



CIVIC LEAGUE For New Castle County

Informed Citizens for Sound County Growth

P.O. Box 11523 - Wilmington, DE 19850

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June
2011

COUNTY COMMENTS

CIVIC LEAGUE FOR NEW CASTLE COUNTY
Informed Citizens for Sound County Growth

Postmaster: Please deliver to
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MEETING

Tuesday, June 21, 2011

7:00 PM at the Bear Library
101 Governor Place (Route 7 & 40)
Bear, DE 19701

AGENDA

General Business Meeting

STATEMENT OF PRINCIPLE

Monitor and selectively evaluate government actions including laws, regulations and policy.

Provide appropriate forums for informing as well as soliciting input from the public.

Establish positions based on responsible studies and consistent with the aims and purpose of the organization.

Advocate these positions.

Founded in 1962, the Civic League is non-profit volunteer organization, which studies and illuminates County and State government actions concerning comprehensive developments and the quality of life and is a vocal advocate of relevant positions.

County Comments is the official publication of the Civic League for New Castle County.

Chuck Mulholland,
President

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Projected Housing Need

On April 12, 2011 the number of existing and approved, yet unbuilt, housing lots were presented to members of New Castle County Council, with the stated invitation to refute any data they might find inaccurate. To date there has been no contradiction of the calculations.

The graph (on back page) depicts the projected housing need in New Castle County out to 2040 as compared to the current number of undeveloped lots in development plans (32,129 unbuilt lots), vacant houses (14,860). It shows how the number of lots on plans and vacant housing alone **already exceeds the housing need out to 2040**. Unless many of these plans are not built, **any new plans will further exacerbate the imbalance**.

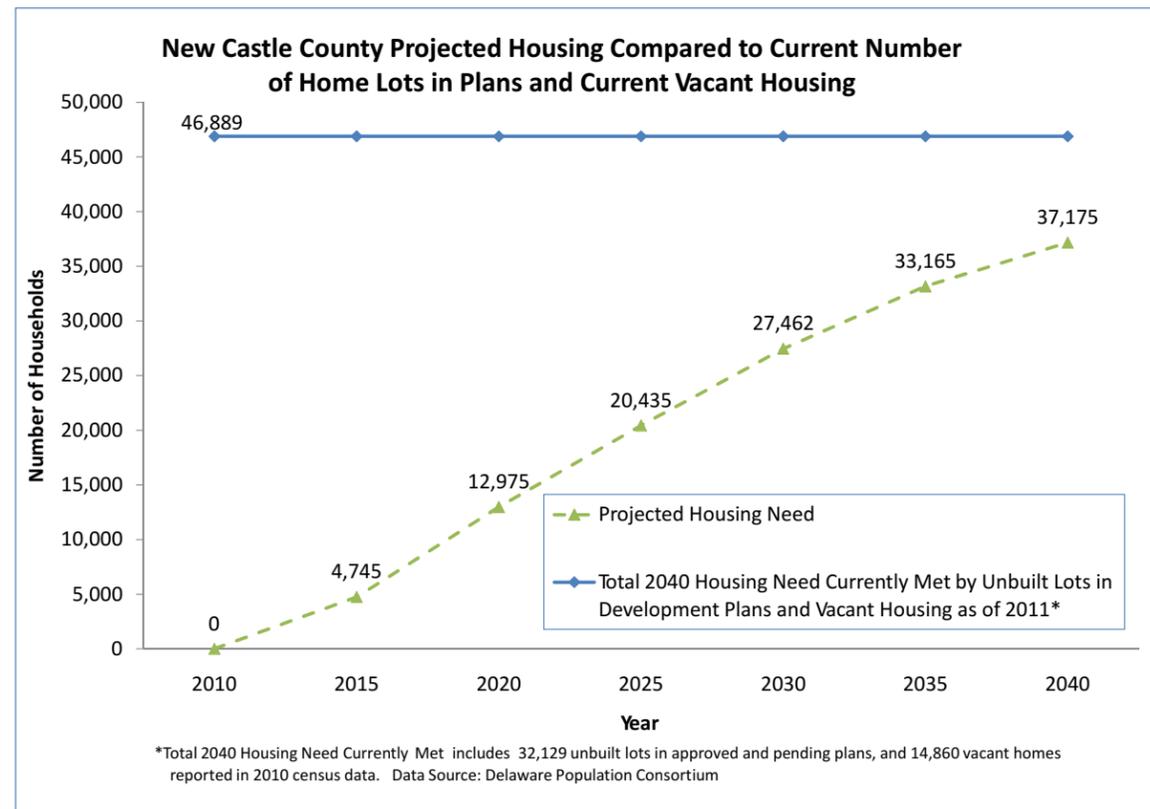
From a planning perspective, this means that despite the desire of some to have concentrated, higher density growth; it is unlikely to be achieved without significant down-zoning of lands outside the central growth area combined with many recorded plans being unbuilt and abandoned/sunset. The reality is more likely that efforts to increase higher density developments will lead to isolated pockets of higher density and a more sparse checker-board development pattern of existing planned development, all of which will be hampered and slowed by the lower housing market demand. This may result in a patchwork land form pattern that makes it extremely difficult to service and provide infrastructure to support the community needs. It will clearly result in a more distributed development with pockets of higher density that mandate higher levels of service, despite being isolated. This will be harder and much more expensive than the current public costs to provide services and infrastructure.

Extreme care and vigilance should be paid to the comprehensive plan to ensure that this emerging and highly likely scenario is avoided. The result will be the "dumbest" growth we have ever experienced.

Chuck Mulholland

(Chart on back page)

(Continued from front page)



NOTES FROM THE FRONT LINES:

Report on Activities of the Civic League Working Groups

REDISTRICTING 2011

“Somewhat open but still very partisan” is the best way to summarize the House and Senate planning for their new district lines. It was obviously payback time to the Republicans, as for the first time in decades the House Democrats were in control of the process of drawing districts for Representatives. Having suffered many of their members losing because of the way the lines were drawn in 2002, they were just as obnoxious to the minority.

The Sussex GOP Chair detailed such actions as former opponents being obviously kept out of an incumbent’s district and Republican incumbents being put in the same new districts. Democrats did not fix all the messes Wayne Smith made in 2002, but they did improve the odd lines in Brandywine Hundred. Rep. Hudson and Rep. Lavelle will run against each other, as will Rep. Ramone and Rep. Miro, so there will be two fewer Republicans unless one of them decides to run for another office or move. We learned that at least two incumbent Democrats did move, and incumbents still have until November to do so if they wish. That is the advantage of redistricting on time, but it would leave a Republican who moved away from another running against a Democrat. GOP registration in this county is so low that no newly drawn district is so full of them that it guarantees election. [Is that cracking?] There are areas where the independents vote largely Republican, but you have to find those by studying the vote for Auditor or County “row” offices in 2008.

We complained about the partisanship and the gerrymandering, especially in the Senate 12th, but we also noted that the House and Senate Plans ignored the chance to create a minority influence district for Hispanics. We want a group that is destined to outnumber all others in the lifetime of many of us to feel a part of our democratic system today. Ethnic groups like the Irish and Italians who built up resentment about long ago discrimination from those in power should understand the importance of sharing it.

Another concern is that the ratio of African-Americans in our county to the number of seats they have in the Legislature is off. Clearly they could have about 50% of 3 districts - which is close to the 3.6 Senate districts to which their being 23% of the population entitles them under the federal Voting Rights Act. However, their Census blocks have been packed into a couple of districts and split off from another. This is exactly what the Civil Rights Division of the Dept. of Justice was watching for and we warned the House and Senate against that over a month ago. As taxpayers, none of us wants to spend money to defend lawsuits over what should have been done. This is why we need an independent redistricting commission. They can make the tough choices incumbents will try to dodge. We expect the final plans to be improved.

COUNTY GOVERNMENT REFORM - DeIDOT

Another issue with which our governments periodically deal is the relationship between the County and DeIDOT. The County has the responsibility for approving land use projects and DeIDOT has the responsibility for building and maintaining roads. The County can deplete DeIDOT’s resources by approving too many new housing units and too many new commercial ventures. We are approaching the point when our roads cannot handle the added traffic and DeIDOT cannot build fast enough to ease really bad congestion. Trying to compensate, they are timing lights to speed up traffic flow, but the speeds are causing too many serious accidents. Can you believe over 600 per year at one junction?

Use of the MOUs and TISs

Since the Quality of Life Act was passed in the late 1980s to try to manage this relationship, DeIDOT and the County have worked under a Memo of Understanding (MOU) that defines what they each do. Basically DeIDOT has been reviewing the traffic impact studies (TIS) as set out in the County Code. Where intersections are predicted to operate below level of service C or D (depending on the location) when a project is built, developers have been asked to make some improvements to those intersections. Requirements for what the developer must do are included in the Letter of Approval DeIDOT sends to the Department of Land Use (DLU). DLU writes them on the Record Plan before it is filed. (Today the developer has the option to pay DeIDOT to do the TIS or to have one done by an engineer they hire. The hired companies generally do them in August.)

These TISs take time and cost a lot depending how many intersections are studied. When a developer is borrowing money to get a plan through the County’s process, time and cost is a big factor in whether or not he ever makes money on it. When the site is in a suburban area, improving an intersection is seldom a big deal. The turmoil today has been caused by the County’s changes in the redevelopment law to spur more infill. Projects generating huge amounts of traffic can be put in urban areas with no TIS being done. DeIDOT can op instead to do a Traffic Operational Analysis (TOA) areawide, BUT a Chancery Court decision in early 2008 said that a TOA does not trigger the right to ask for intersection (or any other) improvements at the expense of the developer. This was a critical decision!! Applications have been made at locations where incredibly expensive improvements need to be made to keep the adjacent junctions (operating at LOS F already) workable. No developer can afford to build an overpass unless he is building a project the size of the Concord Mall. Is it fair to ask one to do it when the congestion was there long before his project? So this potential standoff that acknowledging DeIDot’s authority in this Recession would bring on is seen by many to be an obstacle to good

development that will create jobs. The Governor is very concerned. The Civic League gets lambasted, but Barley Mill Plaza is a good case in point of why they are wrong. If Stoltz simply redevelops by tearing down or modernizing the existing office build-ings or if he does a reasonable mixed use project, there will be many, many jobs involved. They do not have to rezone for commercial projects of every kind imaginable and unwanted to produce jobs. There is no demand for shopping at a big box store in that area, and the adverse impacts far outweigh the benefits. It can draw business away from three that have already located not very far away where people can walk and take buses to work. Destabilizing Prices Corner where so many people have worked for years would be truly awful. We do not oppose appropriate development.

Representative Debra Hudson & Senator Patricia Blevins saw the problem clearly when the Barley Mill rezoning became a problem for their constituents. Both are problem solvers, so they sponsored a bill based partly on an idea the Civic League put forward to make DeIDOT and the County rewrite the MOU. We thought a factor of engineering judgment should be involved and DeIDOT should be entitled to insist on preventing gridlock on the roads it is supposed to control. We also suggested that DeIDOT look at the costs and safety factors involved. DLU could then exercise its power--granted many years ago under State law--to tell the developer to wait or to scale down a project. If one cannot be built because it will cause a highway to need an overpass to work at LOS D (or even F) and neither the developer nor the County nor the State cannot afford to build it right away, then the a project must be downsized or delayed.

What about the Hudson-Blevins bill?

Unfortunately, when the bill was sent to DeIDOT for its assistance, the Acting Secretary, a former Assistant County Attorney seems to have instructed its Deputy Attorney General to make additions to their Regulations instead of assisting Hudson and Blevins. This does not solve the problem because the former Secretary told us a couple of times in the past that DeIDOT must do what the MOU says. Not surprisingly, DeIDOT released the regulations the morning of the House Committee Hearing on HS 1 for HB 101. They did not persuade the supporters. Even The News Journal Editors said the next day that Hudson is right.

The bill is too broad, however. Not every little site plan requires a new TIS, nor should it, because they do not generate traffic. Most people testifying did not know when a TIS is required by the county’s process.

The lower counties seem to be content with their MOUs, so the bill will be changed to make it apply only to New Castle County where Smart Growth is going to make collisions between DLU and fire companies, EMTs, and drivers commonplace. Unless you have to get up an hour early just to fight your way to work and until you have been sickened by the bad air from traffic congestion, you might not understand why so many fight this. Until you are the cyclist hit on a scenic back road now used by drivers with geographic positioning devices rushing to work avoiding congested intersections, you might not get it. Until you have lost a loved one in an accident because the rescue vehicles could not reach him in time due to backed up traffic, you cannot know the full price of too many cars blocking too many roads.

The bill does not threaten the County’s authority.

The County’s authority to make land use decisions is not threatened when we permit DeIDOT to control the roads. DLU must learn to work within reasonable standards. They were set out by the Legislature when they granted this County its authority in the area of planning and zoning. [Read Chapter 26 of Title 9 of the Delaware Code.] They require balancing adverse impacts a project will create against the welfare of the residents of this county. Yes, the County has a mandate to take care of our health and safety and protect our property values!

Sometimes the developers cannot have everything they want. The County can ruin what brought so many people to Delaware in the first place by giving them too many rezonings under public protest. The county was so attractive as a place to live that most of us chose to live here. That’s what started the housing boom. We can leave and the Governor can watch the State’s reputation as a nice place to retire be lost. If County Council does not pay attention to its constituents, all those housing developments they approved will never be built. The homebuilders will go broke and big risktakers like Stoltz will be left holding a lot of empty buildings on which they will still have to pay real estate taxes. Ruining the character or our neighborhoods and allowing our roads to become too clogged is not progress. The greed of a few and the desperation of many are combining to create bad land use decisions. Thank heavens some State legislators have the vision to try to get order and reason back into the process.

Readers, we need you.

You can help. Call you legislators and tell him or her that you support the Hudson-Blevins TIS bill. 577-8476 or 577-8744. If you do not know your legislator, just leave a message for the House and Senate Transportation Committees. You will only have to leave your zip code.

Christine Whitehead

The Opinions expressed in this article are those of Christine Whitehead and do not represent the opinions of the Civic League as a whole except for those endorsements of proposed legislation made by the Board at the May meeting.