction for review and maintenance.

There was concern that having an interim step of an approved plan would cause delays in the approval process. Terminology in the draft regulations will be cleaned up to address this concern over a preliminary sediment and stormwater “approval”.

New Castle County has reached consensus with ACEC over what preliminary information is reasonable to request at a pre-application meeting. The information presented is available at the desktop through GIS. However, there was discussion that a field survey would be necessary in some cases to determine discharge points and downstream information since the LIDAR data may not be accurate. There was

general lack of confidence from many in attendance at the subcommittee meeting with the accuracy of the information available on the DataMIL and LIDAR data.

The Stormwater Impact Study (SIS) Findings Report was shown to the group and the ranges for the minor, moderate, and significant impact ratings explained. The subcommittee requested that this report be circulated to the attendees. It was noted that the SIS Findings Report would be completed at the pre-application meeting with the desktop information provided. The report would then be forwarded to the local land use agency for consideration prior to preliminary plan approval. The SIS Findings Report impact ratings have ranges and this takes the subjectivity out of the report. It was suggested that two additional impact ratings be included such as “no impact” and “benefit”.

There was concern that the SIS Findings Report would not be understood by the planning and zoning boards and that the information was better suited for planning staffs. It was also suggested that rather than sending the SIS Findings Report, the conservation district should submit a letter of no object to the planning agency.

The Designated Watershed section of the law was discussed. The approach in the proposed regs is to have watershed master plans approved to address water quantity issues since water quality aspects have been covered by the TMDL process. It was brought up that it is very difficult to achieve water quality goals on a watershed basis. The designated watershed process as currently set up is very cumbersome and expensive. KCD was able to complete a subwatershed master plan funded by developers in that watershed to address some very specific issues in the watershed. The watershed master plan was more affordable and manageable than going through the process of designated watershed status. Kent County currently has an ordinance that all TMDL watersheds must adhere to the TMDL. Specific criteria for ERES waters should be considered.

A subsequent Planning and Land Use Subcommittee meeting will be scheduled once the comments have been addressed in the draft regulation and the technical document to accompany the regulations has been substantially completed.