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**February
2015**

COUNTY COMMENTS

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

MEETING

**Tuesday, February 17, 2015
7:00PM**

Paul J. Sweeney Public Safety Building
3601 N. DuPont Hwy (Route 13)
New Castle, DE 19720

AGENDA

- Common Interest Community Advisory Council - Christopher J. Curtin
Common Interest Community Ombudsman - Deputy Attorney General
- Consumer Protection Unit of the DE Attorney General's Office
Jennifer Smolko, Deputy Attorney General, specializes in housing and fraud matters; was the former Administrator of the DE Foreclosure Mediation Program
- Lisa Spellman, Administrator, Office of Foreclosure Prevention
- Carrcroft water runoff issues.

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 consistent with the aims and purpose of the organization.

Advocate these positions.

Founded in 1962, the Civic League is a 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.

President - Charles Stirk
V.President - Jordyn Pusey
V.President - Mark Blake
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OPEN GOVERNMENT? NOT AT NC COUNTY LAND USE ! by Vic Singer 11 Feb 2015

Comprehensive development, the key to expansion of the economy at minimum public cost, is essential when the public money supply is scarce and not easily expanded. The Unified Development Code, UDC, is NC County's key to comprehensive development. Development is comprehensive when necessary public infrastructure supporting land use intensifications appear concurrently with the intensifications. If too soon, tax rates must increase to pay the fare. If too late, infrastructure must be built on an interference basis with prior development, increasing costs. Too soon and too late both diminish the sustainability of economic expansion, which must occur with expanding population if reduced quality of life isn't acceptable.

The comprehensive development concept is firmly embedded in Delaware's Quality of Life Act of 1988, part of NC County's enabling legislation. But the teeth in the land use regulatory process appear in law established at subsidiary levels, the UDC in NC County.

(continued)

Before and early after the 2012 election, we heard a lot about the need to update the UDC to re-sharpen its teeth after mischief enacted during the prior eight years following leadership by the former LU General Manager, who has been replaced. But it's been a year since we've heard much more about the activity than that a consulting firm is under contract. For that reason, I announced at the January CLNCC Board Meeting my intent to ask for a "data dump" to gain visibility. In particular, I targeted four focal points. The first three are instructions for the consultant that should be in the Statement of Work within the Request for Proposal for consultant services.

<> POINT ONE: CONCURRENCY: The consultant should be directed that the Concurrency provisions already in the UDC are to be preserved or even strengthened. There are two types of concurrency requirements - - external and internal.

Within the UDC (Chapter 40 of the New Castle County Code) Article 5 focuses intensely on Site Capacity and Concurrency. The underlying philosophy expressed there and in other sections of the UDC, for instance at Article 5 Section D "Public Infrastructure," is, in effect, to assure that if the public facilities and services necessary to properly serve the needs of any intensification of land use will not be in place when those needs present, the intensification of land use won't be in place either. That's an EXTERNAL concurrency requirement.

Internal concurrency applies to Mixed Use developments. A Mixed Use development is usually a combination of commercial (sales), office, and residential uses on the same parcel. Occasionally, there could also be light industrial use. Though not usually categorized as mixed use, residential land uses that mix "market price" dwelling units with "affordable housing" dwelling units present the same concurrency issue - - the need for a control scheme to assure that for instance all the box stores don't get built and occupied before any of the office or residential space is even started.

<> POINT TWO: LIMITS ON TRANSPORTATION SYSTEM IMPACT: The consultant should be directed that transportation system impact requirements of the UDC are to be preserved. Article 11 of the UDC says that without a showing via a Traffic Impact Study (TIS) that the Level of Service (LOS) on affected elements of the transportation system will be no worse than the "D" LOS, building permits for any part of new major development (with or without a rezoning) must not be issued.

Effectively this is another Concurrency requirement but it is separately imposed for several reasons:

- 1) Relevant State law speaks to the issue (Title 9 Del. C. Section 2662 and related provisions);
- 2) County law with essentially that effect was already in place before the UDC became law; and
- 3) Since traffic congestion is more readily related to public safety (via personal injury and collision frequency) than, say, library service, the requirement can be more forceful.

<> POINT THREE: RESTORE AN EARLY PUBLIC HEARING OPPORTUNITY DURING THE LAND USE REGULATORY PROCESS: The consultant should be directed that a public hearing opportunity is to be created - - resurrected, actually - - very early in the land use regulatory process. Until nearly a decade ago, we did indeed have an early public hearing, before the County Planning Board, which hosts its hearings in the evening. In a developer-advocated effort to "streamline" the regulatory process, the early hearing was eliminated so that by the time the public gets its first official view of a development proposal, it is already so far along that it's practically chiseled into marble and the public's involvement is vastly diminished.

Long before the Sept 2013 arrival of the present General Manager, I suggested to the County Executive (and others) that a Planning Board Hearing be established to review the results of the "Scoping Meeting" required under UDC Section 11.122 to define the scope of the Traffic Impact Study for every major development application. The PB should be authorized to recommend increasing the scope if it so chooses, but not reducing it. Such a formal requirement could be

established by Executive Order since the PB's enabling legislation (at the state level) authorizes PB investigation of any aspect of Land Use regulatory practices that the PB chooses to examine. The Executive deferred that thought to the new General Manager, who chose to deal with the UDC in one fell swoop rather than piecemeal. So we're still waiting.

<> POINT FOUR: DESCRIPTION OF PROGRESS SINCE AWARD OF CONTRACT: There should be convincing evidence - - draft work products - - indicating that something already exists beyond the SOW.

My remarks at the Jan 21 CLNCC Board Meeting were purposely incendiary to assure that they would reach the LU General Manager. It wasn't a surprise that she telephoned before the end of the same week. The surprise was her reason for calling: she asked me to arrange a meeting for her with people interested in Route 141, at very short notice - - at some point between Jan 26 to Jan 30. Perhaps she had NOT heard of my remarks at the CLNCC meeting, or perhaps she was initiating a diversionary maneuver.

Via a Jan 26 e-mail, I advised that I had referred the request to Charles Stirk, who has been involved with Route 141 for decades and knows EVERYBODY who shares that passion. And I conveyed his finding that a Jan 26 to Jan 30 meeting isn't possible, but that Feb 2 or Feb 9 are workable alternatives. Via a 9 am Jan 27 e-mail, she accepted the Feb 2 date but then, in a conversation with Charles Stirk, she backed out, suggesting a long postponement.

Having been subjected to a run-around, I responded with an e-mail on Feb 5 contemplating my visit to Land Use on Feb 10 to look at a data dump itemized as follows:

- <> The RFP (request for proposal) sent to candidate consultants for updating the UDC
- <> A list of candidate consultants that the RFP was sent to
- <> SOW (statement of work) contemplated in RFP
- <> Selected Consultant's response to RFP, including exceptions (if any) to SOW in RFP
- <> Contract and performance schedule for UDC update consultant's activity
- <> Correspondence (or other documentation, including telecon summaries) between LU and the UDC update consultant regarding features of the present UDC to be preserved in the update.
- <> Same regarding features of present UDC to be changed in the update, and description(s) of the change(s)
- <> Correspondence (or other documentation, including telecon summaries) between LU and the public (individuals, organizations, companies, etc.) suggesting changes to the present UDC to be considered in the update.

During the Feb 10 visit, only the RFP SOW and the successful bidder's response was available, and confirmation that nothing else on the list would be offered for my examination. Nothing in either the RFP, SOW or the successful bidder's response addresses anything in the above four points. Indeed, several statements in the SOW suggest an effort to WEAKEN the controls already in place in the UDC.

Therefore, I completed a FOIA (Freedom of Information Act) request form including the above itemized data dump, and submitted it formally on Feb 10.

MEASURING THE PAIN OF GROWTH

HOW MUCH CONGESTION CAN WE TOLERATE?

Entering a period of expansion, New Castle County needs to consider how to insure we will be able to sustain a good quality of life in the future. Congestion is one of the factors which can make us feel our quality of life is poor - whether it is the congestion on our roads or the density of buildings which destroy our lovely landscapes. In the midst of a new phase of planning, the County needs feedback on what you consider unacceptable levels of congestion.

Let's start with traffic congestion.

1. Levels of Service (LOS) measure the time it takes vehicles to pass through intersections or road segments. Intersections are graded in letters. A- 10 sec, B- 10-20 sec, C- 20-35 sec, D- 35-55 sec, E- 55-80 sec, and F is anything over 80 seconds. Each lane in an intersection may be assigned a different grade as more cars may turn one way than another or go straight through the signal.

Lest you decide seconds do not matter, count the number of lights you must go through to get to work. If you encounter 20 lights that take 80 seconds for you to pass through, your trip time will be extended by 27 minutes in addition to the time it takes to simply drive the distance.

Many of our highways are plagued by intersections rated F or D already.

Question 1. In order to provide more jobs and improve the local economy, would you be willing to permit E or F intersections to be made worse by an additional

- a) 20 seconds each
- b) 40 seconds each
- c) 60 seconds each
- d) any number it takes to obtain an large employer?

Put an x next to your answer.

2. LOS is also used to measure road segments. All of us have experienced stop and go driving on even I-95 in certain sections at rush hour. F in grading road segments means bumper to bumper vehicles in all lanes even if they are moving. One of the tools to reduce this problem is to time the traffic lights so that cars keep moving under the ideal situation on roads like the Kirkwood Highway. But the speeds reached in getting to lights before they change can make people feel they are racing at Indy, and more accidents will happen to vehicles and pedestrians on such roads.

Question 2. Do you have to travel on roads with timed lights to get to work?

- a) yes
- b) no

Put an x next to your answer for all these questions.

Question 3. Do you feel unsafe traveling on these roads?

- a) yes
- b) no

Question 4. Which roads do you feel are unsafe at current speeds?

- a) Kirkwood Highway / Old Capital Trail
- b) Concord Pike
- c) Foulk Road
- d) DuPont Highway
- e) Pennsylvania Ave
- f) Lancaster Ave/MLK Blvd. aka "Front St."
- g) Library Ave, Newark
- h) Limestone Road
- i) Route 40

Question 5. Could you tolerate increases in traffic on the following roads if the increase cost you an additional 20 minutes of travel time or more stress from feeling you were traveling at unsafe speeds?

- a) Kirkwood Highway/ Old Capital Trail
- b) Concord Pike
- c) Foulk Road
- d) DuPont Highway
- e) Pennsylvania Ave
- f) Lancaster Ave/ MLK Blvd (aka Front St.)
- g) Library Ave, Newark
- h) Limestone Road
- i) Route 40

3. Some roads are unbearably congested and timing lights will not help. Traffic backs up each afternoon during rush hour and drivers sit through multiple changes of lights. This can only get worse with additional development. Is there anything you would be willing to do to remove vehicles from the roads in order to bring in more jobs? Here we are referring to roads such as 141 at the Tyler McConnell Bridge, 273 east of the DuPont Highway, Wrangle Hill Road, Lancaster Pike approaching Hockessin in the afternoon.

Indicate with an x the options you would actually take if made convenient:

- a) Use a park & ride lot and take the bus for most of my trip
- b) Carpool with a fellow worker (often arranged by RideShare DE)
- c) Use a train [right now going MD to PA, someday N & S]
- d) Use a motorcycle or bicycle if employer or town provided safe parking.
- e) Move to a place where I could walk to work.
- f) Use a small electric tri-wheel vehicle like those made in Europe for City transportation.

If density increased to the point you had to choose one of these options against your will, would you feel that this County would be too dense to be an enjoyable place to live?

- a) yes
- b) no

Is the beauty of the landscapes in your area important to you?

Is the density of houses, apt. buildings, & stores a negative factor?

Please provide some information on which we can base an approximation of how many people in demographic groups we are reaching.

Age:

- Under 21
- 21-45
- 46- 65
- 66-80

Home owner?

- a) yes
- b) no

Usual mode of getting to work:

- a) car, truck or SUV
- b) bus
- c) taxi
- d) train
- e) bicycle
- f) motorcycle
- g) walk
- h) carpool

Please respond on line at <https://www.surveymonkey.com/s/STK2WF3> or by email to: christine2w@aol.com by March 1, 2015.

Help us reach more people by sharing it.

Thank you for participating.