

Livable Delaware Activity

Activity/Policy/Program name: Site Plan Reviews

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Purpose: The purpose is to provide a fair and consistent way to figure out whether a building or subdivision proposal will create problems with the transportation system such as making traffic congestion worse or creating more accidents. This information is used to help change the way a building sits on its lot or to change the way parking lots or entrances are designed, so that new buildings create the fewest transportation system problems that they can.

Enabling Laws: 17 Del. C. § 508
9 Del. C. § 3004

Policies: “Rules and Regulations for Subdivision Streets;” “Standards and Regulations for Access to State Highways;” Stub Street Policy

History: All three counties have a process dictated by their County Code that requires some level of review of land development plans by the Department of Transportation among other state agencies. The process varies with each county. Most municipal governments do not require site plan reviews by the Department of Transportation.

Current Situation: A site plan is a conceptual plan showing the proposed use of a property. It provides enough detail of a proposed development so that it can be shown to meet local land use codes. It does not provide enough detail for construction. Our review of site plans is limited to the basic elements of the plan such as location of access, easements, or interconnections to reduce access points or disperse local traffic, and the subdivision street layout. For larger developments, we assess the need for improvements beyond the site access or property frontage. Typically, detailed review of the construction plans (see Commercial Entrance/Subdivision Street Review) follows approval of the site plan.

In Delaware, the counties and municipalities manage the land development process. These entities control the type and level of development through the land use planning process and with associated ordinances. Our role is to review the proposed developments and offer comments regarding the proposed plan. Once our comments are addressed, we send a letter of no objection.

Historically, the Department of Transportation’s role in this process has been tempered by the laws of the respective land use jurisdiction. For example, we would not necessarily object to a development that could be provided reasonable access yet worsened an already congested intersection. We would take this position because, to our knowledge, counties and municipalities (except for New Castle County) do not have ordinances whereby they can deny a development because of its impact on the transportation network, or even a policy document indicating what the criteria for an acceptable or unacceptable impact might be. Our

Department has not created its own criteria in deference to the local land use jurisdiction's authority in land use issues and the potential impact it could have on land development.

In general, our authority in these matters is limited. For developments that are being designed within the bounds of the existing zoning, we do not have the authority to deny a developer a letter of no objection or an entrance approval because of transportation impacts. We would only object to the plan or deny an entrance approval if we cannot provide reasonable access to the property.

How can the process of site plan reviews be revised to address the goals of Livable Delaware?

As previously stated, the process for site plan reviews is administered by the local land use jurisdiction. In order to improve development regulation, two things can be changed.

First, municipalities and counties should adopt a consistent statewide approach to reviews of land development plans. The approach should require the establishment of a Development Advisory Committee, which would include representatives from the Department of Transportation, DNREC, Fire Marshall, county/municipal Planning office and county/municipal Public Works office. This approach brings together the principle parties during the early stages of the land development process to determine if a plan meets the criteria of a variety of agencies. An approval letter would be required from each of the agencies, then, the plan would be required to be recorded. Following plan recordation, the developer would be required to get each agency's construction plan approvals. For the Department of Transportation, we review the detailed entrance plan or subdivision street plans (see Commercial Entrance/Subdivision Street Review).

Second, municipalities and counties should adopt an Adequate Facilities Ordinance (or level of service standard) for transportation. An adequate facilities ordinance requires developers to demonstrate that there will be adequate services and infrastructure to support the proposed development. This typically involves services such as water, sewer, schools and transportation. From a transportation perspective, the county/municipality would develop ordinances that established criteria to maintain the desired traffic conditions. Ordinances could also be put in places that require transit and pedestrian facilities for developments within certain "multi-modal" areas.

As an example, New Castle County's Unified Development Code includes a minimum level of service (LOS) standard. In summary, if a proposed development in a sewer area, adds traffic to an intersection currently operating below a LOS D or causes an intersection to fall below LOS D, then the developer is required to improve the intersection to bring the LOS to an acceptable level.

In rural areas, intersections and roadway segments must maintain existing levels of service. A development proposal is not allowed to cause LOS to drop below the existing level.

Currently, our role is neutral with respect to the goals of Livable Delaware. However, if

local land use jurisdictions adopt ordinances to support the comprehensive land use plan, then the Department of Transportation will support these ordinances through our transportation review.

This activity meets the goals of Livable Delaware. Specifically, the development reviews are done in conjunction with municipality and county planning departments. Together we guide the development plan to be in accordance with local codes and minimize impacts to the transportation system. Early coordination also helps streamline the regulatory process. Finally, the end result of these reviews will be development plans that promote mobility as best as they can.

Revisions/Actions Needed: Require local governments to create Development Advisory Committees to review land development plans at the conceptual stage. The committee should include a representative from the Department of Transportation. Counties and municipalities should adopt adequate facilities ordinances for transportation. These ordinances should have endorsement from the Department of Transportation.

Resources needed to create/revise: There will be some time required from existing staff (approximately 50 hours per unit of government to set up plus 3 to 4 hours per month) to review each new ordinance and attend Development Advisory Committee meetings.

Process for creation/revision: State Legislation would be required to mandate the land development process and to mandate local transportation ordinances.

Schedule: Proposed Legislation – first draft due at the end of September, final Draft to Secretary’s office by mid-October, submission to Governor’s office by November

Measures to guide progress: Legislation Passed by General Assembly. The percentage of units of local government that have a development advisory committee.

Interactions or inter-relationships with other agencies or units of government: County and municipal planning staff. The Department will coordinate with the Office of State Planning Coordination to improve this process.