



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION

March 18, 2022

Ms. Sharon Lynn  
City Manager, City of Rehoboth  
229 Rehoboth Avenue  
Rehoboth Beach, DE 19971

RE: 2022-02-16; City of Rehoboth Comprehensive Plan Update review

Dear Ms. Lynn:

Thank you for meeting with State agency planners on March 23, 2022 to discuss the proposed City of Rehoboth draft comprehensive plan update.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

***Certification Comments:*** These comments must be addressed in order for our office to consider the plan amendment consistent with the terms of your certification and the requirements of Title 22, § 702 of the Del. Code.

- Please provide written verification that the comprehensive plan has been shared with and reviewed by the county and near-by local jurisdictions. In Rehoboth's case, it states the plan was shared with the Town of Dewey Beach, the Town of Henlopen Acres, the City of Lewes, and Sussex County. Please include, in appendix D, any written correspondence between the city and these jurisdictions regarding the plan and any changes made to the plan as a result of these comments. If any of the jurisdictions were notified and did not respond, that information should be included as well.
- Page 4-11 references table AD4-1 which was not included with the draft. Please ensure that table is included in the final plan or remove the reference.
- Map 5 – Annexation Growth Area shows areas of proposed future annexation. The plan states that the city has no plans to initiate annexation of any property shown on this map, it will entertain petitions from property owners within the

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identified area for annexation. If a property is annexed, it must be zoned according to the City's Future Land Use map. Map 3, Future Land Use, must show the proposed future use for all annexation areas.

***Recommendations:*** Our office strongly recommends that the Town consider these recommendations from the various State agencies as you review your plan for final approval.

**Office of State Planning Coordination – Contact: 739-3090**

Congratulations to the City of Rehoboth on a very well written plan which will guide the city through the upcoming years. The area around Rehoboth is developing rapidly and having a plan to guide growth will be an important tool for City. Implementation of the goals and elements set forth in this plan will help the city manage future growth while helping the city retain it's the plan contains many sound strategies and plan elements that will work together to manage that growth while helping the city retain the small town charm and rich history. The following suggestions should be considered:

- Page 2-9 states that the city experienced a nine month delay to address parcel based mapping differences between the City and County records. The city should expand this section to provide a brief summary of the issue, the steps that have been taken to rectify the situation, and any additional steps that remain to ensure the issue is fully addressed.

This office has also received the following comments from State agencies:

**State Historic Preservation Office (SHPO) – Contact: Carlton Hall 739-5685**

- The Rehoboth Comprehensive Plan includes a History and Historical Resources sections in Chapter 3. The Delaware SHPO appreciates Rehoboth Beach for addressing preservation in their plan and encourages the City of Rehoboth Beach to pursue listings a proposed Historic District in the National Register of Historic Places. A major benefit of listing is that properties become eligible for financial incentives in the form of federal and state historic preservation tax credits and occasional grants. The SHPO office also encourages the city of Rehoboth to include specifics of when they plan to work on preservation issues.
- The Delaware SHPO recommends creating a new Architectural Design Manual and revising the Architectural Review Task Force in the future. The Delaware SHPO also recommends conducting an updated Architectural Survey with structures built in 1972 now meeting minimum age requirement for National Register listing. The Architectural Survey should be conducted by an individual who meets the Secretary of Interior's standards for architectural history.

Note also that the statewide historic preservation plan, *Partners in Preservation: Planning for the Future, Delaware's Historic Preservation Plan 2018-2022*, is now available online at: <https://history.delaware.gov/pdfs/2018-2022DelawareSHPOPlan.pdf> (single-page version for printing also available). The plan emphasizes partnering to achieve common goals and connecting with other planning efforts. We encourage all municipalities to consider how the goals, strategies and actions outlined in the new plan may support and be coordinated with their local planning efforts.

If there are any questions, inquiries, or concerns, feel free to contact the Delaware State Historic Preservation Office for assistance at 302-736-7408.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

- On page 6-1, the DelDOT's Capital Transportation Program (CTP) is referred to with the correct initials but an incorrect title.
- On pages 6-4 and 6-5, there are technical inaccuracies in the discussion of the Wilmington/Baltimore Avenues Streetscape Project. The City is urged to contact Mr. Michael Hahn ([MichaelC.Hahn@delaware.gov](mailto:MichaelC.Hahn@delaware.gov) or 302-760-2131) or Mr. Todd Pryor ([Todd.Pryor@delaware.gov](mailto:Todd.Pryor@delaware.gov) or 302-760-2112), both of DelDOT's Local Systems Improvement Section for more specific information.
- DelDOT recommends that consideration be given to limiting vehicle access on the loop around the Rehoboth Avenue bandstand to transit vehicles and vehicles that are loading and unloading.

**DART – Contact Jared Kauffman 302-576-6062**

Page 6-6

- The number of fixed routes needs to be revised from 64 to 60
  - 34 in New Castle
  - 11 in Kent (210 is considered Kent Service)
  - Five routes that serve Sussex year-round (201, 204, 206, 212, and 215)
  - Four intercounty
  - Three flex (currently only operating the 903 as we continue to pilot the DART Connect service, which itself is not considered a fixed-route service)
  - And, three routes that only operate seasonally (203, 208, and 305). All other year-round Sussex routes, except for the 212, receive increased service levels during the Beach Bus season.
  - The statement about seeing an increase in ridership needs more context. While we were seeing a slight, but steady increase in ridership before the pandemic. Since the initial drop in ridership in 2020, we have seen an

increase in ridership but plateauing at about 50% to pre-pandemic levels across the entire state.

Page 6-7

- The Route 201 is only named the Beach Bus route during Beach Bus season. The year-round service is just considered the Route 201.
- While the 201 Beach Bus service operates seven days a week, the year-round 201 service only operates Monday through Saturday.

General comments for the Transit Section

- Please provide a description of the bandstand stop, and the general challenges and obstacles for DART at that stop
- An improved description of the Route 201 is needed. Clarification is needed between the difference between Beach Bus service and year-round service, including general dates, and difference in service levels. Additionally, a description of the rider demographics, needs, and travel behaviors should be provided.
- If the Town has a vision of improved DART service, it should be mentioned with defined goals and strategies to meet that vision.
- It is suggested to include walkable friendly design and concepts within the economic development, housing, and land use sections, in addition to the transportation section, since walkability affects and is affected by these topics, and to note that encouraging walkability goes beyond simply providing walkable infrastructure, which includes directness and surrounding human-scaled aesthetics. For example, while the land use goals and action items mentions the need to accommodate a pedestrian-oriented character, it is suggested to elaborate within the land use section itself about what is meant by pedestrian-orientation, and how land use could be enhance pedestrian travel.

**The Department of Natural Resources and Environmental Control – Contact: K. Claire Quinlan 735-3480**

**Disclaimer Clause:** Staff from the Delaware Department of Natural Resources and Environmental Control (DNREC) reviewed the draft comprehensive plan submitted for PLUS review. The absence of comments regarding specific resources does not indicate that there are not additional constraints or environmental issues, nor does it indicate DNREC support of a particular plan element. Municipal officials are encouraged to

reach out to Clare Quinlan at (302) 735-3480 if they have any specific requests for information.

### **TMDLs**

On page 6-34, the draft comprehensive plan addresses Total Maximum Daily Loads (TMDLs) and refers to a Pollution Control Strategy (PCS). DNREC reviewers recommend referencing the specific Pollution Control Strategy to be the Inland Bays Pollution Control Strategy. For more information about the Inland Bays Pollution Control Strategies, please visit [https://documents.dnrec.delaware.gov/swc/wa/Documents/IBPCSdocuments/FactSheet\\_IBPCS\\_101408.pdf](https://documents.dnrec.delaware.gov/swc/wa/Documents/IBPCSdocuments/FactSheet_IBPCS_101408.pdf) or contact the DNREC Division of Watershed Stewardship, Watershed Assessment Section at 302-739-9939.

### **Stormwater Management and MS4**

Stormwater management is addressed starting on page 6-35. The draft comprehensive plan discusses the value of introducing a future stormwater utility. Such a program could resolve future costs associated with stormwater infrastructure, monitoring, and maintenance. The draft comprehensive plan also addresses the concept of a Municipal Separate Storm Sewer System (MS4). The City of Rehoboth is not currently required to hold an MS4 permit under the National Pollutant Discharge Elimination System. The 2020 census data may trigger future changes to MS4 permitting requirements for the City of Rehoboth. For more information about MS4s in Delaware, please visit <https://dnrec.alpha.delaware.gov/water/surface-water/npdes/municipal-storm-sewers/> or contact the DNREC Division of Water, Surface Water Discharges Section at 302-739-9946.

### **Wastewater**

The draft comprehensive plan addresses wastewater starting on page 6-29. On page 6-31 the draft comprehensive plan describes preliminary engineering reports from 2012 that propose possible upgrades. The document later describes that the upgrades were completed on page 6-32. It is recommended to describe the completed projects first so that the reader has a better understanding that the wastewater treatment system is up-to-date and maintained. This can be done by reversing the bullet list from newest to oldest. For more information about wastewater treatment and National Pollutant Discharge Elimination System permitting, please visit <https://dnrec.alpha.delaware.gov/water/surface-water/> or contact the DNREC Division of Water, Surface Water Discharges Section at 302-739-9946.

### **Drinking Water**

Starting on page 6-21, the draft comprehensive plan addresses drinking water demand, capacity, source, aquifers, water treatment, water distribution and maintenance. The report indicates that neither perfluorooctane nor sulfonate/perfluorooctanoic acid were detected in drinking water within the past five years. Consider also addressing PFOS (Perfluorooctanesulfonic acid), since PFOS is an emerging issue of concern in drinking

water quality. For more information about PFOS in groundwater, please visit <https://dnrec.alpha.delaware.gov/waste-hazardous/remediation/pfas/> or contact the DNREC Division of Water at 302-739-9949.

### **Wetlands and Buffers**

Wetland areas and buffers are addressed on pages 7-10. The draft plan states that “DNREC recommends instituting a 100-foot upland buffer width, requiring plantings of native woody or herbaceous plant species, from all USACE regulated/approved and State regulated wetlands.” Consider making the following changes: DNREC recommends instituting a 100-foot upland buffer width, requiring plantings of native woody or herbaceous plant species. ~~from all USACE regulated/approved and State regulated wetlands.~~

The city should develop and adopt an ordinance requiring a 100-foot vegetated buffer zone (not a setback) from all wetlands, waterbodies and waterways for new development, where practicable.

Vegetated buffers are not equivalent to setbacks, as residential lots, walkways, and stormwater management facilities should not be contained within the vegetated buffer zone. Vegetated buffer zones should be left undisturbed during construction and should be identified outside of the Limit of Disturbance (LOD) on the engineering plans. In some instances, stormwater outfalls, conveyances, and emergency spillways may cross through these zones, and will require temporary disturbance during construction.

Designate all vegetated buffers as un-subdivided open space. No portion of any building lot should be within the buffer. Signage should be installed at the edge and within the buffer zones to deter residents from encroaching into these common areas.

Buffer zones should be planted exclusively with native trees and plants, as indicated in the comprehensive plan. Native plants are well-suited to our climate and require limited maintenance. They also provide an increasingly important role in the survival of native birds and beneficial insects whose habitat is shrinking due to development and climate change.

For more information about the benefits of riparian buffers, please contact the DNREC Division of Fish and Wildlife at (302) 735-3600.

### **Beach Preservation**

On page 7-2, under Beach Preservation Act, it says that “No construction may take place seaward of the building line without a Coastal Construction Permit or Coastal Construction Letter of Approval from DNREC.” Please note the following corrections: “No construction may take place seaward of the building line or landward of the building line within the regulated area without a Coastal Construction Permit or Coastal Construction Letter of Approval from DNREC.” The DNREC Shoreline and Waterway

Management Section not only requires approval seaward of the building line but also landward within DNREC's regulated area, which is defined as "the specific area within the defined beach that the Department is directed to regulate construction to preserve dunes and to reduce property damage." Additionally, "The regulated area shall be from the seaward edge of the beach as defined to the landward edge of the third buildable lot in from the mean high-water line."

On Page 7-5, under Canal Dredging, the draft comprehensive plan states that, "In 2016, the estimated cost to complete the Lewes-Rehoboth Canal dredging was more than \$2.4 million." To avoid confusion regarding the dates of the latest statewide dredging prioritization efforts, the following addition is recommended: "In 2020, the estimated cost to complete the Lewes-Rehoboth Canal dredging was ...". For more information on coastal construction in Delaware, please visit <https://dnrec.alpha.delaware.gov/watershed-stewardship/beaches/coastal-construction/> or contact the DNREC Division of Watershed Stewardship, Shoreline and Waterway Management Section, at 302-739-9921.

### **Climate Change and Sustainability**

Climate change is well addressed starting on page 7-12. The draft comprehensive plan includes reference to the new Delaware Climate Action Plan and addresses the three main concerns associated with climate change: increased heavy precipitation events; temperature rise; and sea level rise.

### **Electric Vehicles**

The draft comprehensive plan also addresses electric vehicles. On page 7-27, "Action Items" include transitioning the city's fleet vehicles "when possible." It is recommended to establish milestones as to when this could be completed (i.e. 20% of the fleet electrified by 2025, etc.) as well as including a vehicle replacement schedule. Additionally, the plan calls for identifying appropriate locations for electric vehicle charging stations, seeking funding for installation. The plan mentions potential funding sources for Level 2 electric vehicle charging equipment provided by the state. The state anticipates changes to its program offerings as well as the funding opportunities. Please contact Breanne Preisen by email at [breanne.preisen@delaware.gov](mailto:breanne.preisen@delaware.gov) or by phone at 302-735-3366 for more information.

### **Sustainable Energy**

The State's Weatherization Assistance Program is mentioned on page 7-25. It is recommended to include specific action items for both energy efficiency and renewable energy infrastructure. Examples are provided below:

- Conduct a comprehensive planning effort in sustainable energy, with a specific goal to reduce energy consumption by implementing energy efficiency measures in City operations, including buildings and street lighting. Energy efficiency

upgrades may be eligible for funding through the Energy Efficiency Investment Fund, provided through the DNREC Division of Climate, Coastal, & Energy, to help commercial and industrial customers replace aging or inefficient equipment and systems with energy efficient alternatives

(<https://dnrec.alpha.delaware.gov/climate-coastal-energy/efficiency/energy-efficiency-investment-fund/>). Grants are also provided through the Green Energy Program, which include several different types of green energy funding programs from the state's major electric utilities ([www.de.gov/greenenergy](http://www.de.gov/greenenergy)). Energy efficiency upgrades, such as a street lighting project, may be eligible for funding assistance through Energize Delaware (<https://www.energizedelaware.org>).

- As part of the sustainability planning effort, utilize renewable energy infrastructure, such as solar and wind, to further reduce pollution. Review all codes to ensure that no barriers exist to solar deployment on rooftops or in ground arrays.
- Consider adopting energy efficiency measures in building design and redevelopment to help cut energy costs and make homes more comfortable for occupants.
- Adopt a mechanism to provide information on the Weatherization Assistance Program to customers who are having trouble paying utility bills. (<https://dnrec.alpha.delaware.gov/climate-coastal-energy/sustainable-communities/weatherization/>).

For more information on efficient and renewable energy, please visit <https://dnrec.alpha.delaware.gov/climate-coastal-energy/efficient-renewable/> or contact the DNREC Division of Climate, Coastal and Energy at 302-735-3480.

### **Department of Agriculture - Contact: Milton Melendez 739-4811**

The Delaware Department of Agriculture welcomes the opportunity to provide recommendations for this municipal comprehensive plan. Agriculture is the State's largest industry and its most significant land use.

- As an economic force the agriculture/food system provides more jobs and impacts in the state's economy than any other sector. In addition to the direct economic impacts throughout the state, agriculture and forestry provide billions of dollars in environmental services to the citizens of Delaware in the form of air and water cleansing, weather moderation, carbon sequestration, outdoor recreation, wildlife habitat, scenic vistas – and the list goes on. These services are largely uncompensated and represent a significant contribution to the quality of life and the health of Delaware's citizens and visitors.



Agriculture and forestry are the state's most important land uses. The majority of the state's private lands are farms. Farms and forests dominate the landscape. This fact alone dictates that these land uses must be a crucial part of the future land use planning in every comprehensive plan. Over three-quarters of the private open space in Delaware is in farms. The maintenance of these land uses is crucial to our future quality of life and the orderly and pleasing development of the state. In addition the State of Delaware is investing millions of taxpayer dollars in the permanent preservation of these lands and all the attendant benefits they provide. Every comprehensive land use plan should account for these factors in balancing future development, preservation of farmland and forest, and the enhancement of the economic activities associated with our working lands.

Undoubtedly future generations will judge our effectiveness at land use planning by what they see around them. Like Delawareans today they will expect us to balance growth and development with the preservation and enhancement of agriculture and forestry.

The following proposed steps provides municipal governments with directives that can be implemented to maximize the preservation and longevity of agriculture in your surrounding areas.

#### AGRICULTURE

- 1) Identify areas within the municipality where agriculture is considered the highest priority land use
- 2) Encourage the protection of prime agricultural land
- 3) Discourage development activities and capital projects incompatible with modern agriculture
- 4) Encourage separation of residential and agricultural areas through the zoning and subdivision process (this includes significant buffering and setback requirements for lands adjacent to agricultural operations)
- 5) Encourage, support, and maintain existing and proposed agricultural support enterprises and ag-related businesses
  - 6) Encourage the development of local markets for locally grown foods
- 7) Encourage agricultural use protections and strong right-to-farm policies in agricultural areas
- 8) Establish and support financial incentives that encourage and allow landowners to remain in agriculture
- 9) Promote policies that maintain and foster economic viability within the agricultural sector

#### DENSITY AND EFFICIENT LAND DEVELOPMENT

- 1) Encourage maximum use of existing and planned infrastructure
- 2) Designate infill areas & project number of units to be constructed in those areas
- 3) Discourage development patterns that promote inefficient use of land (i.e., discourage developments where lots frequently exceed minimum lot size requirements).
- 4) In conjunction with population projections, project acres of residential land needed for a given time period and discourage consumption of land in excess of that need with allowance for reasonable market competition
- 5) Direct growth toward existing population centers.

#### **Delaware State Housing Authority – Contact Karen Horton 739-4263**

According to Title 22, Section 702 Del C., towns with a population of less than 2,000 are required to state their position on housing growth *within* the municipality. DSHA has no certification concerns with the Town's position.

- The City of Rehoboth conducted a comprehensive analysis of the demographic, economic and market trends of their resort community that provide significant challenges to providing affordable housing. As a result, they are seeking to increase the mix of housing types, as well as partnerships to facilitate affordable housing in their community. DSHA supports these efforts and because of the strong challenges outlined by the Town, DSHA also encourages consideration the following strategies that are particularly effective in resort communities.
  - Long-term affordability programs and tools to preserve public investment and to ensure a sustainable affordable housing stock.
  - The provision of employee-occupied rental units within commercial and public facilities.
  - Coordination with other area beach towns to identify and implement regional strategies for addressing affordable housing needs.


If you have questions or would like more information on the above recommendations, please feel free to call me at (302) 739-4263 ext. 251 or via e-mail at [karenh@destatehousing.com](mailto:karenh@destatehousing.com)

#### ***Approval Procedures:***

1. Once all edits, changes and corrections have been made to the plan, please submit the completed document (text and maps) to our office for review. **Your PLUS response letter should accompany this submission.** Also include documentation about the public review process.
2. Our office will require a maximum of 20 working days to complete this review.
  - a. If our review determines that the revisions have adequately addressed all certification items, we will forward you a letter to this effect.
  - b. If there are outstanding items we will document them in a letter and ask the town to resubmit the plan once the items are addressed. Once all items are addressed, we will send you the letter as described above.
3. Once you receive our letter stating that all certification items have been addressed, the Planning Commission and Council should adopt the plan pending State certification. We strongly recommend that your Council adopt the plan by ordinance. The ordinance should be written so that the plan will go into effect upon receipt of the certification letter from the Governor.
4. Send our office a copy of the adopted plan along with the ordinance (or other documentation) that formally adopts your plan. We will forward these materials to the Governor for his consideration.
5. At his discretion, the Governor will issue a certification letter to your city.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,



David L. Edgell, AICP  
Director, Office of State Planning Coordination

CC: Lauren Good, Wallace & Montgomery