

DELDOT/LEVY COURT HIGHWAY IMPACT RESOLUTION

On a motion duly made and seconded, the Levy Court of Kent County, Delaware voted to adopt the following resolution:

RESOLUTION #1005

WHEREAS, it is the intent of the Regional Planning Commission of Kent County, the Levy Court of Kent County and the Delaware Department of Transportation to promote efficient, freeflowing and safe travel conditions in Kent County, Delaware; and

WHEREAS, the rezoning of land may permit a change in land use which has the potential to adversely impact adjacent highways by increasing congestion, delays and accidents; and

WHEREAS, the Regional Planning Commission of Kent County and the Levy Court of Kent County and its Department of Community Development are responsible for land use regulation in the unincorporated portion of Kent County; and

WHEREAS, the Delaware Department of Transportation is responsible for the operation, maintenance and construction of non-municipal highways in the State of Delaware; and

WHEREAS, the strong interrelationship between transportation and land use requires that planning for both be closely coordinated and cooperatively implemented; and

WHEREAS, it is the desire of the Regional Planning Commission and the Levy Court of Kent County and the Delaware Department of Transportation to coordinate land use with transportation needs; and to further comply with Title 9, Del.C., Chapter 49, Subsection 4961 "Highway Capacity" by ensuring that traffic analyses are conducted as part of the zoning reclassification process in Kent County.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT, the Levy Court of Kent County (hereinafter referred to as the Levy Court) in the State of Delaware adopts the following agreement; with the concurrence of the Regional Planning Commission of Kent County (hereinafter referred to as the RPC), Delaware Department of Transportation, (hereinafter referred to as DELDOT) and the Department of Community Development (hereinafter referred to as the Department).

1. The Levy Court shall make final decisions on all rezoning requests, after consideration of the recommendations of the RPC.
2. The Department shall conduct a Preliminary Conference with each applicant prior to the processing of applications for rezoning. The purpose of this informal meeting shall be to discuss with the applicant each of the following: The proposed use; the zoning district required for each proposed use; submission requirements; the application process; time tables and submission dates; any other pertinent issues as required or deemed necessary.

During the Preliminary Conference the Department shall supply the applicant with a completed "Zoning Reclassification Request Form" which shall include: the name and address of the owner of record, the deed reference, property location description, the present use and proposed use, and the present zoning and proposed zoning classifications.

It shall be the responsibility of the applicant to submit a copy of this form to DELDOT, together with a written request, for processing and preparation of a Support Facilities Report (copy attached). Upon receipt of this form, ten or more working days before the Department's Rezoning Filing Deadline, DELDOT shall complete the Support Facilities Report and send a copy directly to the Department in time to meet that deadline. Forms received later shall be completed and sent later so as to meet the next such deadline. The applicant shall be advised that an application for rezoning shall not be processed until a Support Facilities Report has been completed by DELDOT.

3. The minimum acceptable peak hour level of service for the purpose of analyzing the traffic impacts of a rezoning on roads in Kent County shall be "D" as defined in the most current DELDOT Rules and Regulations for Subdivision Streets, except for such specific areas where the Levy Court and the RPC in cooperation with DELDOT shall later agree that another service level would be more appropriate.

4. The Support Facilities Report shall predict, using nationally recognized traffic criteria, for uninterrupted flow conditions, the resultant level of service on adjacent roadways should the rezoning be granted. This report shall include all recommendations and/or requirements DELDOT may have with respect to the potential traffic impact and resultant level of highway service based on the maximum generation rate for the zoning classification requested. Upon review of this report, the Department shall contact the applicant to discuss the report.
5. In the event that the Support Facilities Report determines that a proposed rezoning would not result in a level of service below the minimum acceptable peak hour level of service as discussed in Item 3 of this agreement, the applicant will then be advised by the Department that formal application for zoning reclassification may be submitted for processing.
6. Should it be determined by DELDOT that a zoning reclassification could result in a roadway or intersection operating or continuing to operate below the minimum acceptable peak hour level of service, the applicant shall be required by the Department to have a detailed Traffic Impact Study (TIS) prepared at his own expense prior to the submission of the rezoning request to the Department. The TIS shall comply with the criteria, standards and methodology outlined in the most current DELDOT Rules and Regulations for Subdivision Streets, and, at a minimum, shall analyze the traffic volume and level of service on the adjacent highway to include the nearest significant intersection on either side of the proposed development. The analysis shall consider the accumulation of existing traffic, projected traffic growth, to include committed and approved projects and traffic generated by the proposed rezoning. The TIS shall also consider the effects of active or proposed transportation improvements in the most recently adopted 6 year Capital Improvements Program and shall recommend alternative methods (e.g. phasing, road improvements, etc.) for maintaining or achieving the minimum acceptable level of service as defined elsewhere in this agreement for the specific area in question. DELDOT shall provide technical evaluation for every TIS required under this agreement.

When they have evaluated the TIS and found it satisfactory, DELDOT shall submit a copy of the TIS and an evaluation letter containing findings/recommendations directly to the Department as a part of the submission requirements for formal application for rezoning.

7. The Department shall be responsible for relaying all required information to the RPC and the Levy Court. The RPC and the Levy Court will take into consideration the Support Facilities Report and/or the TIS in making their recommendations and/or decision regarding the rezoning application.
8. Should a rezoning request which necessitated the preparation and review of a TIS be approved, the recommendations set forth in the TIS shall be considered for implementation at the time of formal plan review and site development.
9. This agreement shall become effective upon the passage of this resolution by the Levy Court and the placement of concurring signatures hereon by the Secretary of Transportation, Chairperson of the RPC and the Director of the Department.

IT IS FURTHER RESOLVED: that the Secretary of DELDOT, the President of the Levy Court, the Chairperson of the RPC and the Director of the Department affirm this agreement by affixing their signatures hereon.

Effective date of this agreement

June 30, 1988


Adopted by the Levy Court of Kent County on


June 21, 1988

William Pasberg
President of the Levy Court of Kent County

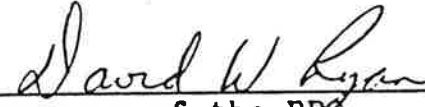
The following signatures concurring herein:

For the Department of Transportation


Director of Highways
Date 6/29/88


Secretary of Transportation
Date 6/29/88

For the Regional Planning Commission


Chairperson of the RPC

Date June 24, 1988

For the Department of Community Development


Director of the Department

Date June 22, 1988