

New Castle County, Delaware Application and Permitting Process for Land Use and Development

Policy Dialogue

Final Report

January 2010

I. BACKGROUND

A. Background on the Process

In the spring of 2009, the governor, the New Castle County Executive and various private entities asked the Delaware Public Policy Institute (DPPI) to consider convening a policy dialogue on New Castle County's application and permitting process for land use and development. DPPI determined that there was sufficient interest and opportunity in undertaking the effort because:

- With development slowed due to the economy, there was an opportunity to step back and review policies, procedures, and processes;
- There was opportunity for improving the system, with the support of diverse constituencies; and,
- While there may be a range of views on the overall Unified Development Code (UDC), environmental and natural resource protection, and growth management, the intent of this dialogue would not be to address these substantive issues or change existing policies, but rather to address the application and permitting processes for efficiency, timeliness, and economic competitiveness.

DPPI contracted with the Consensus Building Institute (CBI) to undertake an assessment of the issues, to develop a process plan for holding the dialogue, and to facilitate the dialogue, should one be convened. CBI (www.cbuilding.org) is a non-profit organization located in Cambridge, Massachusetts that has undertaken work in Delaware over the last fifteen years on a number of natural resource and land use issues.

CBI worked with DPPI to arrange a series of focus group and individual interviews to understand the issues, concerns, and ideas at hand. Between April 23 and June 25, CBI spoke with some thirty (30) individuals. Interviews ranged from 30 minutes to two hours in length.

Given the findings of the assessment, CBI and DPPI concluded that a focused, problem-solving, dialogue on practical solutions to the process of application and permitting in New Castle County would be possible and fruitful. Consequently, the Delaware Public Policy Institute (DPPI) engaged a representative group of stakeholders in a policy dialogue on NCC's application and permitting process. The dialogue seeks to review the current policies and procedures and identify opportunities for improving the process. During the two-day meeting (*see attached Agenda & Participants*), stakeholders evaluated the application and permitting process in terms of efficiency, timeliness, and economic competitiveness, and then developed specific, actionable recommendations to NCC and state agencies.

This report summarizes the findings of the process, both from the assessment and the dialogue, and offers recommendations to various entities to improve the overall process. To protect confidentiality and encourage candor, comments are not attributable to any specific participant. Though the participants in the assessment and the dialogue have had the opportunity to comment on this final report, all findings and recommendations are the sole responsibility of the Delaware Public Policy Institute (DPPI).

B. Background on the Land Use and Development Permitting Process

The current land use and development permitting processes involve review and approvals among various departments within New Castle County as well as outside of the County government. The Department of Land Use receives and reviews permit applications for commercial and residential development. Development and planning staff within the Department review the submittals for conformance with the various County ordinances, zoning, and the comprehensive plan. The Special Services Department also reviews the applications regarding sewer issues. The state's Department of Transportation also has a direct and active role in reviewing applications regarding traffic, roads, and other transportation related issues. Although the state's Department of Natural Resources and Environmental Control (DNREC) has established statewide stormwater and other environmental regulations, the state has delegated the stormwater reviews to the County. The state's Fire Marshall must review plans related to fire and public safety. Ultimately once plans are approved by the various entities and construction commences, applicants must also obtain building inspections and certificates of occupancy from the Department of Land Use as well.

Under the process as of August 2009 (a proposal before the County Council as of August was recommending streamlining of the current process from four to two stages), there are

four steps for review of applications. The stages include pre-exploratory, exploratory, preliminary and record plan. Minor Development Plans only have to go through two of the four steps. Major plans are greater than 20,000 square feet gross floor area and/or require a new private or public street, a subdivision of more than 5 lots, and a multi-family development of 10 or more units. Fees are charged at each stage according to major and minor plans and fees are also charged for resubmission of non-approved plans (due to major deficiencies or changes). The stages are explained in more detail below.

- *Pre-Exploratory:* This preliminary stage provides the applicant a chance to become familiar with the Uniform Development Code (UDC) and for the Department of Land Use to provide input on the general approach and possible issues and concerns.
- *Exploratory:* This stage the applicant issues a formal plan and the Department of Land Use reviews the documents and provides written, formal feedback on the application, including if it approves, approves with modifications, or denies the exploratory plan. The Department's response also indicates if any special studies or actions are needed, such as a Traffic Impact Study (TIS). Public notice is also provided at this stage. The Engineering Division with the Land Use Department must review plans for storm water considerations at this and later stages. The Engineering Division within a separate department, Special Services, must review plans for sewage hookups and impacts to the County's sewerage system.
- *Preliminary Plan.* In this stage, the applicant must submit a more complete plan, incorporating the changes requested of the Department and with input from Delaware Department of Transportation (DelDOT) and, if needed, the Department of Natural Resources and Environmental Control (DNREC). In addition, some projects may need further approvals from the U.S. Army Corps of Engineers regarding wetlands and navigable waters and other federal agencies, such as Fish and Wildlife Service, if endangered or threatened species are involved.
- *Record Plan.* This is the final plan that, once approved, provides formal and final approval of the application. If the plan meets the requirements of county and state laws, it must be approved. Only rezonings are required to be considered by the County Council. Once recorded, applicants have a limited period of years to begin to build the planned development before having to resubmit the application.

In each year since 2001, New Castle County approved as many as 22 major plans (2001) and as few as 6 (as of August 31, 2009). The average during this period (not including 2009 which was not complete) was not quite 17 major plans per year. The overall time from an exploratory plan submission to a recorded, final plan ranged from 1,264 days in 2007 (i.e., plans recorded in 2007, which means previous stages likely occurred in previous years), 932 days in 2008, and as of July 31, 2009, 917 days for 2009. On average, the application spent most of its time in the record plan phase. Because the County has specific

deadlines for review of applications in each stage, the County typically had in its possession the application for less than 10% of the total time.

II. FINDINGS

Through both the assessment interviews and dialogue discussion, the participants noted a range of concerns and issues regarding the land use and development permitting process. It is important to note that there is not necessarily agreement on the issues, the severity of problems in a particular area, nor the causes of such problems. The concerns (i.e., permitting approval time) may or may not be verified by a thorough data review and analysis, which was not the intent of this effort. Overall, the process identified three primary concerns with the process along with several additional secondary concerns expressed by a range of stakeholders (again, with varying degrees of concern and intensity). Please note that because of the length of the application process, applicants may experience the process differently, impressions and concerns may reflect singular experiences, multiple experiences across different applications/projects, and different experiences across time.

The three primary areas of concern are the overall length of the application process, the DelDOT traffic review, and interagency coordination.

A. Length of the Application Process.

Because a major plan can take over 1,000 days to move from the exploratory to final record plan, many stakeholders have expressed concern about this length of time it takes for approval. Stakeholders are concerned about this length of approval time because:

- It costs applicants time and money;
- It may discourage applicants from considering new applications due to the cumbersome nature of the process, thus reducing economic development opportunities for New Castle County; and,
- It, across projects, signals to the broader development community that “New Castle County” is not open for business, thus encouraging development outside the borders of the County and perhaps the state. Some note that this hurts Delaware’s employment, tax base, economic development, and economic diversity.

Stakeholders have expressed a range of reasons why the application process takes as long as it does. Rationales offered include:

- The process has too many stages.

- Staff do not always have the incentives to move projects through as efficiently as possible. Some staff work faster than others. Staff are not necessarily rewarded for an efficient process.
- Some portions of the review by agencies or departments have no required review times, so regarding septic review by Special Services and transportation review by DelDOT, applications can languish for extended period of times.
- The process requires frequent resubmission of plans and applications, in some stakeholders' views, for minor errors or changes.
- Some applications, especially in times of intensive development, are incomplete or subpar and require frequent resubmittals with approving agencies serving as quality control.
- During intensive periods of development, the state does not provide the resources to ramp up or down staffing in accordance with market conditions.
- Review times are not necessarily reflective of local or state government-caused delays. An applicant may hold onto an application while awaiting financing, better economic conditions, and or, in some cases, federal approvals.
- The prescriptive checklists, while transparent and specific, also pose problems. A list may require the sign off of Special Services on sewerage, as an example, when there is in fact no sewerage changes in the application
- The Uniform Development Code (UDC), while ensuring ultimately approval with its compliance, it's complex, onerous, and meeting its many requirements is ultimately the cause of much of the delay.
- The complexity of storm water planning and the involvement of federal agencies often lengthen the time of the permitting process.
- The storm water regulatory process is complex because DNREC makes the code and the county enforces it. The storm water certification letter is separate from the letter of no objection, adding separate and additional steps for the applicant.

B. Delaware Department of Transportation Review

Many stakeholders expressed concern about the traffic reviews, in particularly, as part of the overall review process. Stakeholders expressed a range of concerns, including:

- The DelDOT process is currently broken down into numerous steps, ranging from scoping the actual traffic impact study to obtaining and getting review of traffic counts, then comment and responses back and forth over sometimes several iterations, and, even after approval, another response time to await for the final construction and entrance permit.
- The County code calls for level D service for new development, even when sometimes the current status quo has a worse level of service. Thus, new development is asked to fix existing problems and this increases project complexity and cost and review time.
- There are no established review times required of DelDOT.

- DelDOT is understaffed and cannot sometimes meet demand.
- In order to ensure fairness and equity, every new or resubmitted application goes to the bottom of the “pile” for review, meaning regardless of project phase, complexity, scale, or importance, all get treated equally the same.
- Challenges with internal DelDOT coordination can lead to multiple and contradictory comments from different staff. This takes time to understand, resolve, and address.
- Project application tracking is not as detailed or sophisticated as at the County.
- There is a challenge to equitable cost sharing over major improvements. If developer X agrees to that they should pay some reasonable share of a new traffic light or even more major road improvement, DelDOT doesn’t have a clear way to allocate percentage costs to this developer versus other ones who are or will benefit from the improvement. This further increases complexity and review time.
- Some applications, especially in times of intensive development, are incomplete or subpar and require frequent resubmittals with approving agencies serving as quality control. Applications are returned an average of three or more times.
- Each application must be completely reviewed each time it is resubmitted due to the detailed technical nature and importance of a high degree of final accuracy.
- We do have a complete set of regional transportation plans. The problem is that while the transportation plans have been developed cooperatively and in collaboration with the County Comprehensive Plan neither is created at the level of detail that affords the best context. This is the reason for our need to plan at the sub-regional level.)

C. Lack of Inter-Agency Coordination

Many stakeholders noted that the multiple-jurisdiction approval process and lack of coordination among agencies and departments is a key impediment to an efficient process. Many noted that there is sometimes difficult and infrequent coordination among county and state departments. Each operates within its own jurisdictions, does not necessarily communicate, and makes for a three-pronged, somewhat disjointed approach to application review. Stakeholders expressed a range of concerns, including:

- The County and DelDOT reviews are not concurrent. Thus, the whole process is one longer linear set of events rather than more efficient parallel processing.
- The process has not one central coordinator or “master,” so that it may move through one set of hands or department only to be caught up in another’s review, and that includes both DelDOT as well as departments within the County.
- It is difficult for staff without authority (or even with it) to move applications efficiently between County departments and between the County and the State.
- Personnel across County departments may not always see eye to eye, which may hinder efficiency. The Land Use engineer and Special Services Engineer may not agree on issues pertaining to site planning and storm water, for instance.

- Preliminary Land Use Service (PLUS) meetings need to be held before planning and before too many details unfold. At PLUS meetings, there are too many technicians and not enough big picture people. PLUS does not provide an opportunity to roll up your sleeves and just talk with people.

Stakeholders also expressed some concerns about storm water reviews, septic and sewerage approvals, fire code stringency, obtaining final Certificates of Occupancy (COs), rezoning and its requirements under the UDC, the UDC in general, public notification and participation, and various application fees.

III. COUNTY AND STATE EFFORTS TO IMPROVE PERFORMANCE AND ENCOURAGE ECONOMIC DEVELOPMENT

The dialogue occurred in the midst of several recent by the County and the State to support and spur local economic development while preserving community character and interests. In the last four years the County has accomplished the following actions.

- Created the Office of Economic Redevelopment to work with the State to encourage business growth and expansion in New Castle County.
- Through the efforts of the Office of Economic Redevelopment and DEDO, several thousand new jobs have been established in New Castle County with companies such as Sallie Mae, Voigt & Schweitzer, Corn Products U.S., and Dassault Falcon Jet choosing to relocate or expand here.
- New Castle County has committed more than \$100 million to rehabilitate the aging sewer system in northern New Castle County that will make our streams and rivers cleaner and create additional sewer capacity to allow for economic growth that creates new jobs in the future.
- In Southern New Castle County, over \$16 million was invested to build a central transmission line to allow for concentrated growth in the southern sewer services area.
- Addressed the flooding issues that have plagued parts of our County by rebuilding and expanding almost 500 storm water ponds.
- The 2007 Comprehensive Development Plan created a path forward for encouraging responsible growth
- In implementing the Comprehensive Development Plan, New Castle County entered into a master planning agreement for southern New Castle County with DelDOT, State Planning, school districts, fire service and the local towns and municipalities to coordinate future growth.
- Over 1 million square feet of land has been redeveloped through changes made to the Unified Development Code (UDC).

- Several UDC changes have been adopted to encourage responsible development through redevelopment and housing incentives.
- Several UDC changes are in the process of being introduced including revisions to the village/hamlet section, mixed use and small business incentives, sign code and legislation that will streamline the development process from four stages to two.

The State has also sought to support and encourage economic development in a variety of ways.

- The Governor recently appointed an Economic Development Ombudsperson
- DelDOT is reevaluating its Subdivision Review Process
- One result of this reevaluation is that DelDOT is creating a computer application using the SharePoint software that allows DelDOT staff and applicants to track subdivision applications including what comments have been made by whom, and so forth. With SharePoint, the software allows drawings (plans) to be accepted electronically. DelDOT is then able to notify the developer about whether the plan is reviewable within the first week. SharePoint also allows DelDOT to track time and where applications are in the process in order to see how long it takes staff to review submissions. With this new system, DelDOT aims to reduce its review time to 60 business days. This is expected to address most of the concerns listed in section "B".
- DelDOT is working with the County and others to create sub-regional plans in which traffic patterns over large regions in the county are considered. Where subregional plans exist, the developers may choose to contribute to the improvements identified in the subregional plan or they have the option of conducting their own traffic impact study (TIS). This process reduces the need for a TIS in applicable cases and shortens the overall review time. This process has been very successful in Middletown and other places in NCC.
- Another result of the Subdivision Process Reevaluation is that DelDOT has appointed an internal Process Improvement Team to help implement process improvements. The team reports directly to DelDOT division directors, and has begun presenting their findings and recommendations and are in the process of implementing their recommendations.
- For storm water reviews, DNREC recommends a pre-application meeting for all new development projects requiring a storm water plan. In the meeting DNREC assists developers with their storm water plans and discusses possible outcomes and approval requirements.
- DNREC has used Value Stream Mapping (VSM) to map their review process in order to make it transparent and show where one's application is in the process. The process reveals discrepancies with staff members' reviewing of applications and dealing with applicants. DNREC is currently training its staff in facilitating VSM in order to keep this process alive in the agency and keep accountability in the system. Currently, this process is implemented in the air quality and brownfields construction process.

- DNREC reviewed and significantly improved its brownfields program in the last few years, leading to much greater efficiency and a far more user-friendly process.

IV. RECOMMENDATIONS

This section details the recommendations that arose from the dialogue among participants. Please note that these recommendations, while developed with involvement of dialogue participants, New Castle County, DelDOT, DNREC, and the Governor's Office, are the sole responsibility of the Delaware Public Policy Institute.

The land use development and permitting system in New Castle County, should, to the greatest extent possible seek to embody the principles outlined below.

- Responsiveness;
- Predictability in process;
- A balance between certainty and flexibility;
- Consistency and seamlessness; and,
- Minimal political influence.

Participants hope that an improved permitting process might achieve the following objectives.

- Provide for efficient, useful early and informal interaction with agencies coupled with formal, predictable review process;
- Surface key interests and issues early so that they can be addressed up front;
- Align expectations across interests and sectors, to the extent possible;
- Provide for certainty in deadlines, review times, and process steps;
- Be measurable against best practices across both agencies within the process and across the region as whole (different Delaware counties and cities as well as surrounding states and their local jurisdictions);
- Seek concurrency and coordination among multiple departments and agencies;
- Minimize multiple iterations, repetition, and resubmittals in the process;
- Provide a rationalized, transparent fee structure that provides a clear nexus between fees paid and service delivered;
- Be adaptable to changing economic conditions;
- Reflect the state's priorities and economic development imperatives; and,
- Maximize the resources available to government agencies;

The various agencies involved in the permitting process should enact the following recommendations to address the three primary concerns identified in the dialogue assessment and process, guided by the principles noted above. These recommendations are further detailed below.

Recommendation 1: Establish Clear, Measurable Review Times.

Recommendation 2: Increase Use of Sub-Regional Planning

Recommendation 3: Adopt Performance Measures/Feedback Mechanisms.

Recommendation 4. Create an Ombudsperson Role.

Recommendation 5. Create an Interagency, Multi-Stakeholder Performance Task Force.

Recommendation 6: Create an “Early PLUS” Stage.

Recommendation 7: Hold Periodic High-Level Agency Meetings.

Recommendation 8: Provide Continuing Education and Training

Recommendation 9: Incentivize Quality of Submittals. Recommendation

Recommendation 10: Tailor Fees and Review Times

Recommendation 11: Create an Adaptable Staffing System.

Recommendation 1: Establish Clear, Measurable Review Times. Both applicants and agency personnel should be held accountable to achievable, clear, and reasonable time frames for submittals, reviews, and decisions. All agencies departments from the County to the State should have established clear, consistent, predictable review times for all stages of the application process. The current system has clear, limited time frames for review only among portions of the overall review process. For reviews of second and third submittals, continue at least a modestly shortened time period for review to help expedite the process.

Recommendation 2: Increase Use of Sub-Regional Planning. Traffic impact studies and other transportation related requirements significantly increase the review time for applications, and furthermore, do not provide a broader perspective on what is desired in terms or regional traffic flows and impacts. DelDOT has begun developing very useful sub-regional plans to increase the certainty of transportation needs and capital planning. All parties seek an expedited process to get sub-regional plans in place across the County.

Developers benefit from not having to fund, complete, and wait for review of a traffic impact study. Civic groups have the opportunity to participate in sub-regional planning and can be more assured that project review takes into account multiple-project, synergistic, and multiple effects. Local government has a greater sense of certainty and less “ad hoc” case-by-case decision-making, and can make clearer, planned investments as well as guide multiple developers to determine their portion of responsibility for certain improvements that have numerous beneficiaries. The participants recognize that this process is resource intensive. DelDOT might consider, in exchange for expediting this kind of sub-regional planning, that they might recoup a fee from the development sector.

Recommendation 3: Adopt Performance Measures/Feedback Mechanisms.

Performance metrics are an important tool to identify problems, focus in on areas of improvement, and to offer data to help realistically shape varied perceptions and opinions. Clearly established and tracked metrics within and across agencies will provide concrete, accurate data to assess the performance of the permitting system and also provide a check against perceptions that may not be accurate regarding review times and New Castle County’s general receptiveness to development. Agencies can distribute customer surveys and staff surveys to pinpoint issues and causes of bottlenecks. Agencies can also implement performance matrices within and across agencies to track timeliness and execution of process. The ombudsperson role could play a useful coordinating role in helping the multiple agencies involved develop a common set of metrics across the process as well as more specific metrics within and for each agency.

Recommendation 4. Create an Ombudsperson Role. The governor should create one or more permanent, full time ombudsperson(s) to troubleshoot across agencies and counties and assist with continuous improvement of permitting processes. One could possibly create an ombudsman role for each county and/or for each agency. Such a position must have enough political support from and influence in the administration to be effective over time. Dialogue participants specifically sought not to design the details of such a position. Rather, they encourage the state to create a unique role or role(s) within the state that can assist across departments and agencies, and serve as a constructive trouble-shooter for diverse stakeholders in the permitting process. This role(s) should be on to convene, cajole, support, and inform the process, but should in no way be created as an audit or inspector general function. The ombudsperson might be tasked to do some or all of the following.

- Overall, help instill an interagency culture based on the principles noted above;
- Help answer questions about the process and educate applicants;
- Convene key parties who are not otherwise meeting to review applications or discuss a particularly difficult permitting challenge;
- Identify reoccurring complaints and problems that arise across projects;

- Identify and help correct communication and coordination gaps;
- Assist small businesses applications;
- Obtain and provide on-going feedback to the agencies about how they are being perceived by users of the process;
- Help develop and monitor best practice metrics across the various agencies for permitting performance; and,
- Lastly, in general, guide continuous improvement process over time building deep,

Recommendation 5. Create an Interagency, Multi-Stakeholder Performance Task Force. Representatives from each agency already regularly interact. However, there is no on-going forum in which agency personnel across departments and agencies, and diverse stakeholders engaged in the process (from civic groups to developers and contractors) can periodically raise and discuss issues, and consider improvements. Thus, the state and county might consider a formalized, periodic process in which agency representatives and system stakeholders convene, raise issues, use hard data to discuss improvements and manage perceptions and expectations in the process. Such a group might continually seek to identify redundancies and inefficiencies in the review process and make specific, concrete recommendations for improvement. The group might study aspects of expedited projects such as AstraZeneca and the Delaware Waterfront, which were completed in record time, and incorporate those lessons and steps into current permit processes or into separate fast-track permit process for certain kinds of development. The Task Force might also consider how to better integrate utilities into such review and planning efforts since utility reviews and approvals may also delay project review project. Such a Task Force should be of manageable size, include all key stakeholders in the process, be of sufficient management level and influence to be taken seriously while familiar enough with the day to day process to be practical and well-informed, and meet on a regular but only occasional basis.

Recommendation 6: Create an “Early PLUS” Stage. Agencies and developers should meet very early in the permitting process. This stage will capture state agency concerns earlier in the process, ensure that the appropriate level of staff are at the table, and offer the option of expedited comment review and incorporations after first submittals, possibly for a fee. Such early discussions should surface all or most all key issues as early as possible in the process while being clear among agencies which comments are regulatory in nature and which are more programmatic or preferences. It is essential that the agencies take such meetings seriously and ensure that the appropriate staff are present to identify, raise, and help solve problems. Otherwise, such an effort will become more pro forma and less helpful. The Governor’s Office and DelDOT and DNREC management must support such efforts with the appropriate level of staff to offer expert advice, guidance, and the ability to resolve internal conflicting advice from staff to applicants. The State Planning

Agency must take an active role in coordinating and ensuring participation and effectiveness.

Recommendation 7: Hold Periodic High-Level Agency Meetings. NCC, DNREC, DelDOT, and Delaware Economic Development Office (DEDO) leaders and/or managers should meet periodically in a year to review processes, applications, bottlenecks, and operational issues within the permitting process. The Governor and County Executive should support, encourage, and probably require at least two meetings per year of high-level managers or heads of the agencies to ensure coordination among agencies, troubleshooting, review of performance metrics, and regular adjustments of the overall processes as needed. The ombudsperson role might assist in organizing and convening such a group.

Recommendation 8: Provide Continuing Education and Training. Inconsistency in both review of applications by agency personnel and submittal of materials by some applicants is, in part, driven by lack of up-to-date, well-informed participants in the process. Training can be conducted internally within agencies and externally for developers, engineers, and other users. The agencies should individually or collectively hold annual training sessions for consultants on common mistakes and how to improve submittals. The agency might provide specific written feedback on how to improve future submittals. The agency personnel have a wealth of information on what kinds of applications are successful, why, and which ones are less so. This kind of knowledge, delivered through teaching and training, can help improve applications, provide a feedback loop for both agencies and applicants, and help reduce review times. Furthermore, by investing in training and improving performance by all actors, the system's costs can be lowered and efficiencies improved.

Recommendation 9: Incentivize Quality of Submittals. The current fee structure does not provide any particular incentive for ensuring the highest quality submissions in the first round of review. The county and the state ought to consider fee structures and other incentives for supporting and encouraging applicants. For instance, the agencies might establish fee-based incentives that require one fee for first and second submissions, and a higher fee for the third submission. DNREC has, in some programs such as Brownfields, established a pre-qualification program in which consultants voluntarily train for and pass certain requirements. The agencies might consider, in close collaboration with statewide consulting trade organizations (engineers, architects, landscape architects), consider if such a pre-qualification program could and would be useful. The agencies might also consider some kind of awards program to recognize superior performance. To incentive quality, as an example, any agency or agencies might award annual prize for best quality plan, as judged by industry peers.

Recommendation 10: Tailor Fees and Review Times. Other than for minor and major plan submittals, the County (and the state too) have almost a “one size fits all” fee structure. The county and the state ought to consider a more tailored fee structure, based on clear, fair, rationalized, and practical criteria, that reflects the actual time and expertise to review different kinds of applications. Applications more limited in scale, scope, or complexity might be charged a lower fee, for instance. Agency participants and some others are concerned that any more refined system might be too complex to administer or create adverse unintended consequences. Thus, though somewhat controversial among dialogue participants, one opportunity might also be to lower the fees for those projects meeting state or county-wide economic development and job creation priorities. In general, dialogue participants noted that there should be a clear and discernible nexus between the fees charged and the service provided. Fees increased, over time, might be based on the Consumer Price Index (CPI) or some multi-year average of such a metric, rather than the desires and needs of an elected body at any particular time. The state and County might also consider discounted fees during weak economic conditions (and perhaps higher fees in heated economic conditions). Much of the development community are not opposed to reasonable fees as long as they are commensurate with the speed, quality, and efficacy of the review.

Recommendation 11: Create an Adaptable Staffing System. The existing personnel system, particularly within the state, creates a relatively rigid and fixed approach to a dynamic application flow that may increase or decrease dramatically with changing economic conditions. The agencies involved, particularly the state, should strive to create a system that allows for retention of sufficient amount of skilled staff during good economic times, who otherwise may be lost to the private sector, thus depleting the agencies of talent at precisely the time they need expertise and efficiency of senior, professional staff. The state should also create a reliable outsourcing pool of consultants to reduce backlog during busy periods of time. Such outsourcing likely needs to be managed by the agencies and not be a choice or voluntary choice of the applicants since previous experience has shown applicants are reluctant to utilize voluntary outsourcing programs for a variety of reasons.

ATTACHMENT A: Dialogue Participants

Delaware State Chamber of Commerce

A. Richard Heffron, Senior Vice President

John H. Taylor, Jr., Sr. V.P, Executive Director, Delaware Public Policy Institute

James A. Wolfe, President

New Castle County Government:

Chris Coons, County Executive

David Culver, General Manager, Land Use

Karl Kalbacher, Director of Redevelopment

Nicole Majeski, Chief of Staff

Mike Svavy, Acting General Manager, Special Services

Tracy Surles, Chief Administrative Officer

State of Delaware Government

Cleon Cauley, Office of Governor

Ralph Reeb, Planning Director, DelDOT

David Small, Deputy Secretary, DNREC

Carolann Wicks, Secretary, Department of Transportation

Industry Representatives

John Casey, Delaware Contractors Ass.

Vincent D'Anna, Provost Realty

Richard Julian Jr., Project Mgr Benchmark Builders and Home Builders Association of DE

Harry Gravel, President, Delaware Bldg. Construction Trades Union

Andy Lubin, Delaware Financial Group

Brian McGlinchey, Director, Laborers International Union

Margi Pruitt, Committee of 100

Greg Sawka, Vice President Pre-Construction, Bancroft Construction

Pamela Scott, Saul Ewing LLP

Jeff Seemans, Blenheim Homes

Vincent White, Provost Realty Ass.

Civic League of NCC

Daniel E. Bockover, President

Frances West, Past President

ATTACHMENT B: Dialogue Agenda

New Castle County, Delaware Application and Permitting Process for Land Use and Development

**Policy Dialogue
September 2 and 3, 2009**

**University of Delaware
Clayton Hall
Newark DE**

Day One, September 2, Wednesday

- 9:00 Welcome and Introductions, *Delaware Public Policy Institute*
- 9:20 Review of the goals and objectives of the dialogue, groundrules, and agenda, *Patrick Field, Facilitator, Consensus Building Institute*
- 9:45 Current status, statistics, and background on the approval process of developing and land use in New Castle County, *David Culver, New Castle County*
- 10:15 What are the Key Objectives/Principles that any Improvements Should seek to achieve? *All Participants*
- 11:00 Break
- 11:15 Suggested Improvements and Changes to the County Process, *Chris Coons, New Castle County*
- 12:00 Lunch
- 1:00 Suggested Improvements to the role of Delaware Department of Transportation (DelDOT) in the process, *Carolann Wicks, DelDOT*
- 1:30 Dialogue on the Suggestions Raised, on such issues as:
- Studies and phases of review
 - Time frames and coordination across departments and issues

- Public notification and participation
- Fees
- Other

3:00 Break

3:15 Resume Dialogue

4:30 Summary of the Day, *the Facilitator*

5:00 Adjourn

Day Two, September 3, Thursday

9:00 Draft Objectives from Day One, *Facilitator and Discussion*

9:45 Draft Recommendations from Day One, *Facilitator and Discussion*

10:30 Break

10:45 Continue Discussion

12:00 Lunch

1:00 Revised Draft Recommendations from Day Two Morning, *Facilitator and Discussion*

3:00 Break

3:15 Summarizing Where We Are, *Facilitator*

3:30 Comments from New Castle County and DelDOT

3:45 Comments from Participants

4:30 Next Steps, *Facilitator*

4:50 Closing Remarks, *DPPI*

5:00 Adjourn

ATTACHMENT C: Dialogue Purpose, Product, and Groundrules

Purpose: The purpose of the dialogue is to develop specific, actionable recommendations to the County and State regarding improving the process of application and permitting for land use and development. The purpose of this dialogue, though such issues may arise in conjunction with the dialogue, is **not** to recommend general changes to the UDC, state regulations, or other existing laws and policies, other than those pertaining to process issues.

Product: A final report would be produced capturing the recommendations developed by the stakeholder group, to be published by the Delaware Public Policy Institute (DPPI) at the conclusion of the dialogue. All participants will have the chance to review the report prior to its completion.

Limitations: While all participating government entities such as New Castle County and DelDOT will take the recommendations and advice seriously and with great attention, the recommendations are not binding on these entities.

Groundrules: Participants agree to abide by the following groundrules during the dialogue.

- One person speak at a time.
- Be concise and allow others the opportunity to participate as actively as you.
- No personal attacks.
- Feel free to raise issues, concerns, and ideas.
- Take responsibility to propose pragmatic solutions to the problems you raise.
- Stay within the scope of the dialogue.
- Stay on track with the agenda
- Seek consensus (all participants can live with the recommendation).
- Where consensus cannot be reached, if such a case arises, help narrow differences and help clearly explain the remaining differences and their rationales.

Participants: The following is a list of participants. Stakeholder categories were identified in the assessment report. In turn, DPPI sought to invite a range of stakeholders and interests to the table for the dialogue.

ATTACHMENT C: Acronyms and Abbreviations

The following is a list of acronyms and abbreviations used in this report.

CBI	Consensus Building Institute
CO	Certificate of Occupancy
DEDO	Delaware Economic Development Office
DelDOT	Delaware Department of Transportation
DNREC	Delaware's Department of Natural Resources and Environmental Control
DPPI	Delaware Public Policy Institute
LEED	Leadership in Energy and Environmental Design.
TCO	Temporary Certificate of Occupancy
UDC	New Castle County's Unified Development Code

ATTACHMENT D: Assessment Report, 27 July 2009

I. BACKGROUND AND METHODOLOGY

In the spring of 2009, the New Castle County Executive Chris Coons, and various private entities asked the Delaware Public Policy Institute (DPPI) to consider convening a policy dialogue on New Castle County's application and permitting process for land use and development. DPPI determined that there was sufficient interest and opportunity in undertaking the effort because:

- With development slowed due to the economy, there is an opportunity to step back and review policies, procedures, and processes;
- There is opportunity for improving the system, with the support of diverse constituencies; and,
- While there may be a range of views on the overall Unified Development Code (UDC), environmental and natural resource protection, and growth management, the intent of this dialogue would not be to address these substantive issues or change existing policies, but rather to address the application and permitting processes for efficiency, timeliness, and economic competitiveness.

DPPI contracted with the Consensus Building Institute (CBI) to undertake an assessment of the issues, to develop a process plan for holding the dialogue, and to facilitate the dialogue, should one be convened. CBI (www.cbuilt.org) is a non-profit located in Cambridge, Massachusetts and has done work in Delaware over the last fifteen years on a number of natural resource and land use issues. The Consensus Building Institute (CBI) improves the way leaders across interest groups use negotiations to make organizational decisions, achieve agreements, and manage multiparty conflicts and planning efforts. We use proven principles, processes, and techniques that improve group decision-making on complex public and organizational issues

Methodology

CBI worked with DPPI to arrange a series of focus group and individual interviews to understand the issues, concerns, and ideas at hand. Between April 23 and June 25, CBI spoke with some thirty (30) individuals. Interviews ranged from 30 minutes to two hours in length.

This Assessment Report seeks to reflect the range of views expressed, without attribution by name or organization. Please note that the comments and views paraphrased below are

the views of interviewees, and are not the views of CBI. Furthermore, these views were expressed in interviews and reflect the interests and concerns expressed. The concerns (i.e., permitting approval time) have not been independently verified via data review and analysis. *Thus, please note that this report reflects perceptions, views, and opinions, but not necessarily "facts."*

Organization of the Report

This report is organized by:

- Background and Methodology
- Process Recommendations
- New Castle County Land Development Accomplishments
- Opinions and Preferences from Interviews
- Acronyms
- Interviewee List

II. PROCESS RECOMMENDATIONS

Given the findings of this assessment, CBI concludes that a focused, problem-solving, dialogue on practical solutions to the process of application and permitting in New Castle County would be possible and fruitful. CBI concludes this because:

- Interviewees named a number of possible solutions to at least some of the challenges named.
- Both County and State agencies are interested in addressing their processes to improve them, and in some case, are already underway in making improvements.
- The Governor and key cabinet members are motivated to address these issues.
- While there are numerous broader issues related to economic development in Delaware (i.e. levels of service, funding of traffic improvements, the UDC, and other matters), the issues at hand are limited and actionable.
- There is an identifiable number of different stakeholders who have an interest in and willingness to discuss the issues.

CBI recommends that DPPI convene a diverse stakeholder group to develop specific recommendations to various government entities regarding the process of application and permit for development. CBI outlines some key process recommendations below.

Purpose: The purpose of the dialogue would be to develop specific, actionable recommendations to the County and State regarding improving the process of application and permitting for land use and development. The purpose of this dialogue, though such

issues may arise in conjunction with the dialogue, is not to recommend general changes to the UDC, state regulations, or other existing laws and policies, other than those pertaining to process issues.

Timing: CBI recommends convening the dialogue during the late summer of 2009, with additional work, if needed, carried out in the early fall. Given that the County, DelDOT, and possibly others are already considering how to address these issues, timeliness is of the essence. CBI recommends a focused, time-limited process.

Product: A final report would be produced capturing the recommendations developed by the stakeholder group, to be published by the Delaware Public Policy Institute (DPPI) at the conclusion of the dialogue. All participants will have the chance to review the report prior to its completion

Participants: CBI has identified a number of stakeholders who would likely have an interest in participating in such a dialogue. CBI recommends keeping the group to approximately twenty, but preferably no more than twenty-five. Participants may have alternates or technical advisors who can attend and advise the participant seated at the dialogue table. The potential stakeholders include the following:

- The County, including such departments as Land Use, Special Services, Economic Development, the County Executive, and County Council.
- The State, including such agencies as DelDOT, DNREC, DEDO, the State Planning Office, and the Governor's Office.
- Developers, both commercial and residential, including consultants to the development community such as attorneys and engineers.
- Contractors and builders, including the unions who represent workers.
- Civic associations representing neighborhoods and the public at large.
- The Delaware Chamber of Commerce, as the dialogue sponsor.

Process: The process would proceed as follows.

- This draft assessment provided to interviewees for comment in mid-July.
- DPPI identifies diverse participants, dates, and location for a two-day dialogue.
- Interviewees comment on the assessment by early August.
- A two-day dialogue is convened mid to late August 2009.
- One additional dialogue workshop is held, if necessary, in early fall 2009.
- CBI prepares, with participant opportunity for comment, and DPPI publishes, a final report in late fall 2009.

Dialogue Agenda: CBI would prepare a detailed agenda for the dialogue and make it available to all for comment prior to the dialogue. It would like include the following components:

- Current status, statistics, and background on the approval process for development and land use in New Castle County.
- Suggested improvements to the County processes, as put forth by the County.
- Suggested improvements to the transportation processes, as put forth by DelDOT.
- Suggested other improvements by other state agencies, as appropriate.
- Discussion of the ideas and issues.
- Refinement of and addition to the suggested improvements.

III. New Castle County Land Development Accomplishments

Over the past four and half years, the Coons Administration notes that it has taken a series of steps to provide more economic/redevelopment opportunities and to improve county land use regulations to encourage responsible development. The following is a list of these actions.

- Created the Office of Economic Redevelopment to work with the State to encourage business growth and expansion in New Castle County.
- Through the efforts of the Office of Economic Redevelopment and DEDO, several thousand new jobs have been established in New Castle County with companies such as Sallie Mae, Voigt & Schweitzer, Corn Products U.S., and Dassault Falcon Jet choosing to relocate or expand here.
- New Castle County has committed more than \$100 million to rehabilitate the aging sewer system in northern New Castle County that will make our streams and rivers cleaner and create additional sewer capacity to allow for economic growth that creates new jobs in the future.
- In Southern New Castle County, over \$16 million was invested to build a central transmission line to allow for concentrated growth in the southern sewer services area.
- Addressed the flooding issues that have plagued parts of our County by rebuilding and expanding almost 500 stormwater ponds.
- The 2007 Comprehensive Development Plan created a path forward for encouraging responsible growth
- In implementing the Comprehensive Development Plan, New Castle County entered into a master planning agreement for southern New Castle County with DelDOT, State Planning, school districts, fire service and the local towns and municipalities to coordinate future growth.
- Preserved roughly 4,300 acres – roughly 3,100 acres of private open space preserved through our land use code and roughly 1,200 acres of farmland in partnerships with the State.

- Over 1 million square feet of land has been redeveloped through changes made to the Unified Development Code (UDC).
- Several UDC changes have been adopted to encourage responsible development through redevelopment and housing incentives.
- Several UDC changes are in the process of being introduced including revisions to the village/hamlet section, mixed use and small business incentives, sign code and legislation that will streamline the development process.

IV. OPINIONS AND PREFERENCES FROM INTERVIEWS

The opinions and preferences from the interviews are included below. These opinions and preferences are recorded without attribution by name, organization, or stakeholder group. The intent is to offer the range of views on the issues without attribution by one interest or another. Some of the comments were made by numerous individuals, and some by one or only a few. The intent of this section is not to suggest which comments are most numerous or should take priority, but rather, to capture the full range of views offered in the interviews conducted. Please note that the concerns (i.e., permitting approval time) have not been independently verified via data review and analysis. Thus, please note that this report reflects perceptions, views, and opinions, but not necessarily “facts.”

A. General Comments

- It takes too long and is too expensive. The 18-month average carrying time for an application in the system, is simply way too long. I am not sure anyone has made it through the process on the first try.
- There’s no one boss -- the go-to, make-it-happen person who can move important decisions or items through the system.
- The current system drives much commercial development into Pennsylvania or Maryland. This hurts Delaware’s employment, tax base, economic development, and economic diversity. Delaware use to enjoy a reputation for being quick, small, adept, business-friendly, but has become known for being slow, onerous, complex, and focused on process not outcome.
- The current process reflects the current politics. A majority of the populace in the County is wary of development and would rather see it be reviewed carefully, cautiously, and slowly.
- Let’s face it, reuse and redevelopment pays for itself, but new development does not.
- Our process and code has to account for a very large geographic and diverse area, unlike cities and towns which are more concentrated, smaller in area, and less diverse in geography, topography, etc.
- The smaller, less experienced applicants really do get hurt by the complex and cumbersome process. We have less sympathy for the big guys with lots of expertise and practice at working with us.

B. Studies and Phases of Review

Traffic Studies

Current Advantages

- The process does use a third party consultant for some part of the review to improve timeliness.

Challenges

- There's lots of back and forth on traffic studies. Do you need one? What do you have to look at? The process takes from 9 months to a year. First, you scope it with DelDOT and the County. Then the developer's engineer undertakes the counts and has those approved. Then the consulting engineer performs the work and submits a draft (90 days or so). Then there is a third party consultant review and for DelDOT further comments and back and forth. So, it is another 120 to 150 days of time before able to come back to the County with an approved traffic plan. Even after a Letter of No Objection from DelDOT, you have to go back to get a construction and entrance permit. That's a lot of process.
- The code calls for at least level D service for new development, even if the current status quo level of service is worse. The County set standards that even the state has not been meeting in many cases.
- Sometimes DelDOT gets blamed because of slow responses, multiple comments, and multiple "bites at the apple." However, sometimes developers and/or their consulting engineers submit subpar applications and then DelDOT is blamed because the review is so cumbersome. Better plans lead to faster reviews.
- Not sure who to call ever in terms of tracking down the application and its status.
- Unlike the County for Land Use and Engineering, the state has no required timelines or deadlines. Thus, it sits when it sits, and gets done when it gets done. We recognize they are probably understaffed.
- There is a challenge to equitable cost sharing over major improvements. If developer X agrees to that they should pay some reasonable share of a new traffic light or even more major road improvement, DelDOT doesn't have a clear way to allocate percentage costs to this developer versus other ones who are or will benefit from the improvement.
- Frankly, the traffic study scopes are often too narrow, don't take into account the larger regional implications, and use driveways, in some cases, as intersections (a markation point for determining how far out the study goes).
- DelDOT has a serious backlog we need to clear out somehow to at least let them catch up.
- DelDOT different staff and sections sometimes give conflicting advice, which is hard then to reconcile. To whose opinion do we give precedence?
- DelDOT does have a third-party, more costly review process that is timelier. However, developers often don't like to use it because they don't trust the firms on

the DelDOT list, want to maintain some control over the engineering, or simply prefer to use their own.

Ideas for Resolution

- DelDOT is establishing a SharePoint information technology that will allow DelDOT staff and applicants to review where the application is, what comments have been made by whom, and so forth. This should go a long way toward transparency.
- Ensure that DelDOT staff, developers, and consulting engineers are all up to speed on the new subdivision manual.
- Co-locate DelDOT in the County for County projects to increase interaction, ease of communication, and “one stop shopping.”
- At some point, shouldn't a licensed, certified engineer be able to stamp a study such that they are professionally liable versus DelDOT doing yet another review step in the process? Isn't professional certification and reputation sufficient in many cases?
- Perhaps DelDOT needs a gatekeeper. They do a quick preliminary review of the application and note what key items are missing. Once the application is complete, it would go for substantive review perhaps with clear timelines for response.
- Develop a more efficient process for resolving DelDOT staff comments that are in conflict. Some kind of clear dispute elevation process would be helpful.

Stormwater Review

Current Advantages

- The required timelines help ensure that reviews are completed in a timely fashion.
- It's important to note that all of the attention to and investment in stormwater has paid off. With all the rain this spring and early summer, there was very little flooding. What's difficult about planning is that people often don't recognize what goes right because it's invisible when it works well.

Challenges

- The County's review and requirements for stormwater are more stringent and challenging to meet than DNRECs. It would be better if we could find ways to be more efficient and collaborative in reviewing and revising applications.
- It seems to take more time than it should to get applications through this part of the process.
- In school construction where DNREC is the lead, it's much easier to get through the state review than when the County does the review.

Ideas for Resolution

- DNREC and the County meet together to review stormwater regulations, review processes, and how each can learn from the other.

Fire Code

Current Advantages

- One can schedule a meeting. You show up, go through documents, and get a review report back that day. This is efficient and effective. You can have dialogue and back and forth. The fire marshal is a stickler for code and detail, but that makes sense for public safety, and you get answers right away.
- The same person who does the paper review usually comes out and does any physical inspection.

Challenges

- The code can be very restrictive and expensive, but one generally understands because of the public safety issues involved.
- Efforts to engage in redevelopment, village/hamlet developments are difficult due to the restrictive code.

Ideas for Resolution

- The current fire code should be reviewed to see if it can be more flexible to allow for redevelopment and village/hamlets while not jeopardizing public safety.

Certificates of Occupancy

Current Advantages

- The Temporary Certificate of Occupancy (TCO) provides means to get people in the building while the final details are resolved.

Challenges

- The current system of inspectors forces them to move from job to job, so rather than focusing on reviewing, correcting, and issuing a CO for a major project all in a day or two, they have to keep coming back day after day, stretching out the process.
- Sometimes headquarters and field inspectors don't always say the same thing. The inspector says its not ok, the home office says it is ok.
- The formal complaint process is rarely used. If I am a builder and don't like the way an inspector is doing their job, I can complain. But since I am going to need this person again soon (or even that day), filing a complaint only further reduces the inspectors motivation to get their job done for me.
- The stabilization requirements and final COs don't really work. You are forced to get a temporary CO if you end in the middle of the winter, and end up paying very high fees if you have to carry that over for months until the inspector decides the grass is tall enough.
- The process makes sequencing sometimes illogical. In one case, one couldn't get a signoff on a large portion of a project because the trees weren't in place because the parking lot wasn't complete with the median in place to put the trees.

Ideas for Resolution

- The developer/builder should clearly communicate with the field inspectors and plan reviewers in the office on the changes and have the plans updated accordingly with all applicable codes.

Rezoning

Current Advantages

- The current UDC has taken zoning changes mostly out of the political realm. The 1998 changes reclassified all lands, established a great deal more certainty, and lumped zonings together into action by the Council only a few times per year.
- Statistics show that rezonings move through the land use process faster than major plans.

Challenges

- It is a two to three year process, with lots of expenditures and lots of uncertainty, and then, you have to go through it again for the actual site plans.
- While rezoning has brought certainty, the advanced civil engineering required to bring the question before the County is very expensive.
- Rezoning is so expensive, time consuming, and difficult, almost no one does it. On the one hand, this ensures that the zoning is strongly consistent over time. On the other hand, what has happened, especially south of the canal, is significant residential development only with no commercial or industrial development. This means high residential taxes, a non-diversified tax base, increased driving, decreased walking, and limited economic development.
- Reconsider whether the county has enough properly zoned land for multiple uses.
- New Castle County has many sites that have potential for reuse/redevelopment. Examine whether existing regulatory barriers are appropriate.

Ideas for Resolution

- Make the rezoning engineering requirements less onerous, which is already under way through the county's consolidated use ordinance and the proposed enhanced review process ordinance.

C. Time Frames and Coordination

Time Frames

Current Advantages

- The twenty-day frame frames for Land Use review and return provides clarity and certainty and the staff almost always meets these deadlines.
- Though not everyone is aware of it, the County's on-line tracking system for applications is very useful, up to date, and helpful.

Challenges

- The process has time frames for each aspect of the plan. There is generally no provision for extending these time frames. One has to resubmit documents several

times, even for small changes, start that phase and clock over again, and pay yet another filing fee.

- There are not time requirements for Special Services. Thus, unlike for Land Use and Engineering (stormwater), sewerage issues linger and review times are uncertain.
- Look, sometimes the public review does slow things down. But when the developer makes significant changes and they may affect the community, we need to know that. The development and design process is iterative and things change as you move forward, develop more detail, and encounter unexpected problems.
- The exploratory or first phase is not harmful, but does not seem to do anything to speed up the application process. It's just a heads up.
- The redevelopment code theoretically relieves an applicant of some of the traffic and stormwater reviews, but in reality, it seems these applications take as long as the others.
- The historic review has no meaningful teeth, but can really hold up a project. If they determine a structure 50 years or older has historic value they can hold up an application for up to 9 months to write a narrative and take pictures.

Ideas for Resolution

- Within some parameters, comments on one submission phase can be incorporated in the next submission phase without having to return over and over to the same submission phase until it is complete.
- Require Special Services to have the same review time as the other County departments.
- Reduce significantly the number of formal resubmittals required.
- What if you tied a "fast track" review process to broader County or state goals, such as transit-oriented development, LEED certified green buildings, or other such sustainability goals?
- Recombine Special Services and Land Use, or at least those portions of the Special Services department that have to do with stormwater and engineering.

Process Coordination

Current Advantages

- In the last few years, the County has gotten much better at improving the process and being more user friendly.
- For really big projects, with the Governor or higher-ups focused, projects do get moved rapidly. AstraZeneca is a case in point.

Challenges

- There is sometimes difficult and infrequent coordination among county and state departments. Each operates within its own jurisdiction, does not necessarily communicate, and makes for a three-pronged, somewhat disjointed approach to application review.
- The County and DelDOT reviews are not concurrent. Thus, the whole process is one longer linear set of events rather than more efficient parallel processing.

- Staff do not always have the incentives to move projects through as efficiently as possible. Some staff work faster than others. Staff are not necessarily rewarded for an efficient process. It is difficult for staff without authority (or even with it) to move applications efficiently between County departments and between the County and the State.
- Personnel across County departments may not always see eye to eye, which may hinder efficiency. The Land Use engineer and Engineering Engineer may not agree on issues pertaining to site planning and storm water, for instance.
- The prescriptive checklists, while transparent and specific, also pose problems. A list may require the sign off of Special Services on sewerage, but if I am not putting in new plumbing, why do I have to go get that signature?
- It would be very helpful to clearly distinguish comments regarding requirements and comments that are suggestions or desires, but not requirements under the code.

Ideas for Resolution

- Encourage applicants to take advantage of the opportunity the county offers to have kick-off meeting with all the departments as they start a bigger application and at the right times through the process, can occasionally call an inter-department meeting. The City of Wilmington does this and it can work well. Perhaps also a regular inter-department meeting (including DelDOT) to go over applications and where they stand, if they are meeting timelines/metrics, and how to resolve issues or problems.
- Have a state-wide ombudsperson for streamlining general permitting processes across the state, especially at the state level. This person can convene meetings, facilitate meetings, help newer applicants understand the process and how to navigate it.
- A state-wide “go to” person is key. For any number of the medium to smaller projects, having someone to go to is important. Someone can go to them, including County staff, to say: “Hey, this permit is stuck here in this review or office. Please get it unstuck. It represents 20 jobs.” At the end of the day, 50 small to medium size projects are going to add up to as many jobs as one big development.
- For very large projects, have a designated “SWAT” team who meets regularly, solves problems, and ushers the major application through the process.
- Have a county small business/business ombudsperson team or individual who can identify problems, solve problems, move things along, and force change on repeated and unnecessary delays.
- Identify a project “shepherd” when an application comes in. This person’s job is not to advocate for the substance of the application, but to ensure it makes its way through the application process smoothly. They would be responsible for tracking and helping move that application through the system, including across departments and even the County-State split. They would be the one person any applicant could call at any time to understand what is happening. Currently, you have to shepherd your application pretty much yourself. For repeat players, this is doable, for small or one time applicants, this is extraordinary onerous.

- The Secretaries of DNREC, DelDOT, and the County Executive should meet at least quarterly to raise issues, discuss concerns, and solve problems.
- For projects of a certain scale, we should require a “permits charrette.” All the key parties from the developer, builder (if present at the time), County departments, DNREC, DelDOT, and Economic Development sit down in a review process, raise all relevant common goals, issues, and problems, and then lay out a clear set of objectives for moving the project through the approval process in a timely fashion.

D. Other

Public Notification and Participation

Current Advantages

- The County does use the “yellow signs” and reaches out through tax lists.
- The process does provide multiple opportunities for comment.
- The county mails notices to all property owners within 300 feet of a proposed development plan for all hearings (Planning Board, BOA, etc).

Challenges

- We need to improve public notification, recognizing that it can be expensive and difficult. Perhaps this task, within parameters, should be put on the developer and their costs? Newspaper ads are expensive and don’t reach as many people as they used to. Cable access is only watched by a few. We need to think this through, use new technology, and do better.
- We don’t think that the process should be inefficient. The reality is, in the northern part of the county, there is only infill opportunities left, and shoehorning new uses and projects into small lots with lots of abutters is going to take time to make sure the project makes sense, impacts are addressed, and good development is let through and bad ideas denied.
- The strong engagement of the public, and most importantly, those who oppose project X or Y, tends to make the process slower, more cumbersome, more wary, and more subject to delay to satisfy specific public concerns rather than the broad public interest.

Ideas for Resolution

- Proactively survey the public on land use practices and development.

Process, Impact and Transfer Fees

Current Advantages

- The current fees, at least for medium to larger applicants are acceptable.

Challenges

- Every time you have to submit a record in whatever phase incorporating comments, you have to refile and pay a fee. This is not only time consuming but can also get expensive.
- The impact fees are simply insufficient to really cover new school costs.
- The transfer tax has caused a pernicious and unintended consequence. The developer gets his/her profit and leaves. The County gets its short-term revenues. But the long-term infrastructure the project may pose to the County's and State's taxpayers gets ignored.

Ideas for Resolution

- We are ok with even paying higher fees, IF we know we are getting faster, clearer, more efficient reviews. If we pay higher fees, but see nothing in return in terms of process, then we are not at all happy with the added expense.

Personnel

Current Advantages

- Some staff are very professional, efficient, and seek to move things through as fast as possible.

Challenges

- The code is subject to interpretation and differing conclusions from different staff. For instance, in some cases, staff now include the poles in the area calculation for signs, something entirely new than previous practice.
- Developers try to pick and choose their staff to review applications, because some are much more helpful and efficient than others.

Ideas for Resolution

- Continue professional training for staff.
- Establish clearer interpretations of the code.
- Cross training and succession planning for employees.
- Build relationships across county and state departments.

E. The Unified Development Code (UDC)

Current Advantages

- The UDC has provided some very good things over the years. It has move tough zoning issues out of the political realm for the most part. It provides very clear, specific, prescriptive steps for action. It may be arduous and difficult, but it is clear and specific and if you make it through, it generally provides approval without appeal.
- The UDC is not anti-development, but it is development reviewed concurrently with all infrastructure demands.

- The current system was a real response to real problems, however imperfect it may be. Before the UDC, there was rampant growth, housing development without infrastructure, constant contentious rezoning, and out of control and sometimes shoddy development. At least now, to get approval, developers must be competent, the public gets a clearer say, zoning is mostly out of the political fray, and the rules are specific and clear.
- The current system gave a much better role for the Civics and the public.

Challenges

- While the code is at least clear in most areas, for traffic and sewerage, there is a lot of uncertainty and discretion left to DelDOT and special services.
- The code is far too complicated and while rational perhaps in each individual detail, it often adds up to impractical or contradictory results counter to the County master plan and what we know today about smart growth and development.
- The code is too complicated in particular for say projects under 50,000 square feet but above the 20,000 where a minor plan process is used.
- The mixed-use development section requires that all the various uses have to be built at once, rather than phased, which makes many projects impracticable.
- Village code is being amended because it didn't allow enough retail and the scale was too large for most of the County in terms of acreage.
- The current code and the staff and elected officials who implement it, have led to an unsustainable and unworkable model. Many are very angry. There's lots of housing, but huge increased costs for schools, roads, and other infrastructure. Taxes are rising, residential development does not pay for itself, impact fees hardly cover the costs of new school construction, growth in Delaware is the antithesis of smart growth, the actual development is in total contradiction to the County's comprehensive plan, there is no public or centralized transit, and no one has the political courage to stop the madness.
- The transfer tax increased the incentive to approve project after project, generating short-term revenue for the County but imposing long-term costs on the taxpayer.
- The transfer tax in no way has influenced which projects, how many or how fast projects get approved.
- The landscaping code is overly rigid. Making one put trees in the middle of a church parking lot rather than on the perimeter for instance, makes no sense.
- The reuse section is good to allow adaptive reuse, but it sometimes results in some surprisingly ugly results. We have to be more careful that the faster track approach doesn't result in poor design.
- Signage code is a big impediment. It is so written that it almost always requires variances.
- The landscaping section is too onerous and rigid. Often, the landscapes become too dense as they grow, are expensive, and require excessive buffers.
- Setbacks, buffers, and other distances within the code are often too big, requiring use of much greater land than necessary to develop what is appropriate.
- You kind of have a choice. You can have a general, vague code, with much more discretion at the Board and Council levels (and thus, much more political

interference). Or, you can have a specific, prescriptive, probably more cumbersome code, but increase consistency and transparency and reduce the vagaries of politics.

Ideas for Resolution

- Improve the small businesses elements of the code for easier access and review.
- Improve the village section of the code, which currently is not utilized.
- Leave the UDC generally as it is.
- Redo the UDC in general. Throw it away and start over!