

PROJECT REPORT *for the*

RED CLAY VALLEY SCENIC BYWAY CORRIDOR OVERLAY STANDARDS



November 2016

Final Report

Endorsed by WILMAPCO November 10, 2016

NEW CASTLE COUNTY, DELAWARE

WILMAPCO



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The preparation of this document was financed in part with funds provided by the Federal Government, including the Federal Transit Administration and the Federal Highway Administration of the United States Department of Transportation. Thank you to Suzanne D. Gaadt, Gaadt Creative Group, for design direction. gaadtcreative.com

Executive Summary

The Red Clay Valley Scenic Byway Corridor Overlay Standards project was principally intended to implement components of the Red Clay Valley Scenic Byway Corridor Management Plan (CMP) approved by the State of Delaware in 2008 as the official management plan for the Red Clay Valley Scenic Byway. The CMP is a comprehensive and articulate planning document which sets forth a clear path for implementation through its vision, mission statement, goals, objectives, and strategies. This byway effort is the first watershed-based byway planning effort in the country and the approach to developing corridor overlay standards needed to reflect the Byway's unique diversity and stakeholder interests.

The origins of the byway planning effort come from work undertaken by the Delaware Nature Society (DNS) over many years to inventory and seek protection for the irreplaceable resources of the Red Clay Watershed (which were inventoried as scenic, natural, historic, recreational, cultural, and archeological 'intrinsic qualities'). DNS and its partners' efforts ultimately led to the nomination of 28 secondary roadways as the Red Clay Valley Scenic Byway. Designation of the Byway by DelDOT as a Scenic and Historic Byway in 2005 led to the development of the CMP, which was followed by the formation of the Red Clay Valley Scenic Byway Alliance, the management agency that has been implementing the CMP and promoting the Byway since the plan's completion.

As stated in the CMP, the vision is to "ensure the preservation and conservation of the irreplaceable resources that together form the Red Clay Valley and its Scenic Byway." It is this core tenet that informed the efforts of this project to develop a series of regulatory tools and design standards for future development and redevelopment in the Red Clay watershed.

Significant effort, including a thorough review of the CMP and New Castle County's Unified Development Code (UDC), an exhaustive research effort assessing hundreds of strategies undertaken at all levels of government, the development of a 'menu of strategies' appropriate to the Byway, numerous advisory committee and public workshops, and the creation of design standards and byway guidelines for development, informed this entire process.

The result, as referenced herein and attached as appendices, was a framework by which to group, categorize and prioritize differing strategies that could be used to guide future growth in the Byway. Strategies needed to be legally defensible and strongly associated with both the County's Comprehensive Plan and the Corridor Management Plan.

Based on the research performed, knowledge of the UDC,

the recommendations in the CMP, state enabling legislation, and public understanding and support, the following basic framework was created:

- Following the guidance of the CMP, scenic protection became the primary goal, with natural protection as a secondary goal. The existing historic ordinance, as modified, would provide protections for cultural, historic and archeological sites and the 'scenic' component of the cultural landscape/historic setting, as referenced, became part of the overall scenic protection standards.
- For scenic protection, the visual accents and vista points along the roadways as identified in the CMP are utilized.
- Provide the highest level of scrutiny and preservation closest to the roads themselves. Have a more lenient approach as development occurs further from the road and no additional restrictions where development would not be visible from the road.
- Overlay this primary strategy with a secondary strategy of natural area protection. Use the existing UDC structure but provide guidance (in the form of an overlay zone) for more stringent regulations, if they protect and/or enhance the scenic quality of the byway and are linked to legally defensible and objective metrics (examples: watershed (environmental) protection/stream protection, soils, setbacks, rock outcrops, tree cover, etc.).
- Recommend a trail, greenway or organizational open space approach in order to link protected lands some fashion.
- Provide a zoning framework that rewards good development and limits negative visual intrusions.
- Provide a review authority that has expertise in scenic protection. (i.e.: administration by a well-qualified board supported by adequate staff and resources, especially if detailed design review is to take place).
- As expressed in the CMP, promote and support all non-regulatory approaches for scenic protection in parallel to, and in concert with, the new regulatory framework.
- Supplement the new code's written design standards with visual aids and illustrative guidelines that clearly define community desires, thus reducing uncertainty for prospective developers.

What evolved from this basic framework became the tools upon which this report is based and underscores the extensive public and agency support this project received.

Project Overview

Aspirations for this Project

The Red Clay Valley Scenic Byway Alliance has been working since the later part of 2008 to implement components of the Byway's CMP. One of the more significant recommendations of the CMP, as referenced in Goals 3 and 4, is to revise and/or establish new development standards for the New Castle County UDC. The CMP goes on to identify, through a series of plan objectives, the kinds of standards the County should consider to protect the intrinsic qualities of the Byway; realize its own goals to preserve and enhance the County's natural, scenic and historic resources; and fulfill the mission of the Delaware Byway program "to showcase the natural beauty and unique features of the state and foster the preservation of natural, cultural and historic resources."

Towards this end, the County and the Delaware Nature Society executed a Memorandum of Understanding (MOU) in late 2010 to begin the process of reviewing the UDC for possible "enhancements" that would reflect the CMP.

This project is intended to formally recognize the recommendations of the CMP through a series of additions and/or modifications to the UDC and develop other administrative and procedural guidelines that ensure the preservation of the irreplaceable resources of the Byway. The aspirations for this project include: the desire to engage the public in a series of discussions regarding the best approaches for such preservation, the development of recommended strategies by which the County can achieve its own protection goals and those of the CMP, and a process by which future growth can be managed in a way that preserves the

Byway's intrinsic qualities for generations to come.

Guiding Principles for the Byway/ Vision, Mission, Goals and Objectives

The Guiding Principle of the Corridor Management Plan: "Protect and enhance the Intrinsic Qualities of the Byway."

The Corridor Management Plan Vision Statement: "To ensure the preservation and conservation of the irreplaceable resources that together form the Red Clay Valley and its Scenic Byway."

The Corridor Management Plan Mission Statement: "To support enhancement and restoration efforts, where needed, to continually improve the values of the Byway's identified scenic, natural and historic qualities."

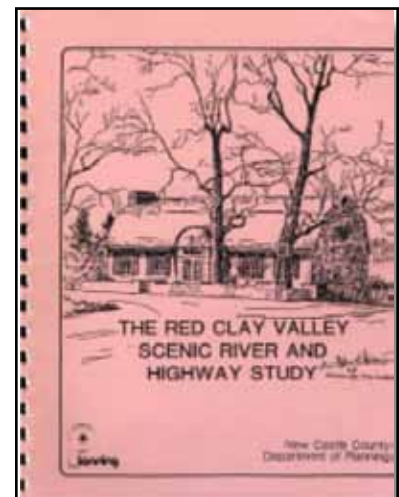
The CMP Goals speak to conserving intrinsic qualities; encouraging context sensitive design that respects the scale and character of surroundings and minimizes change to intrinsic qualities; balancing transportation and safety needs in a manner that respects intrinsic qualities; and protecting resources, while recognizing the needs and interests of stakeholders, landowners, organizations and businesses.

As further elucidated in the Byway CMP, a series of objectives and management strategies are shown for each goal and a series of matrices defines responsible parties, time frames for action, and possible funding options. It has been the Byway Alliance's efforts and adherence to goals of the plan that led to this project.

Early Work

Red Clay Valley Scenic River and Highway Study

This effort, conceivably one of the earlier 'byway' planning efforts in the country, was one of a series of scenic river and highway studies undertaken by the County in the late 1980's as part of a growth management strategy to examine land use and transportation planning in a localized area. The study aimed to identify and interrelate the natural, historic and scenic resources on which the County comprehensive plan focused and identify a variety of means for protecting those resources. Among the study's objectives was the desire to interact with and seek the guidance of those who typically "manage" the watershed's resources—this successful process led to a number of implementation proposals. As stated, "the most basic purpose of this study, perhaps, is to acquaint or refamiliarize Red

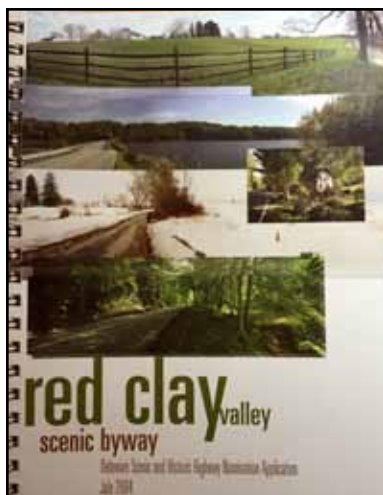


Clay residents, and those elsewhere in the County, with the qualities and character inherent to the Valley which many have long revered." Strong public awareness, the study states, should heighten prospects for sensitive treatment in the years ahead.

Red Clay Valley Scenic Byway Nomination Application

The Delaware Nature Society's efforts to preserve the Red Clay watershed's resources found another tool when the State of Delaware announced its Scenic and Historic Highways Program in 2000. The genesis of the state's program lies with the 140th General Assembly, under which Senate Bill 320 put forth enabling legislation that provided DelDOT the opportunity to apply for federal funding to initiate a byways program. DNS strongly supported the legislation and Governor Ruth Ann Minner signed the bill into law. The law creating the byways program was seen at the time as providing "communities with another tool to create a sense of place and enhance the quality of life for their residents."

Upon creation of the program, DNS spearheaded a series of meetings with local organizations and the public to ascertain support for designating the roads of the watershed as scenic and historic. DNS and its consultant chose a bold approach—designate 27 (later to become 28) secondary roads as a single byway consistent with a "watershed-based planning effort."¹ While most roads nominated for designations under byways programs involve a single road corridor, this effort proposed nominating a series of roads that together form an interconnected and interdependent network closely linked to the Red Clay Creek and its watershed area. According to the report, this approach was pursued "because it was determined that the roads within the watershed mimic an interconnected stream system as defined by the stream order concept."² "Route 82 (Creek Road) serves as the "main stem" with 1st and 2nd order streams (road corridors) linking



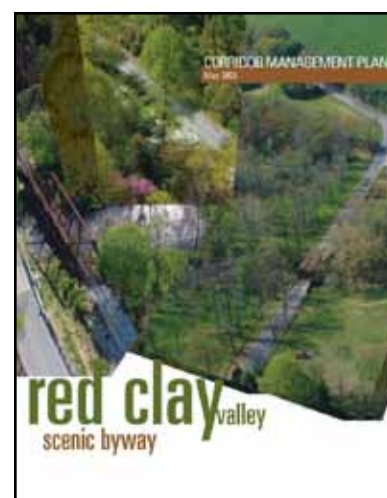
at points of confluence (intersections). As with a stream system, all ordered streams (roads) play an integral part in the linked network. While each road has unto itself a corridor boundary, the watershed boundary of the Red Clay Valley has intrinsic value that is an integral component of each road's character. Thus, while each road has a separate identified corridor boundary, the overall study boundary is the Red Clay Creek watershed. Just as healthy streams evolved and meandered to shape and define their watersheds, so too did the road network that evolved in the Red Clay Valley."³ By all accounts, this approach was the first of its kind in the nation and set the stage for a new approach to byways planning.

Although the approach outlined above was certainly unique, DelDOT became convinced of its merit and designated the Byway as a Delaware Scenic and Historic Highway on April 5, 2005.

Red Clay Valley Scenic Byway Corridor Management Plan (CMP)

Once designation of the Byway was complete, DNS immediately began an effort to prepare a "Corridor Management Plan." Under the Delaware Byway Program at the time, "a Corridor Plan lays out the vision, goals, and responsibilities for conserving and enhancing the corridor's most valuable qualities..."⁴ Furthermore, "(t)he Corridor Plan presents a strategy for balancing concern for the intrinsic resources with the visitor's opportunities to experience the Scenic and Historic Highway. "In other words, the plan "explains how participants are involved in and responsible for implementing the Plan."

Over a period of several years, a Steering Committee convened by DNS met quarterly with its consultant to prepare the CMP. Funding for plan preparation was provided in part through a Community Planning Assistance Grant from New Castle County, who also served as a member of the project's steering committee. During preparation of the plan, the importance of context sensitive design approaches became an important topic of discussion at Steering Committee meetings. These discussions led to the creation of a Context Sensitive Design Subcommittee that ultimately created a



¹ *Red Clay Valley Scenic Byway Corridor Management Plan*, May 2008

² *Ibid*

³ *Ibid*

⁴ *Delaware Scenic and Historic Highways – Program Guide*, DelDOT, Nov. 10, 2001

plan appendix that includes a palette of design materials and tools, descriptions of demonstration projects in the Byway (and lessons learned), an investigation of landscape management tools (including a DNREC sponsored survey of roadside vegetation and a list of suggested native plants appropriate for the Byway), and several lists of resources for further information. Much of this appendix formed the basis for negotiations with New Castle County and DelDOT concerning development impacts and road maintenance/improvement projects in the years following plan adoption (and continues to inform this planning process).

As mentioned above, the CMP was approved by DelDOT in late 2008; DNS, as the coordinating agency, has been working since to implement the plan's many recommendations.

Red Clay Valley Scenic Byway Alliance

An outgrowth of the CMP was the creation of a management agency referred to as the Red Clay Valley Scenic Byway Alliance. In essence, and as recommended in the plan, the plan's Steering Committee was converted to the Alliance and charged with plan implementation. While the Alliance is not incorporated as a separate 501(C)3 nonprofit, it did organize itself through a series of by-laws that were developed and approved by member organizations in 2012. The permanent members of the Alliance include: the Delaware Nature Society (the "Coordinating Agency"), Historic Red Clay Valley, Inc., Mt. Cuba Center, Inc., Red Clay Reservation, and the Red Clay Valley Association. Also included on the Alliance as non-permanent members are at least two local Byway residents, who are elected to serve fixed terms.



A scenic network of water,
roads, and history.

The Alliance meets quarterly and has been active in plan implementation, NCC Land Use plan review, and DelDOT road maintenance/road improvement plan review for several years.

Context Sensitive Solutions for Delaware Byways

The Delaware Department of Transportation (DelDOT) published this manual in June 2011 as a way to integrate Context Sensitive Solutions (CSS) with DelDOT's Project Development Process. Drawing on the work of the state's then existing byways, such as that of the Red Clay Valley Scenic Byway Corridor Management Plan, the manual provides "guidance to DelDOT designers and consultants during the planning, design, construction, and operation and maintenance of projects"⁵ on Byways throughout the state. The manual discusses the principles of CSS and identifies appropriate treatments for use on byways, including: road alignment and design speed; roadside barriers; bridges, walls and other small structures; bicycle facilities; pedestrian environment; landscape: site furniture; utilities; signs and traffic control devices; curbs: traffic calming; and grading and drainage.

Of particular value are case studies both within and outside of Delaware that illustrate the use of different treatments. Several examples in the Red Clay Valley are referenced and supported as appropriate approaches for contextual design

along byways.

The state's manual is of significant value to this effort in that it recognizes the work in the Red Clay Valley Scenic Byway and provides context for further action and recommendations for both DelDOT and New Castle County.

Implementation Activities

Plan implementation has been ongoing since DelDOT approved the Corridor Management Plan in late 2008. Among the efforts undertaken and accomplishments achieved are the following:

- A Memorandum of Understanding (MOU) was executed between the Alliance (originally the Byway Steering Committee) and DelDOT in 2008 which established a framework by which to coordinate on transportation projects (road maintenance/road improvements) in the Byway. In addition, the MOU "strives to pursue mutually beneficial programs, projects and activities that will preserve, promote and enhance the character-defining features of the Byway without compromising safety." The MOU remains in effect and it has made it possible for the Alliance and DelDOT to coordinate effectively on road improvement and maintenance projects for quite some time.
- The Delaware Nature Society (on behalf of the Byway Alliance) also entered into an MOU with New Castle County in 2010. Similar in scope to the DelDOT MOU, this document outlines a framework by which to coordinate on land use issues in the Byway, from identifying opportunities for context sensitive land development and design solutions to developing an early notification system regarding subdivision/land development/construction activity in the Byway, to coordinating technical guidelines for

⁵ Context Sensitive Solutions for Delaware Byways, DelDOT, June 2011

development in the Byway. Among the outcomes of this process was the heightened need for consideration of the Byway in planning activities (and specific references in the current county comprehensive plan). In many respects, this MOU is a precursor to the activity being undertaken for this project – while meetings with staff, presentations to County Council, and discussions with the County Executive took place over several years, scheduling conflicts, project priorities and insufficient budgeting prevented more than Byway education and promotion. In and of itself, however, the active dialogue established between DNS and the County through the MOU kept the Byway present in the minds of all those involved and ultimately led to the desire to undertake this project.

- Several iterations of a Byway webpage have been developed over the years as a way to promote the Byway and educate the public about the importance of the Byway to the local community. Among other things, the Byway's webpage contains a "photolog" and virtual tour of portions of the Byway, maps, an electronic copy of the CMP, and discussion of ongoing activity. (see www.delawarenaturesociety.org/RedClayValleyScenicByway)
- DNS and its planning consultant undertook an evaluation of roadside signage in order to determine the most appropriate options for byway identification signs throughout the Byway. Since the Byway is comprised of 28 road corridors, the placement of signs needed to consider site distance issues and be coordinated with existing DelDOT signage. Careful consideration was given to the number, size and placement of signs; ultimately, signs were placed on identified Byways corridors upon entering the watershed area only.



- Consideration was given to "delisting" Rt. 82 (Campbell Road, Creek Road, New London Road, and Pyles Ford Road), as a state highway in an attempt to eliminate its reference on state highway mapping ; while the chief advantage of delisting is to reduce truck traffic within the Byway, a public process undertaken to gauge support for delisting did not garner sufficient support. Nevertheless, the process undertaken by DelDOT did result in greater awareness of traffic issues along Rt. 82 and the commitment to examine alternative strategies to ameliorate truck traffic over time.
- A series of marketing, fundraising and promotional efforts have been undertaken to develop a "brand" for the Byway and educate the public. A Byway logo and tag line were developed and applied to stationary and an educational brochure was created for circulation at meetings and events. Under the auspices of DNS, several public forums, educational programs and open houses have been organized to educate the public and promote the Byway. DNS and the Byway Alliance also participated in a unique "byway assessment tool" program developed by the now defunct America's Byways Resource Center; the program was intended to help byways evaluate

technical assistance needs and priorities, organizational strategies and fund raising opportunities. Although the Resource Center was disbanded shortly after DNS had the Byway assessed, the Resource Center's staff provided useful tools for the Byway's future. Promotional activities also included DNS staff and its consultant attending the National Scenic Byways Conference in Denver in 2009 to give a formal presentation on the watershed-based approach unique to the Red Clay Byway.

Planning and Legislative Authority

State Enabling Legislation

Planning enabling legislation for New Castle County is contained in Title 9 (Counties) of the Delaware State Code, specifically Chapter 26 Zoning, Subchapter 1 - General Provisions, Sections 2601 - 2616 (Zoning), Subchapter 2 - Quality of Life Act, Sections 2651-2662 (Comprehensive Planning), and Chapter 30 Subdivision and Land Development. Other provisions within Title 9 provide for street and highway lighting, sewers (and sewer districts), building code provisions,



water supply, and property maintenance, to name a few.

It should be noted that Delaware's counties are responsible for planning in unincorporated areas while municipalities, under Title 22 (Municipalities), are responsible for planning for incorporated areas (within municipal boundaries).

Title 9 is unique from the standpoint of state enabling legislation in that portions of the title refer to "county governments generally" while other portions, specifically with regards to zoning, subdivision and land development, and comprehensive planning, are broken out on a county basis. As such, New Castle County is permitted under Title 9 to plan in a manner unique to itself. Thus, New Castle County can "regulate the location, height, bulk and size of buildings and other structures, the percentage of lot which may be occupied, the size of yards, courts and other open spaces, the density and distribution of population, the location and uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes and the uses of land for trade, industry, residence, recreation, public activities, water supply conservation, soil conservation or

other similar purposes, in any portion or portions of New Castle County which lie outside of incorporated municipalities" (Zoning provisions);⁶ "to encourage the most appropriate use of land, water and resources consistent with the public interest and to deal effectively with future problems that may result from the use and development of land within their jurisdictions"⁷ (Comprehensive Plan provisions); and "to provide for the orderly growth and development of the County, to promote the health, safety, prosperity, and the general welfare of the present and future inhabitants of the County, to insure the conservation of property values and natural resources, including the protection of the County's agricultural lands, water resources, and industrial potential, and to afford adequate provisions for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related activities"⁸ (Subdivision and Land Development provisions).

County Codes and Policies

The New Castle County Code is made up of numerous chapters of which the most relevant to land use issues would be:

- Chapter 6 - Buildings and Structures,
- Chapter 7 – Property Maintenance Code,
- Chapter 12 – Drainage,
- Chapter 19 – Residential Rental Properties,
- Chapter 24 – Parks and Recreation,
- Chapter 28 – Planning,
- Chapter 30 – Streets and Roads,
- Chapter 34 – Traffic and Vehicles,
- Chapter 36- Excavations,
- Chapter 38 – Utilities, and
- Chapter 40 - Unified Development Code.

Unified Development Code

Of the various chapters referenced above, the UDC provides the essential zoning, subdivision, and land development functions for the unincorporated areas of New Castle County. Originally conceived in the mid 1990's and first adopted into law in 1997, the UDC is described as "a compilation of all development oriented regulations" for the County.⁹ The UDC includes regulations on zoning, subdivision, design, concurrency, impact fees, and signs. The Code is organized intentionally so that the chapters and sections applicable to "most citizens" are at the front of the code. Sections on development design and application processing are at the rear of the Code.

The purpose of the UDC "is to establish standards, procedures, and minimum requirements, consistent with the Comprehensive Development Plan, which regulate and control the planning and subdivision of lands; the use, bulk, design, and location of land and buildings; the creation and administration of zoning districts; and the general development of real estate in the unincorporated areas of New Castle County, Delaware."

⁶ Title 9, Delaware State Code

⁷ Ibid

⁸ Ibid

⁹ New Castle County Unified Development Code, 1997

Existing Conditions

Introduction

While the CMP was adopted in 2008 and implementation activity has been ongoing since, the Byway has seen some change over the preceding seven years. The good news is that the changes have, overall, been relatively minor and have not affected the largely unspoiled character of the Byway and its intrinsic qualities. On the other hand, the development “creep” the Byway has seen threatens to erode that character over time if nothing is done to further preserve the Byway. Below is a brief explanation of the intrinsic qualities that are so valued in the Byway, the regulations that currently exist in the County’s Unified Development Code that address the Byway, and the recommendations of the Corridor Management Plan as they pertain to planning and regulation for the Byway.

Intrinsic Qualities

Both the National Scenic Byways program and the Delaware Byways program require that byways possess important scenic, natural, historic, recreational, cultural and archeological resources, referred to as the “intrinsic” qualities that make a byway worthy of recognition, promotion, and protection. Both the Nomination Application and the CMP for the Red Clay Valley Scenic Byway emphasize the inventory of those qualities and their recognition. In particular, the CMP evaluated scenic roads, in part, according to Federal Highway Administration (FHWA) criteria that include combinations of the following: 1) scale of roads (size, dimension, etc.), 2) characteristics of roads (runs with topography, winds, changes with terrain, etc.), 3) scenic accents and/or vistas along roads, 4) historic characteristics of, or along, roads

(covered bridges, stone bridges, historic houses, etc.), 5) natural resources and/or ecosystems in close proximity to roads (watercourses, wetlands, rock outcrops and other geologic formations, woodlands, wildlife habitat, etc.), and 6) recreational activities along or adjacent to roads.

Inventory of Scenic, Natural, Historic, Recreational, Cultural and Archeological Qualities

Under Delaware’s program, a byway must possess at least one of the National Scenic Byway program’s six intrinsic qualities (scenic, historic, natural, recreational, cultural, or archeological). The Nomination Application for the Red Clay Valley Scenic Byway undertook a thorough inventory of the resources of the Byway (siting past studies, undertaking field inventories, and preparing mapping and text descriptions) and compared the merits of the Byway to the standards for each intrinsic quality set forth in the na-

tional program’s policies.

According to FHWA Policy, “scenic quality is the heightened visual experience derived from the view of natural and man-made elements of the visual environment of the scenic byway corridor.” As described in the CMP, the byways of the Red Clay Valley are exceptionally scenic and help tell the history of the valley in the context of human interaction with nature. As such, the primary intrinsic quality of the Byway was determined to be “Scenic.”

The secondary intrinsic quality of the Byway was determined to be “Natural.” Under FHWA policy, “natural quality applies to those features of the visual environment that are in a relatively undisturbed state. These features predate the arrival of human populations and may include geological formations, fossils, landform, water bodies, vegetation, and wildlife.” The CMP details the vegetation, wildlife, topography, “natural areas”, and water resources of the Byway.

As described in the CMP, the historic resources of the Byway are a strong “supporting intrinsic quality” for the overall Byway. According to FHWA policy, “historic quality encompasses legacies of the past that are distinctly associated with physical elements of the landscape, whether natural or man-made, that are of such historic significance that they educate the viewer and stir an appreciation of the past.” To this end, the CMP documents the early and developmental history of the region, the industrial history that contributed to the region’s evolution, and the state and county historic preservation programs that inventoried the regions resources and provide control mechanisms for preservation.

While not considered primary, secondary, or supporting intrinsic qualities for official designation purposes, the CMP nevertheless recognizes the recreational, cultural and archeological qualities that contribute greatly to the Byway.





Recognition of public parks and services and events provided by non-profits such as the Delaware Nature Society, the Wilmington and Western Railroad, and Mt. Cuba Center are tributes to the recreational and cultural opportunities available in the Byway. Archeological qualities or manmade “disturbances” record changes to the landscape throughout the Byway’s history – among them the remnants of agrarian hedgerows, “country” roads, stone building ruins and stone walls all pay tribute to early European settlers and the agrarian and industrial heritage of the eighteenth and nineteenth centuries.

Stewardship of Intrinsic Qualities

The CMP’s highest priority “is the preservation and stewardship of the Red Clay Valley Scenic Byway’s roadways and intrinsic qualities.” As such, the plan offers two levels of effort: 1) efforts significant to the watershed as a whole, and 2) efforts relevant to individual road segments. Of significance is the Plan’s

desire “to focus on the Byway’s roads as an interconnected network closely linked to the Red Clay Creek and its watershed area.” Therefore the planning focus is on consistent watershed-based planning strategies as an overall framework for stewardship and preservation, coupled with an evaluation of the tools most appropriate to individual roadways.

Stewardship (in this case, the goals, objectives and strategies for protection and enhancement of the Byway’s intrinsic qualities) is organized around classes of goals: conservation and preservation, restoration and enhancement, transportation and safety, interpretation and education, and coordination and management.

Conservation and Preservation Goals

Goal 1 - Encourage stewardship of intrinsic qualities through continued conservation efforts.

Goal 2 - Conserve the roadside features of the Byway, particularly the scenic resources (vista points and visual accents), natural resources (rock outcroppings, mature trees, steep slopes and stream valley), and historic resources

(houses, bridges, railroads, archeological sites, and scale and features of roads), that contribute to the character of the watershed.

Goal 3 - Encourage context sensitive design that respects the scale and character of surroundings and minimizes change to intrinsic qualities.

Restoration and Enhancement Goals

Goal 4 - Encourage restoration and enhancement efforts, where appropriate, to improve the value of the Byway’s intrinsic qualities.

Transportation and Safety Goals

Goal 5 - Balance the transportation and safety needs of all roadway users in a manner that respects the intrinsic qualities of the Byway.

Goal 6 - Help guide future transportation and land use decisions made by government agencies to ensure consistency with the Byway’s mission.

Interpretation and Education Goals

Goal 7 - Inspire the public through education on the scenic, natural and historic

qualities of the Byway.

Goal 8 - Instill in the public the need for stewardship of the Byway's intrinsic qualities.

Implementation: Coordination and Management Goals

Goal 9 - Prepare a Corridor Management Plan acceptable to stakeholders and suitable for future funding.

Goal 10 - Create incentives to achieve the Plan's mission.

Goal 11 - Implement the Corridor Management Plan in a cooperative fashion that preserves and protects resources, recognizes the needs and interests of stakeholders, respects the rights and responsibilities of individual landowners, and is sensitive to the needs of organizations and businesses.

Regulations in the Unified Development Code (UDC) that predate this effort

New Castle County's UDC contains numerous subdivision and land development regulations controlling the many components of building on and converting land. Many of the regulations of the UDC impact development in the Byway as well. The following is a brief synopsis of regulations that have some bearing on development in the Byway:

- Articles 2 and 4 - The Byway lies predominantly in the Suburban Estate (SE) district, which according to the UDC, is characterized by single-family homes on large lots. In most areas of the Byway, this district is not served by sewer and is not planned for such service in the future. Design and landscaping in this district are intended to preserve and enhance the character of the area and preserve views of the landscape. Opportunities for both single-family development and

open space subdivisions are provided. Open space subdivisions constitute a voluntary development option with open space ratios of between 45% and 60%. Landscaping and opacity standards, while prescriptive, are generally modest, providing little if any buffering along roadways.

- Article 4, Section 40.04.240 Scenic Corridors – This section requires the provision of a scenic corridor (landscaping) along all collector and arterial roads in specified districts, including the Red Clay Valley Scenic Byway. Standards are based on buffer width and vary between 6 and 1 “plant units” per buffer width designation. Buffers range between 50 and 400+ feet.
- Article 5 Site Capacity – This section comprises a series of performance standards for determining the amount of development that will be permitted on any particular site. Calculated are capacities based on transportation, sewer, water, schools and natural resources. While several of these may ultimately apply (sewer capacity not being one of them), perhaps of most significance to the Byway are the results associated with “protected land”, a measurement of natural resources that must be protected on any site undergoing development. Protections are provided for water resource areas (floodplains/floodways. Wetlands, riparian buffers, drainageways, well-head areas, recharge areas and other sensitive water resource protection areas), steep slope area, Critical Natural Areas (rare species sites, mature forests and geologic areas), and young and mature forests.
- Article 7 Transfer of Development Rights and Other Incentives and Bonuses – While a number of incentives and bonuses are described in this article, few are applicable to the Byway. Transfer of Development Rights

(or TDR) is a permissible function in several districts but apparently not in the Suburban Estate District; allocation of rights is based on development yield. Noncontiguous property transfers may occur but only within the same planning district. Furthermore, such transfers are essentially limited to Suburban Reserve and Suburban Districts, within which development rights bonuses are available for preservation of prime agricultural soils. A historic preservation bonus is available that permits reduced lots sizes, density bonuses or TDRs for the protection of “open context” or “enclosed context” sites.

- Article 10 Environmental Standards – Environmental resource protection is accomplished in three essential ways: through the preservation of the resources themselves (open space preservation), through the limitations of the site capacity calculation in Article 5, and through specific County protection and mitigation standards contained in this article. Standards in this section are both performance-based and prescriptive and apply throughout the Byway.
- Article 15 Historic Resources – This article essentially lays out the process for designating and classifying historic resources, describes standards and procedures for developing in proximity to such uses, limits certain prohibited uses, and provides standards for the adaptive reuse of historic structures.
- Additional articles of the UDC describe subdivision and land development design standards, landscaping (consistent with planting requirements contained elsewhere), and other requirements generally applicable to development throughout the County.

Recommendations of the CMP pursuant to the UDC

Within the context of the CMP's Goals outlined above, a series of objectives and management strategies were developed by the Byway's stakeholders to reflect the Vision and Mission developed for the Byway. A number of these Objectives and "Preservation and Management Strategies" were directed towards New Castle County, either in terms of fostering a working relationship for the betterment of the Byway (as witnessed by the creation of several Memorandums of Understanding), or in specific suggestions regarding code language supportive of Byway goals in the UDC. Recommendations both reflect the desire for watershed-wide preservation and roadway specific actions represented in the Plan's "Roadway Status Report."

The most succinct summary of CMP recommendations for the UDC can be found in the Memorandums of Understanding that essentially formed the basis for this study effort. These recommendations are:

- To create technical and procedural guidelines for engineers, designers and planners who work on projects that impact the Byway.
- To revise and/or establish new UDC development standards for the Byway consistent with the CMP (reference Goal 3, Objective 3-1, Strategies 3-1.1 and 3-1.2; Objective 3-2, Strategies 3-2.1; and Goal 4, Objective 4-1, Strategies 4-1.1, and 4-1.2), including but not limited to the following:
 1. Review, update, and expand scenic corridor standards in Article 4 (Section 40.04.240) of the UDC and consider creating corridor overlay regulations and/or guidelines (setbacks, buffering and landscaping, resource pro-



- tection, use provisions, building placement & height, site design, signage, viewshed protection, bulk requirements, etc.);
 2. Consider higher protection ratios for trees and other resources within the Byway;
 3. Consider expanding TDR provisions in the UDC to provide opportunities for Byway preservation (such as designating the Byway as a sending area for development rights transfers elsewhere);
 4. Recognize opportunities for restoration and enhancement during land conversion and utilize the CMP's Context Sensitive Design appendix as part of plan review process;
 5. Consider UDC language in conjunction with DelDOT that recognizes and maintains scenic road characteristics, including road widths, curves, acceleration and deceleration lanes, and roadside features (rock outcrops, woodlands, etc.), all of which can be part of a traffic calming strategy to promote safety. Resist accepted dogma that road widening and other "improvements" are necessary as safety measures.
- Identify opportunities for context sensitive land development and design solutions, education and assistance, among other things, and jointly pursue such projects to manage the resources and roadways of the Byway.
 - Develop an early notification/review/comment process, similar to or in conjunction with the state's PLUS review procedure, to inform the Byway Alliance of subdivision or land development projects, construction activities, or waivers/variances of Context Sensitive Design features (lighting, signage, fencing, construction materials, etc.) within the Byway to ensure adequate opportunities for input on the project.
 - Coordinate the use and referencing of the CMP's Context Sensitive Design Guidelines, as well as DelDOT's publication "Context Sensitive Solutions for Delaware Byways", for all projects proposed and undertaken in the Byway.

Best Practices for Protecting Intrinsic Qualities

Introduction

Core components of the Design Standards Overlay Project were a thorough review of the Byway Corridor Management Plan (and the recommendations contained therein) and New Castle County's Unified Development Code, and extensive research of best practices throughout the United States, including a "raw data repository" of actual codes and ordinances around the country, a menu of strategies used in such ordinances, and a summary of best practices for potential applicability to the Byway planning area.

Research indicates that protective strategies occur at every level of government, including:

- Federal regulations, primarily in the Bureau of Land Management and the National Park Service;
- Statewide initiatives and model guidelines (such as found in Georgia and other states);
- Regional organizations such as the Hudson River Valley Greenway and the California Coastal Commission;
- A multitude of local government initiatives in at least 45 states and the District of Columbia, and
- Town and village ordinances, generally found in the northeast.

There are also several private and not-for-profit entities, similar to the Delaware Nature Society, that promote scenic protection, receive and manage scenic easements, and advocate and educate the general public on a multitude of platforms, including social media and internet videos (documentation of several of these efforts is also included herein).

Research Framework

The intrinsic qualities established in the CMP included 'Scenic' as the primary quality, with 'Natural' as a strong secondary, and 'Historic' as a supporting quality. 'Cultural', 'Archeological' and 'Recreation' were also listed as intrinsic qualities, but not at the same level as the other three.

Based on this ranking in the CMP, effort was focused on best practices research within the general category of 'View Protection'. This included research of existing codes, generally located in rural, suburban, and/or exurban environments that included:

- Scenic protection as a primary goal;
- Scenic protection as a supporting goal;
- Natural or environmental strategies with scenic protection as a goal;
- Historic, archeological and/or cultural protection strategies that included scenic protection as a supporting goal; and
- Recreational strategies that include scenic protection, such as trails and greenways planning.

Since the subject project is a Scenic Byway, research was also undertaken of view protection strategies used in other byways, whether state or federally designated.

Legal Basis

Most jurisdictions codes are based on the 'general welfare' clause of the police power in order to impose scenic protection restrictions and maintain a high standard for design within easement areas. As

stated above, Delaware's Title 9 provides certain powers to counties "generally" while other portions, specifically with regards to zoning, subdivision and land development, and comprehensive planning, are broken out on a county basis. As such, New Castle County is permitted under Title 9 to plan in a manner unique to the county itself. Nonetheless, it will be imperative that New Castle County's Law Department provide an opinion on the legal basis within New Castle County for the practices recommended herein.

Codes must not be unnecessarily vague, and must be tied to public benefits in order to pass constitutional muster. One important legal issue that repeated itself was the care of code crafting to avoid 'undue hardship' and a potential taking.¹⁰

Also, most codes which were reviewed, had state enabling legislation and fundamental reasoning that established a strong legal and regulatory basis for protection by noting how such features contributed to the area's unique sense of place and overall quality of life, generally in the purpose clause of the particular code section.

Summary of Best Practices

View protection falls under several sub-categories and levels of control based on the unique issues in each community. View protection categories are generally based on the nature of the view that is the subject of the protection, such as: panoramic vistas, view corridors and scenic roads.

Types of protections vary widely from community to community, both from application and complexity. However, all seem to fall into the following generalized view protection categories:

¹⁰ *Corrigan v. City of Scottsdale*, 720 P.2d 528 (Ariz. App. 1985). *Corrigan* only applies to Arizona and has been much criticized.

- Viewshed Preservation;
- Scenic Roadway Protection;
- Linked View Preservation (view protection linked with environmental protection, agricultural preservation, historic resources, rural character, architecture, signage); and
- Locational Development Regulations.

View protection by locational factors tends to identify key recreational features, such as a reservoir or lake, and designate ‘shoreline protection’ or ‘panoramic vista protection’ as measured from key vista points on the recreational element. In other communities, ‘hillside protection’ or ‘ridgeline protection’ was the basis of the view protection code. Likewise, communities with low lying areas include scenic protection as a part of their natural and drainage corridor management approaches.

Some of these view protection strategies can be associated or implemented in conjunction with certain environmental criteria. Researched codes included ‘linked’ environmental/scenic standards that included restrictive metrics for things like steep slopes, wetland protections, riparian buffers, water quality and vegetation.

In addition, there are several codes that used ‘density control’ strategies for scenic protection. These tactics generally fell into the following general categories:

- bulk controls, including height, density, and use controls;
- architectural appearance codes;
- access and traffic control;
- respect for site features not typically afforded protection such as tree lines, fence rows, and stone walls;
- clustering, conservation design and village/hamlet design;
- bulk standard requirements including setbacks, lot size and yard dimensions;
- grading restrictions, both in horizon-

- tal footprint and relative cuts and fills;
- codes with performance standards that minimize impacts, mitigate impacts and achieve certain stated development goals prior to approval;
- codes with incentive and reward mechanisms that, for example, increase density where increased open space and scenic protection are provided;
- metrics that limit total development through open space ratios, impervious caps and limitations on other elements of land development that affect total unit count; and
- viewshed and view corridor restrictions that limit the nature and visibility of new construction, generally as viewed from surrounding public thoroughfares, but in some instances, from key view points in the community.



Road corridor protection strategies include: transect sensitive design standards; context sensitive design standards; viewshed protection, both toward and from the roadway; signage controls; and infrastructure design in keeping with the surrounding environment (such as septic, other utilities, drainage and grading, which could be categorized under context sensitive design.¹¹ DelDOT’s Context Sensitive Solutions Manual examines several of these strategies.

Many of the scenic corridor overlay zones incorporate a visual assessment. This approach subdivides the corridor, for purposes of appropriate regulatory control, into 5 areas (which vary for the

RCVSB given the physical and geographical composition of the Byway):

1. Roadside edge areas: areas within, or immediately adjacent to the right-of-way;
2. Immediate Foreground areas: generally from the right-of-way edge to about 300 feet away (200 ft. for the RCVSB);
3. Foreground areas: generally 300-500 feet from the right-of-way to about ½ mile (200 ft. - 1000 ft. and greater than 1000 ft. for the RCVSB);
4. Middle-ground: elements within the viewshed that are generally from ½ to 4 miles away (greater than 1/2 mile for the RCVSB); and
5. Background: elements within the viewshed that are more than 4 miles away.

Protection strategies differ in each area due to the nature of the potential visual intrusion and how it is perceived by the viewer.

Some jurisdictions attempt to control views strictly through enforcement. These jurisdictions rely on clustering, conservation design, and the open space criteria associated with a planned unit development (PUD) floating zone application. In rare instances, this enforcement is the part of a comprehensive corridor management strategy or greenway plan, but more often it is ad hoc, implemented on a case-by-case basis without an overarching framework.

There are several examples of historic and cultural protection where scenic vistas, landscape ‘settings’ and environmental protections are included in historic resource ordinances. Some of the best examples include National Park Service work in developing and securing federal

¹¹ Note that some communities use septic design as a deterrent to development with very restrictive regulations, while others incentivize village and hamlet design through the allowance of alternative systems.



parks and byways, as well as cultural and archeological elements associated with overall landscape protection, such as battlefield viewshed protection, including the protection of the surrounding landscape, such as scenic easements on adjacent, non-park properties. What should be noted is that a Design Review Board is usually a part of an historic overlay.

Finally, implementation of these codes took on several variations, including regional planning strategies; agricultural preservation approaches; historic preservation approaches; base zoning standards with overlays or incentives; and combinations of the above with the additional guidance of design standards and/or oversight of a formal Commission or Board (that either recommends to a final approval authority, or is legislatively delegated authority for decisions).

The Appendix ‘Recommended Best Practices’ matrix (Appendix 2) identifies the essential tools recommended for consideration by New Castle County. Shown are those tools to add to the UDC and those that already exist but need modification for scenic byway protection.

In addition, Appendix 2 lists the best practices discussed amongst the stakeholders that were not retained as part of the recommendations for Unified Development Code language. Reasons for not retaining these practices varied, but in general it was decided that these practices were either addressed through other UDC measures or were part of (or should be part of) larger volunteer efforts.

Recommended Framework for Action

Generally, the process for making decisions on best strategies for the Red Clay Valley Scenic Byway should follow an organized approach. There are several ways to group, categorize and prioritize differing strategies. Fundamentally, and from a legally defensible perspective, the primary strategies and their metrics should be strongly associated with both the County’s Comprehensive Plan and the Corridor Management Plan. The County may also want to reach consensus on whether the CMP is an official county document; if so, the approach taken can more accurately reflect ‘stated governmental interests and goals’ when potentially impacting development.

Based on the project team’s research, knowledge of the UDC, the recommendations in the CMP, state enabling legislation, and the public understanding and support to date, the following framework forms the basis for the design standards and guidelines contained herein:

- Follow the guidance of the CMP, making scenic protection a primary goal, with natural protection as a secondary goal. Use the County’s existing historic ordinance to provide protections for cultural, historic and archeological sites or incorporate the ‘scenic’ component of the cultural landscape/historic setting into the overall scenic protection standards.
- For scenic protection, assume the vista and view accent points along the roadways as identified in the CMP.
- Provide the highest level of scrutiny and preservation closest to the roads themselves. Have a more lenient approach as development occurs further from the road and no additional restrictions where development would not be visible from the road.

- Overlay this primary strategy with a secondary strategy of natural area protection. Use the existing UDC structure but provide guidance for more stringent regulations, if they protect and/or enhance the scenic quality of the byway and are linked to legally defensible and objective metrics (examples: watershed (environmental) protection/stream protection, soils, setbacks, rock outcrops, tree cover, etc.).
- Consider a trail, greenway or organizational open space approach to see if the protected lands can be linked in some fashion.
- Provide a zoning framework that rewards good development and limits negative visual intrusions.
- Provide a review authority that has expertise in scenic protection (i.e.: administration by a well-qualified board supported by adequate staff and resources, especially if detailed design review is to take place).
- As expressed in the CMP, promote and support all non-regulatory approaches for scenic protection in parallel to, and in concert with, a new regulatory framework.
- Supplement the new code written design standards with visual aids and guidelines to make clear what the community desires, thus reducing uncertainty for prospective developers.

It should be noted that the framework described above suggests continued action by groups like the Delaware Nature Society, as well as the citizens of the Byway and County itself, outside the scope of a county regulatory and guidance approach. Only through continued action on behalf of all parties seeking protection of the Byway can landowners needs be met and meaningful preservation occur.

Design Standards for the Unified Development Code & The Red Clay Valley Scenic Byway Design Guidelines

Introduction

The design standards developed for the UDC provide the regulatory framework upon which the design guidelines are utilized to develop land in the Byway. The two are integral to one another for while the regulations can most certainly stand on their own, their utilization is most successfully achieved through the guidance provided in the guidelines. In particular, the guidelines offer strategies for protecting, preserving and enhancing the intrinsic qualities of the Byway, discussing specific tools and tactics by which to do so, and outlining the development review procedures necessary to bring a project to fruition, all within the context of the regulations themselves.

Design Standards for the Unified Development Code (UDC)

The design standards are comprised of a series of regulatory strategies contained in the UDC and first introduced in Section 40.02.246 as The Scenic Byway (SB) Overlay District. The intent is to introduce an overlay district that is applied to designated scenic byways within the County. Other divisions in this article address landscaping, signage, administrative procedures, pre-application and exploratory plan review processes. Reference is also made to Division 40.16.100, which contains the bulk of the design standards for scenic byways.

Although it would not be inappropriate to provide a separate zoning district

for scenic byways, it was determined that the underlying zone, which is primarily suburban in character, would remain in place and that an overlay zone would be circumscribed over designated Byway areas to provide an additional set of regulations that would require adherence to the purpose clause of the overlay: protect and enhance. An overlay district's requirements are typically more stringent than the underlying zoning district; and as with this district, when a conflict exists between the two, the more stringent standards apply. For example, if the underlying district states that the front yard setback is 50 feet, and the overlay zone requires a 100 foot setback, the 100 foot setback would control. Therefore, it is critical that applicants carefully review the overlay zone requirements and understand their intent and impact.

Important from a regulatory sense is the identification of which sub-district, or districts, exist on properties being considered for development; this is critical in that each sub-district has differing standards for development. There are four basic sub-districts in the Overlay District; these are:

- Sub-District 1, which includes all rights-of-way within the Overlay District and which fall under the jurisdiction of DelDOT.
- Sub-District 2, encompasses both sides of each right-of-way within the Overlay District for a horizontal distance of 200', measured from the public road right-of-way-line, and generally referred to as the "Inner Corridor".

- Sub-District 3 encompasses both sides of all rights-of-way for a distance of between 200 feet and 1,000 feet from the public road right-of-way, generally referred to as the "Outer Corridor."
- Sub-District 4 encompasses all other areas within the Overlay District that are not within Sub-Districts 1, 2, or 3. Additionally, areas within Sub-District 2 and 3 that are not within the established scenic viewshed may be considered, upon review, a part of Sub-District 4.

Sub-District 2.

It is the intent of the Overlay District that this area not be altered or degraded. Only enhancements to the scenic quality of the Byway should be permitted in this sub-district.

Enhancements may include homes or other improvements that provide exceptional improvement to the scenic qualities of the Byway. Determination of exceptional enhancement will be made by the Department and/or the Planning Commission, with a recommendation by the Design Review Advisory Committee.

This sub-district also allows for the potential for limited development, but only if no other alternatives exist, and the impacts are minimized. Mitigation, compensating features, and additional street bufferyard standards would apply.

The sub-district establishes a one hundred foot building restriction line. It also establishes greater landscaping, bufferyard and opacity standards than are found in the underlying zoning districts.

Sub-District 3.

It is the intent of this sub-district to avoid or strictly limit development and other improvements within the scenic viewshed.

As is the case in Sub-District 2, alterations in this area are prioritized. First, an applicant must demonstrate that all reasonable efforts have been made to avoid

development and other intrusions in the scenic viewshed. This is accomplished through the use of conservation design strategies and context sensitive solutions.

Additionally, the applicant must prioritize landscaping and forestry proposals for the property to not only enhance existing resource protection areas but also enhance the scenic viewshed and provide sufficient levels of visual screening. This can be accomplished in a variety of ways and several illustrations are offered in the Guidelines and the CMP.

If an applicant cannot fully comply with the avoidance strategies described above, development within the scenic viewshed may still be allowed, subject to minimization of the proposed intrusion and/or mitigation of the intrusion through the use of compensating features that neutralize and harmonize the intrusion with the surrounding landscape.

General adherence to these standards does not necessarily guarantee approval of alterations or development, if in the opinion of the Department the proposal is an unacceptable intrusion into the scenic viewshed.

Sub-District 4.

This area either is not in the scenic viewshed or is more than one-thousand feet from the scenic roadway right-of-way and is exempt from the Overlay District standards. Having said that, the Overlay District strongly encourages the use of conservation design and context sensitive solutions in Sub-district 4 on a voluntary basis.

Alterations, improvements and development within Sub-district 4 are subject to the standards of the underlying zoning district.

Purpose and Intent

The purpose and intent of the Scenic Byway Overlay District is:

1. To assure maximum preservation and

enhancement of the district's outstanding and unique scenic features and resources,

2. To minimize grading, tree removal, signage and changes to the existing character of roadways and the natural topography,
3. To reduce visual intrusions into the district that are not compatible with its scenic qualities,
4. To assure that the design and placement of buildings and other improvements preserve, complement, and/or enhance views from scenic roadways,
5. To assure that new development, redevelopment, infill development and other changes are compatible with scenic resources and intrinsic qualities, and
6. To assure that any changes are consistent with the goals, objectives, and management strategies of CMP.

Guiding Principles

The Overlay District is unique in that it includes several guiding principles in addition to the general purpose and intent clause. These guiding principles provide an additional layer of information and a higher standard of development within the Overlay District. There are seven guiding principles:

1. Protect, preserve and enhance the character-defining features of the byway, including scenic, natural, cultural, historic, archeological and recreational features.
2. The primary protection and enhancement method is scenic viewshed protection.
3. Conservation design, as defined in the UDC is mandatory.
4. Context sensitive solutions, that is improvements that are compatible and consistent with the character of the byway are required.
5. Enhanced resource protection, beyond the minimum standards of the un-

derlying district are required in order to achieve the goals and objectives of the Overlay District.

6. Changes and development must have a minimal impact on the scenic quality of the byway. This is accomplished through the prioritized process of protection first, followed by conservation, enhancement, avoidance, minimization, and finally mitigation through the use of an acceptable level of compensating features.

7. Open space proposals should support district-wide open space systems that protect scenic vistas, resource areas, and other character-defining features; and should be configured to provide a contiguous and viable greenway and recreational system within the district.

Development Standards

Setbacks

The Overlay District requires a greater setback from road right-of-ways than is required in the underlying districts for nearly all permitted uses.

Notwithstanding the use or the underlying zone, all new principal structures must be set back from a road right-of-way at least one-hundred feet unless a proposal meets the exception criteria of the Overlay District. There are three criteria for exceptions discussed later in this section.

The Overlay District also puts strict controls and the ability to locate principal structures and improvements within the Inner Corridor, or the first two-hundred feet of the road right-of-way.

All side and rear yard standards are based on the use and the underlying zoning district as required in Division 40.04.100 of the UDC.

Street Bufferyards

Bufferyards are defined as "a strip of land on the periphery of a property creat-

ed to separate one type of land use or zoning district from another when they are incompatible or in conflict. Bufferyards include street bufferyards that protect the use from road related nuisances or screen undesirable uses.”

The UDC establishes certain criteria for the inclusion of bufferyards in land development projects. In certain situations, the Overlay District requires a higher degree of screening, landscaping and visual opacity than is required in the underlying zoning district, specifically for street bufferyards, but also, in limited cases, for peripheral bufferyards, if scenic viewshed protection is necessary.

Along scenic byways, the UDC has specific landscaping requirements for street bufferyards, referred to as Scenic Corridor Landscaping (Sec. 40.04.240 of the UDC). The Overlay District has the most stringent Scenic Corridor landscaping standards based on three general principles:

1. Protect existing forest and trees to the greatest extent possible within the scenic viewshed,
2. Provide greater visual buffering and opacity standards, and
3. Plant new native trees within the Inner Corridor and supplement existing forest and tree stands with new native plantings where appropriate.

Access Standards

Access standards in the Overlay District are more restrictive than the requirements generally found in the UDC. Access points to scenic roads are strongly discouraged. New streets, common access easements, or other techniques to aggregate and reduce access points is encouraged.

Visible Building Heights

The most likely impact to the scenic viewshed is new building construction. In many cases, the increased setbacks, increased screening, retention of existing

forest, and the employment of conservation design strategies will greatly reduce, minimize, or completely screen a proposed building. However, in certain cases, additional screening or alternative design options may be necessary to protect the scenic viewshed. One of these tools is the Visible Building Height restriction.

In situations when buildings are proposed within the scenic viewshed, and are less than six-hundred feet from a scenic road right-of-way, the use of Visible Building Height restrictions are required.

This requirement is proportional to the proposed structure’s proximity to the scenic roadway right-of-way. The closer the building is proposed to the scenic roadway, the higher the screening standard. In order to calculate compliance with this standard, a minimum of three (3) observation points must be utilized that are representative of the general view to the structure from the roadway. These observation points may be the same points utilized to establish the scenic viewshed boundary.

The standards for Visible Building Height are as follows: if a building is permitted to be located between one-hundred feet and one-hundred and fifty feet of the scenic roadway right-of-way, then the percentage of the height permitted in the underlying zoning district that may be visible from the observation points is no greater than twenty percent. In order to provide flexibility, this requirement may be expressed as a percent of building mass as well.

The requirement decreases as distance from the scenic road right-of-way increases, as follows:

- From 150’ to 200’: up to 40 percent;
- From 200’ to 400’: up to 60 percent;
- From 400’ to 600’: up to 80 percent;
- Greater than 600’: no requirement.

Forest Retention Standards

Existing forest is a critical component of the byway and its scenic beauty. Pro-

tection of this resource is strictly required in the Overlay District. As is the case with other requirements, the degree of retention and protection is inversely proportional to the distance from the scenic road right-of-way and whether the forest is integral to the protection of the scenic viewshed.

Grading and Earthwork

In order to promote development that is compatible with the natural environment, and to encourage creative solutions that minimize disruptions and alterations to the landscape, the Overlay District limits earthwork and grading, and the extent of vertical cut or fill from existing topographic conditions.

Signs

Signs are more strictly regulated in the Overlay District than in the underlying zoning districts.

These restrictions include the practice of ‘least control’ which attempts to avoid the cluttering of the landscape with unnecessary signage. The general concept is that signage should only be provided to meet the minimum requirements of the intended purpose or use. Additionally, signage should be of the smallest and lowest configurations possible and that where possible, signs should be co-located.

Since the Red Clay Valley is a state designated Scenic Byway, off-premises signage, advertising, and billboards are prohibited. Additionally, the UDC further prohibits these signage types if they are visible from the byway and are located within six-hundred and sixty feet of the Byway boundary (Sec. 40.06.070).

Other signs, that are permitted in the byway have restrictions on colors, character and lighting.

Protections

Protected scenic resources require permanent easements. Conservation

easements and historic easements may be used to secure protection of scenic resources. Scenic easements, held by third parties, such as land conservancies may also be permitted.

Alternatives to Standards

In order to provide flexibility, the Overlay District offers several options for alternatives to the standards, most of which are based on merit of the proposal, while others are based on potential hardship if strict conformance to the standards. These alternative approaches include design flexibility, modifications, variances, and exemptions.

Modifications

The Overlay District specifically provides for flexibility in design by allowing modifications to certain standards within the UDC. These include district bulk standards, street design standards, landscaping, improvement standards, and

parking and loading standards. An applicant may take advantage of these flexible standards when designing a project within the byway.

Variances

Variances are approvals of alternative methods, materials or design that are not strictly authorized in the Overlay District. The burden of proof, and the requirement for justification of the variance are the responsibility of the applicant. Depending on the request, approval of a variance may be provided by the Department, the Planning Board or the Board of Adjustment.

Zoning and subdivision variances follow the same requirements as the underlying district as described in the UDC.

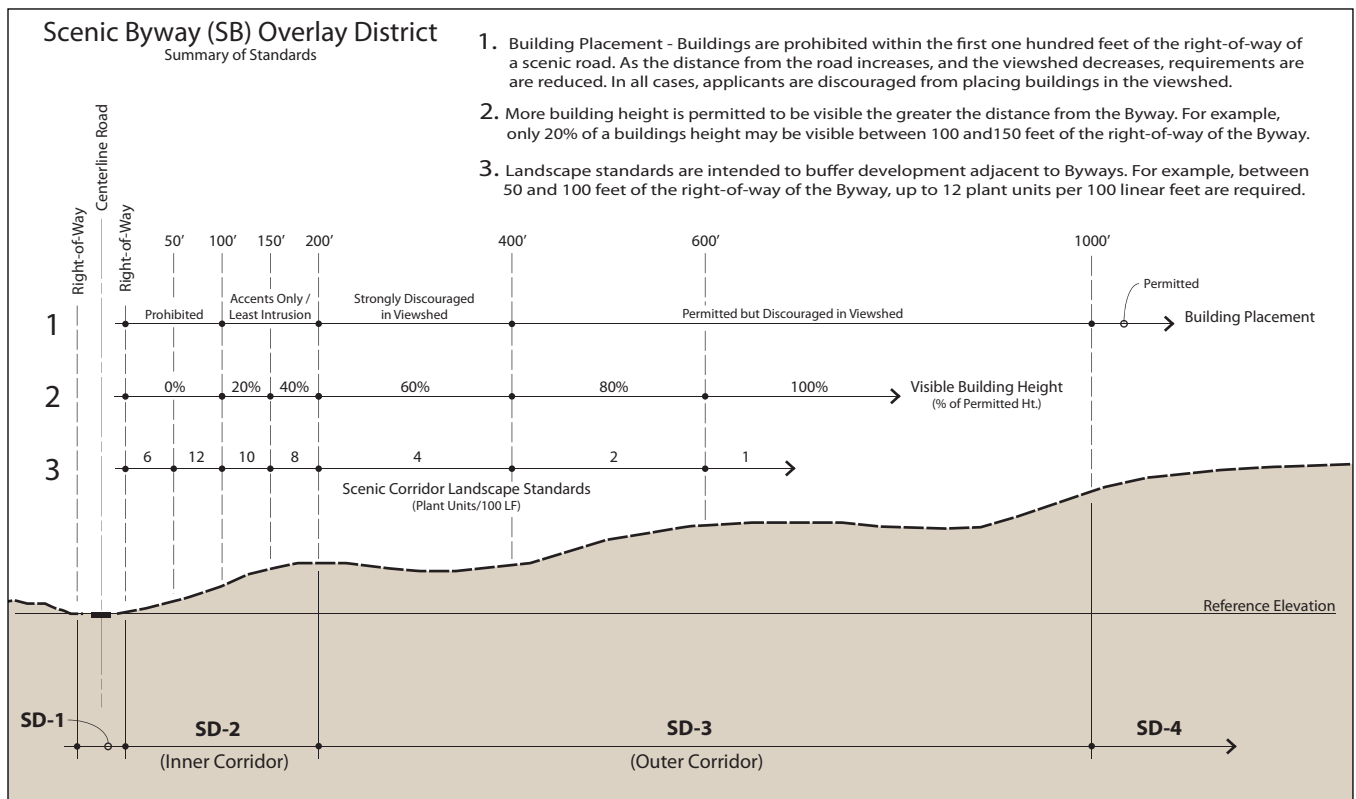
Exemptions

Exemptions are alternatives to strict adherence to the standards of the Overlay District based solely on the merits of the application. The basis of an exemption to a particular standard is whether

the proposal can be classified as an 'enhancement'. Enhancements are generally elements within the scenic viewshed that either protect, preserve, conserve or enhance the visual quality of the viewshed, and thereby promote the purposes and intent of the Overlay District. Determination of eligibility as an enhancement, and exemptions to the standards, is made by the Department, with an opportunity for appeal of any decision to be determined by the Planning Board.

Deprivation Standards

For certain properties, where strict adherence to the standards of the Overlay District would render the property unbuildable, the property may be entitled to an exemption under the UDC provision of Deprivation of Use. These properties would be entitled to not less than one house per parcel, assuming the proposed development can meet all other standards of the UDC. Mitigation of impacts to the viewshed would be required.



The Red Clay Valley Scenic Byway Design Guidelines

The Design Guidelines created for this project give site designers and developers a sense of the Byway and how it came to be regarded so highly by local residents, the County and the State (for example, the State of Delaware approved Scenic Byway status for the Red Clay Valley in 2005). The Guidelines describe the essential attributes of the Byway, the intrinsic qualities that are rare and prized, and the goals and objectives derived to preserve and protect the Byway.

In addition, the Design Guidelines are intended to be an illustrative adjunct to the New Castle County code and the Delaware Department of Transportation's Project Development Process, specific to the Red Clay Valley. They illustrate how to properly plan and design for growth within the Red Clay Valley and how to properly protect and enhance its irreplace-

able intrinsic qualities. The qualitative design measures contained in the Design Guidelines augment the requirements defined in zoning and other development related requirements. Compliance with the Design Guidelines is intended to be mandatory for certain elements of development and voluntary for others. Applicants are instructed to consult the Unified Development Code and the requirements of the Department of Transportation's permitting process for proper application of the Guidelines.

So, while the guidelines describe strategies and tools by which to develop in a manner that respects and preserves the characteristics of the Byway, they also play an important role in guiding developers through the development review process. For example, the guidelines describe the steps necessary to fully utilize the tools described and achieve plan approval in the most efficient manner possible.

The guiding principles for the overlay district, coupled with the guidance found in the CMP and the comments received during the work session process, is summarized into four over-arching design guidelines:

Guideline 1: Protect and preserve the scenic viewsheds of the Byway.

Guideline 2: Maintain the unique character and scenic quality of Byway roads.

Guideline 3: Materials and construction must be consistent with the Byway's character.

Guideline 4: Management and monitoring of the Byway must be ongoing.

The Design Guidelines explain how these guidelines relate to the overlay district, how development can be consistent with these guidelines, and how priorities are made regarding site design and review.



Review and Approval Process

1:

Location & Jurisdiction

Determine if project falls within the boundaries of the Red Clay Valley Scenic Overlay District. The District Map is included on the Zoning Maps found on-line at New Castle County's Geographical Information Systems Map Viewer: http://gis.nccde.org/gis_viewer/
If yes, proceed to Step 2. If no, stop here. The Scenic Overlay District does not apply.

2:

Project Type

--For Major and Minor Land Development or Subdivision Applications, and any Sign Permits, compliance with the Scenic Overlay District is **REQUIRED...proceed to Step 3.**

--For all other applications under the jurisdiction of New Castle County, compliance with the Overlay District is **OPTIONAL or VOLUNTARY.** The owner/applicant may choose to proceed to Step 3.

--For work within the Right-of-Way, or work affecting elements under the jurisdiction of DelDOT and that are not subject to review by New Castle County, compliance with the Scenic Overlay District is **NOT REQUIRED**, however, review and approval of projects of this nature are subject to compliance with DelDOT's Context Sensitive Solutions for Delaware Byways and the general guidance in these Design Guidelines. ...**proceed to Step 4.**

--For all other projects and activities, the Red Clay Valley Scenic Byway Overlay District does not apply.

3:

Project Design

Begin the project design process by mapping existing features and designing in conformance with New Castle County (NCC) standards (including those for the Pre-Application Sketch Plan), the goals and objectives of the Corridor Management Plan, and these Design Guidelines. As a part of the design strategy, demonstrate conformance with the three primary objectives of the Scenic Overlay District. Where full compliance cannot be achieved, provide Avoidance, Minimization and Mitigation strategies consistent with the Byway's goals.

Primary Objectives:

Protect and Enhance Scenic Qualities

Maximize Conservation Design

Provide Context Sensitive Solutions

The Scenic Overlay District requires emphasis on Conservation Design and the protection and enhancement of scenic and natural qualities of the Byway such as scenic road viewsheds, hedge rows, stone walls, etc., see UDC Sec. 40.31.112.C.9. Also refer to the Corridor Management Plan goals, objectives and context sensitive design solutions (Appendix 5) and these Design Guidelines for appropriate protection and conservation design strategies. **Proceed to Step 4.**

4:

Major, Minor & Sign Applications

NCC

Project Applications

DeIDOT

A

Pre-Application Sketch Plan.

All applications requiring Scenic Overlay District compliance, as outlined in Step 2 above, must submit a Pre-Application Sketch Plan. See UDC Appendix 1 for submission requirements. This submission should include a Natural Resources Management Plan and a Site Analysis Plan pursuant to Appendix 1(3)(K) and (L). See UDC Sec. 40.33.300 for definitions and general descriptions of these elements.

B

DRAC Review

As a first step in the Pre-Application Sketch Plan review process, New Castle County will refer the application to the Byway's Development Review Advisory Committee (DRAC)

for review, comment and recommendation. The DRAC has a specified timeframe upon which to act on the application, as specified in the UDC. Upon receiving a recommendation from the DRAC, the New Castle County will process the application.

C

As provided in the UDC, proceed to additional steps in the development review process as required by the application type.

A

Development Coordination.

All applications within the Scenic Overlay District that are within the road right-of-way or affect the scenic roadway system must also be referred to DelDOT for review and permitting. When preparing plans, an applicant is referred to Appendix 5 of the Byway Corridor Management Plan, DelDOT's 'Context Sensitive Solutions for Delaware Byways', these Design Guidelines, and standard DelDOT design criteria.

B

For DelDOT projects, the department will coordinate with New Castle County and may send a review copy to the DRAC for comment.

C

As provided in the DelDOT design manual, proceed to additional steps in the DelDOT development review process.

Figure F-1. This simplified chart provides an overview of the design and approval process.

Step

1

Identify Location.

The first thing to do is to determine whether the property is located within the Red Clay Valley Scenic Overlay District and is thereby subject to the requirements of the Overlay District. Figure F-2 is a general Overlay District map. The official Overlay District is shown on the zoning district maps, located on the New Castle County web site at www.nccde.gov and at the Department of Land Use.

The Overlay District generally includes all the area encompassed by Kennett Pike (DE Rte. 52) to the east, Centre Road (DE Rte. 141) to the south-east, Lancaster Pike (DE Rte. 48) to the south, Loveville Road and most properties that front on Loveville Road on the west, Old Wilmington Road and most properties that front on Old Wilmington Road on the west, Meetinghouse Road and Bengel Road on the north-west, and the Delaware-Pennsylvania state line on the north. The Overlay District includes the perimeter road rights-of-way.

The Overlay District encompasses approximately sixteen square miles. If your property is located within the Overlay District, proceed to Step 2.



Figure F-2. The Red Clay Valley Scenic Overlay District with designated scenic roads highlighted.

Step

2

Identify Project Type.

For road projects and other improvements within the road right-of-way, go to DelDOT's Project Development Process, which provides guidance for projects, including within designated byway corridors. For projects within the Red Clay Valley Scenic Byway, DelDOT's jurisdiction is limited to improvements within the right-of-way, or improvements that may impact the right-of-way. All areas outside DelDOT jurisdiction, but within the Red Clay Valley Scenic Byway Overlay District are under the jurisdiction of New Castle County.

- ☒ **Major**
- ☒ **Minor**
- ☒ **Sign**
- ☐ **Other**

For improvements subject to New Castle County review, the size and type of the project must be determined. If the project is a major or minor development, a major or minor subdivision application, or a sign permit request, it will be subject to the Scenic Overlay District requirements.

Once the project type and jurisdictional review are confirmed, the project can proceed to pre-design mapping and project design outlined in Step 3. If it is determined that an application does not fall under the criteria mentioned above, it is exempt from the requirements of the Overlay District.



Figure F-3. Projects within the right-of-way, or projects that affect the right-of-way will include DelDOT review and approval.



Figure F-4. Projects outside the right-of-way are referred to New Castle County.

Step

3

Project Design

A. Map Existing Conditions.

B. Calculate Minimum Requirements.

C. Map and Calculate the Scenic Overlay District Requirements.

D. Map the Development Envelope.

E. Design per Conservation Design and Context Sensitive Solutions.

Map, analyze, and document the resources, including scenic resources. Document all development constraints, including sub-district boundaries. Then design a plan that protects and enhances the scenic qualities of the property and the byway, maximizes conservation design, and provides details and solutions that are context sensitive. Prepare initial submittal documents based on the standards of the Scenic Overlay District.

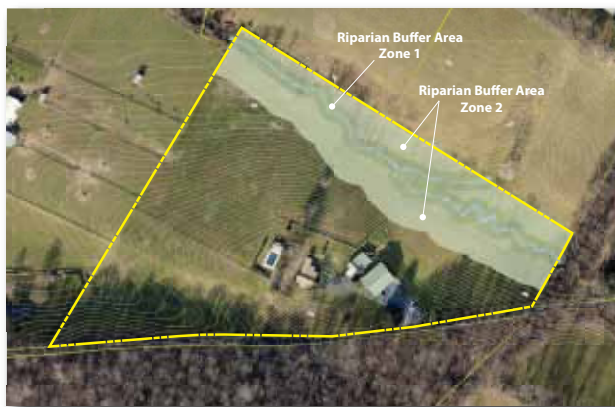


Figure F-5. Base mapping and minimum requirements.

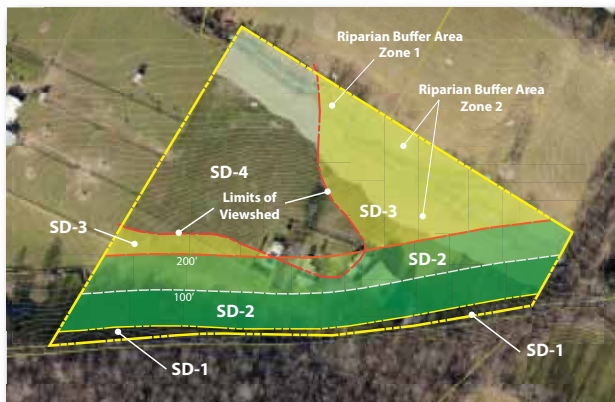


Figure F-6. Base mapping, minimum requirements, and scenic overlay district requirements mapped, establishing the various sub-districts and the development envelope.

A. Prepare Base Mapping

As required for all projects by the Unified Development Code, prepare all base information in conformance with the standards of the UDC. This base information would include, but not necessarily be limited to, topography, property boundary, rights-of-way, easements, existing utilities, rock outcrops, tree lines, waterways, wetlands, etc.

B. Calculate and map base minimum requirements.

Map conservation areas and elements that require protection. This would include floodplains, wetlands, watercourses and their associated riparian buffers, soils, etc. This layer of the map includes those natural elements that will be protected based on regulatory requirements.

C. Calculate and map additional requirements associated with the Overlay District.

These additional elements include scenic viewsheds, vista points, sub-district boundaries, historic sites, archaeological sites, cultural features and natural amenities that are not a part of mapping step 'B' above. Other unique features of the site should also be mapped, such as any existing walking trails, hedgerows, stone walls and remnants of human settlement such as fences, outbuildings, old foundations, etc.

D. Map the development envelope.

Based on mapping steps A, B and C, establish the development envelope. The Overlay District allows for flexibility in house siting subject to the strategies of avoidance, minimization, and mitigation.

Note that if structures are proposed closer than 1,000 feet from the scenic roadway but outside the mapped scenic viewshed, they may still be subject to the requirements of the Overlay District if their height and siting allow them to be visible from the scenic roadway.

E. Conservation Design Process.

After assembling a solid inventory of the site's attributes, constraints, intrinsic qualities, analysis of the information is necessary. First, perform an on-site investigation to verify the mapping and to add other elements identified in the field.

The next step is to prepare a site analysis drawing that establishes preserved areas and development envelopes that are consistent with requirements of the Overlay District and the specific sub-district in which the property is located.

Based on the context sensitive design guidelines and the bulk requirements of the underlying zone, layout a general arrangement of house sites that not only enhance the site's attributes, but also reflect the requirements of the Overlay District.

The yield associated with this layout may be greater than or less than that of a conventional base zone subdivision, depending on the nature of the property.

Once the best arrangement of house sites has been achieved, connect the homes with driveways, streets and pedestrian connections, again in keeping with conservation design principles and the character of the site.

In Figure F-7, the underlying district allows four potential homes with a minimum requirement of five percent open space. However, the siting of the homes violates the Overlay District standards, allowing two homes in close proximity to the scenic roadway.

The alternative design in Figure F-8, honors the general principles of the overlay district by utilizing conservation design principles and providing additional corridor landscaping that enhances the byway experience and helps screen and mitigate new homes that are partially within the viewshed. This plan also has the opportunity to retain approximately two-thirds of the site in permanent open space. In areas some areas, this open space system could be planned in concert with a larger greenways and trails plan.



Figure F-7. Development potential based on the underlying zone.



Figure F-8. Alternative development based on the standards of the Overlay District and conservation design principles.

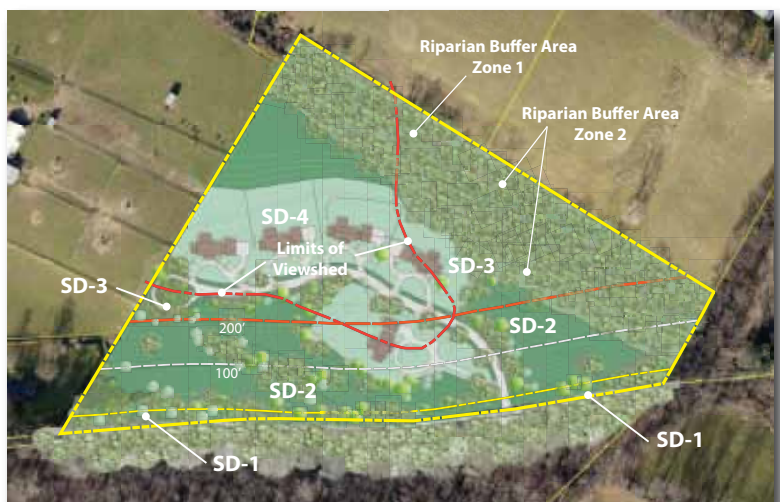


Figure F-9. Overlay District standards overlaid on design.

Project Review

Step

4

4-A. Pre-Application Sketch Plan.

The first step in the review process with New Castle County is the submissions of a Pre-Application Sketch Plan. This plan set will include the base mapping, viewshed mapping, and site analysis that was prepared in Step 3, as well as the project design drawings, primarily the Sketch Plan. The process by which a plan is reviewed and the administrative bodies that are involved is explained in Article 30 of the Unified Development Code. A full list of the required submittal documents can be found in Appendix 1, Section 1-A of the UDC.

These documents include:

1. SLD – 1 form;
2. Site analysis plan pursuant to Appendix 1 (3) (K);
3. One (1) or more concept plans with defined conservation, open space and development areas;
4. All adjacent recorded subdivision and development plans;
5. Sanitary sewer location and all possible tie-ins;
6. All existing adjacent transportation, pedestrian and open space inter-connections;
7. The required review fee, and;
8. All current County taxes, school taxes and sewer service fees must be paid or not delinquent at the time of application.
9. Any and all known restrictions or legal impediments which would interfere with or prevent the implementation of the proposed development.
10. For land development applications that contemplate connection to County sewer, a letter from the Department of Special Services indicating that sewer is or will be available for the proposed development.
11. All other information and items required by Section 40.31.112 of the County Code.

These documents also include all of the supplemental information required for submission in the Scenic Byway Overlay District as described in earlier sections.

Once the application is received by the Department of Land Use, it will be referred to the Design Review Advisory Committee (DRAC) for comment. See the DRAC process (Step 4b) for a detailed explanation of the review process and responsibilities of the DRAC.

After the DRAC responds to the Department, the Applicant will have a Pre-application Sketch Plan review conference with the Department. The purpose of the pre-application sketch plan review conference is to familiarize the applicant with principles of conservation design, departmental concerns and with the applicable provisions of this Chapter, especially the Scenic Byway Overlay District, as well as to permit the Department to assess the proposal and to identify

any service problems or concerns in conjunction with the applicant's objectives.

The Department shall use this step to also identify conservation, open space and development areas. Site design and management practices shall also be examined to determine how minimal disturbance can be achieved while maintaining a high standard of community design. Discussion points will include:

1. Greenway linkages on- and off-site (trails, biodiversity corridors, habitat areas, etc.);
2. Interconnectivity issues (pedestrian, vehicular, mass transit, etc.) and access issues;
3. Open space linkages (parks, public and private open space and conservation areas);
4. Article 10 resource protection areas;
5. On-site, of regional scope (extending off-site), fully protected vs. partially protected resources;
6. Soil associations;
7. Farmland concentrations (agricultural districts, preservation easement purchases);
8. Existence and location of historic and cultural resources;
9. Scenic viewsheds or vistas into or out of the site and visual accents and vista points pursuant to County Scenic River and Highway Studies;
10. Natural drainage patterns (pre-development), boundaries and discharged points based on characteristics such as soils, topography, vegetation and other local watershed issues, and;
11. Development options given zoning district and resource protection objectives.

If the proposed project is a major application, it will also be referred the State of Delaware Preliminary Land Use Service (PLUS).

As described in the DRAC process, a public meeting is held with the DRAC, which is an opportunity for input from community members.

An applicant has six months from the time of Sketch Plan review to submit an Exploratory Plan.

4-B. Design Review Advisory Committee

Adoption of the Scenic Byway Overlay District includes the designation of a Design Review Advisory Committee, or DRAC, for the Byway. The DRAC has been modeled after the Hometown Overlay District DRACs. The specifics of the DRAC, and its responsibilities, are listed in Chapter 30 of the UDC and summarized below.

The Red Clay Valley Scenic Byway DRAC is responsible for reviewing proposals within the Byway and providing recommendations to the Department of Land Use, the Planning Board, and/or County Council, as the code authorizes, or as directed by the County Council or the County Executive.



A DRAC shall be established for each Scenic Byway Overlay District. The Department shall be the professional staff for each Committee. The duties of each Committee shall be:

1. The Committee shall review plans for major and minor land development applications and sign permits for compliance with the Corridor Management Plan and/or Design Guidelines manual and make recommendations to the Department.
2. The Committee shall review the community standards and make recommendations for revisions and updates to the Corridor Management Plan and/or Design Guidelines manual.
3. Any other purpose provided in county code.

The Committee shall adopt bylaws and rules in accordance with Article 30. Each Committee shall comply with the following:

1. All public meetings shall be open to the public.
2. A majority of the Committees' members shall constitute a quorum necessary to take action and transact business. All actions shall require a simple majority of the quorum.
3. In the event that any member is no longer a resident of the County; is convicted of a felony or an offense involving moral turpitude; violates rules of the board; fails to attend any three consecutive, regularly scheduled meetings except where such absence is deemed by the chairman to be due to illness, incapacity, or a family crises; or, has three unexcused absences in one year, that member shall forfeit his/her membership on such committee. "Regularly scheduled meeting" shall mean a meeting at which a committee member is expected to be present. The chairman of each committee shall forward a letter to the County Executive stating that a vacancy exists on the board and the name of the member who held the forfeited position. The County Executive shall terminate the appointment of such person with the consent of the County Council.

The District Council person(s), in whose councilmanic district a Scenic Byway Overlay District is found, shall make recommendations to the County Executive who shall appoint members subject to County Council consent. The County Executive shall appoint members subject to the following guidelines:

1. The minimum number of members shall be five and the maximum number shall be nine. The chairperson shall be appointed and serve at the pleasure of the County Executive. The Vice-chairperson is appointed by the Chairperson. The Chairperson shall be in charge of all proceedings, and take such action as necessary to preserve order and integrity of all proceedings.
2. Each Scenic Byway Overlay District committee shall, with the exception of the chairperson, be comprised of business, homeowner, and community organization interests, except that at least one registered landscape architect or one expert in scenic byways/viewshed protection who resides outside of the district may be appointed to the committee.
3. Each committee member shall be appointed for a term of three years. Initial appointments shall be staggered as one, two and three year appointments, with each subsequent appointment to be three years. An individual may serve until replaced and may be reappointed any number of times.

The following procedures apply to land development review by the DRAC.

1. Any proposed major or minor land development application within a Scenic Byway Overlay District shall follow the procedures of Article 31 with the addition of a review by the Design Review Advisory Committee (DRAC). The Department shall review all other land use applications located within any Scenic Byway Overlay. The Department may refer an application to the DRAC for their recommendation if the Department determines that the proposed activity is not consistent

with the Community Corridor Management Plan and/or Design Guidelines Manual.

2. Upon submission of an application, the Department shall notify the appropriate DRAC of the application and schedule a public meeting for the next regularly scheduled monthly meeting in compliance with legal notice requirements. Both the applicant and the Department shall be responsible for public notification in accordance with Section 40.31.340.
3. The Department shall prepare a preliminary report for the DRAC prior to the public meeting. The Department's preliminary report shall include a discussion of the appropriateness of the application in relation to the Corridor Management Plan and/or Design Guidelines manual and the UDC.
4. A public meeting for review of the application shall be held by the DRAC and the Department. The applicant shall be present to provide a brief description of the project and answer questions by the Committee and those in attendance. Based upon its public review, the DRAC shall provide a written recommendation to the Department within ten days of the public meeting. If the DRAC fails to submit a recommendation within those ten days, the Department shall proceed with its review of the application.
5. The DRAC's written recommendation shall advise the Department of the project's conformance with the goals, objectives and standards of the Corridor Management Plan and/or Design Guidelines manual.
6. The Committee may make suggestions or recommendations for desired revisions to further enhance the project or to correct deficiencies.
7. Upon receipt of the DRAC recommendation, the Department shall issue a final report to the applicant. In doing so, the Department shall give due consideration to the public meeting comments and DRAC recommendation in determining conformance with the Corridor Management Plan and/or Design Guidelines manual. A revised exploratory plan or land development application may be required to incorporate the proposed changes identified in the final report. Architectural details, elevations and other design-related elements shall be shown on a landscape plan or on a separate plan. The Department will subsequently respond to the applicant as part of its review in accordance with this Code.
8. Dimensional standards varied by this process and other Corridor Management Plan and/or Design Guideline manual elements shall be noted and depicted on all subsequent plan and/or application submissions.
9. The Department may refuse acceptance of plans that are in substantial noncompliance with the UDC, the Corridor Management Plan and/or Design Guidelines manual and may require subsequent reviews by the DRAC upon submission of revised plans.
10. In the event that an applicant submits supplemental materials to the Department to contradict a recommendation from the DRAC, an additional DRAC meeting, following the notification process outlined in Section 40.26.460 B., shall may be required to provide an opportunity for the DRAC to revisit its prior recommendation in light of any new materials including, but not limited to, all supplemental materials received by the Department from the applicant and the Department's official position. The DRAC shall then have ten days from the date of the public meeting to provide a supplemental recommendation to the Department. If the DRAC fails to submit a supplemental recommendation within those ten days, the Department shall proceed with its review of the application.

4-C. Exploratory Plan Process.

An exploratory plan review is required for all land development plans, including those proposals for which a rezoning is sought. A hearing is not required for minor plans and sign permits, however, the DRAC review serves as a public meeting allowing public input.

Step

4c

For all major plans and rezonings, the Department initial report and PLUS report is required prior to Planning Board public hearing. The County Council makes final decisions on all rezoning applications.

An applicant has thirty-six months from the date of the exploratory plan initial report in order to submit a Record Plan, the final stage in the review process. The exploratory plan and record plan review stages are more fully explained in Sec. 40.31.113.

There are several nuances in the UDC depending on the type of application being submitted. The reader is referred to the UDC for a more complete explanation of the different permits, review standards and processes. The Department of Land Use is available for information and explanations of the code at (302) 395-5555 for general questions and (302) 395-5400 for questions relating to planning and permitting.

Considerations for the Future

While this effort addressed a significant number of the regulatory and design recommendations of the CMP, several issues arose that could not be addressed within the context of this project. As such, it is recommended that the County consider further evaluation of the following issues in the months ahead:

1) The future of Yorklyn. Although Yorklyn is not formally recognized as a village (nor does a village overlay of any type exist in the area), it nevertheless possess several of the attributes of villages and hamlets, including a historic pattern of development comprised of dense residential, commercial and industrial land use in close proximity to water (the Red Clay Creek). Residential, industrial, office and commercial zoning exist in the area and flooding has been an issue of some importance. Furthermore, efforts by the State of Delaware to develop park land in and around Yorklyn have been unfolding over several years. Given the issues here, we believe it would be prudent for the County to consider the future of this area as part of a comprehensive planning and zoning strategy (e.g., a possible village study to determine the best planning and regulatory approach given the Byway, the Red Clay Creek and new state parkland).

2) The Wilmington and Western Railroad. This project did not assess or attempt to regulate scenic vistas along the railroad corridor because it is not part of the designated Byway. Nevertheless, as a recreational railway, consideration should be given to preserving the scenic vistas along the railroad corridor over time.

3) Transfer of Development Rights provisions of Article 7 of the UDC. One of the challenges in the Byway is limiting development impacts in a meaningful way by providing tools that offset the loss of value for property owners. No one tool can do it all and success will be measured in large part by property owners' ability to use a variety of tools to meet their needs.

TDR can be a valuable tool to landowners but its viability in New Castle County will depend on the County's willingness to consider the following issues:

- Permitting transfers from a scenic byway overlay district to another planning district (districts beyond the planning district within which the Byway exists). Current standards limit transfers to within the same planning district; this restriction limits the potential for transfers and reduces the effectiveness of TDR; and
- Providing meaningful incentives that permit higher levels of density in receiving areas (those areas where development is to be concentrated) in order to achieve real scenic vista protection. Current standards, as reflected in Table 40.07.221, may need to be re-evaluated if current incentives are not working.

4) Development Review Advisory Committee (DRAC) vs. Scenic Roads Commission (SRC). As currently envisioned, the DRAC provides project review and comment prior to project submission in the standard development review process. In addition, refinements to the project design may be required as a result of the DRAC review and the DRAC may recommend expedited review for projects that represent best practices and outstanding design in concert with the Overlay District.

During the advisory and public processes consideration was given to creating an appointed Scenic Roads Commission, tasked with the responsibilities allotted to the DRAC but expanding such responsibilities and authority as appropriated by County Council to include a range of other activities, including but not limited to the following:

- Providing limited review authority for certain size projects that includes design review and permitting (this could involve review and approval of homeowner projects currently reviewed and approved by the licensing department, review and approval of minor plans, review and approval of major plans in the byway, or some combination thereof);

- Undertaking education and outreach activities to promote byways and protect their intrinsic qualities;
- Funding improvements in the byways;
- Developing maintenance programs to improve roadside vegetation and eliminate invasives (among other things);
- Updating planning for byways (including contributions to the County comprehensive plan and periodic updates to corridor management plans);
- Undertaking multimodal transportation planning for byways (such as the creation of pedestrian trails to enhance byways);
- Coordinating with Delaware State Parks on state efforts to create and maintain the state park system; and
- Serving as a liaison to the public on byway activities (potentially sharing this role with organizations such as the Red Clay Valley Scenic Byway Alliance).

Creation of such an entity by County Council would relieve some of the burden on local byway groups, but would also necessitate careful coordination with such groups in a cooperative fashion. Although providing a line item in the County budget is not absolutely necessary, doing so would assist the Commission in undertaking its responsibilities. The availability of County staff to assist the Commission on an as-needed basis would largely limit funding needs to capital projects or grants within identified byways.

5) Expanding the Byway District. At the final public workshop, several participants questioned why the Byway does not include some of the roads in the southern portion of the watershed. While the original Byway included only contiguous road corridors, as originally requested by DelDOT, there was general consensus that future CMP updates should reexamine the Byway boundaries and assess whether other roads in the watershed warrant inclusion in the Byway. Alternatively, the community may wish to pursue the creation of a southern Red Clay byway.

Consensus Building

Introduction: The Public Involvement Process

From the start, a strong public involvement process was envisioned for this project. In fact, it was anticipated that an engaged public and stakeholders would essentially “steer” the process. Early meetings and workshops allowed for general discussion on approach and intent (likes, dislikes, special places, hopes, fears, and preference), as well as a discussion of the history of the Byway and where we are today. Discussions were conversational and educational. Visual examples were presented and case studies examined, and discussions were held about best practices from around the country. The subsequent outcome of the stakeholder involvement process was the establishment of a Menu of Strategies and a prioritization of strategies for County action.

Advisory Committee

The Advisory Committee provided guidance to the consultant team and representative government and non-profit agencies in the development of the Menu of Strategies and helped determine the scope and content of the public workshops held to steer the project. The Committee is an outgrowth of the Red Clay Valley Scenic Byway Alliance, the management entity for the Byway made up of local non-profits, byway residents, and agency representatives.

The Advisory Committee met three times during the development of the project (see Appendix 3 for copies of the Meeting Notes for these meetings).

It should be noted that project coordination and scheduling were undertaken

by a core group of Advisory Committee members, referred to as the Project Partners. This group was made up of WIL-MAPCO, New Castle County, DelDOT, the Delaware Nature Society (coordinating agency for the Red Clay Valley Scenic Byway Alliance), and the project consulting team. The Project Partners were responsible for scheduling meetings, determining product submissions dates, and coordinating overall tasks pursuant to the scope of work. As with the Advisory Committee, this group also met a total of three times during the project.

Public Workshops

Public Workshops, as much as any formal process undertaken for the project, informed and guided the process towards meaningful standards and guidelines. In all, three public workshops were held to introduce the concept of scenic preservation, assess the public desire for such protection, receive significant feedback on techniques available (and suggested) to achieve such protection, and present the final products that were created for this project to the public. The workshops were participatory, that is, those in attendance “inventoried” what they thought was important to preserve, assessed the techniques for doing so, and drew conclusions regarding the best techniques by which to achieve stated goals while recognizing the importance of maintaining private property rights. Those in attendance broke into small discussion groups and used maps, site plans and other decision-making tools to examine

and weigh preservation tools and draw conclusions about “best practices” for achieving preservation. Each group then presented its findings to the overall audience, allowing for further discussion, questions and answers.

For a full description of the Public Workshop proceedings, please see Appendix 4.

Additional Efforts by New Castle County

Following publication of the project report, design standards and design guidelines, the New Castle County Department of Land Use intends to seek additional feedback from County Council in anticipation of formal introduction of the design standards (and guidelines) for Council Action. Consistent with this approach will be a formal public hearing as part of the adoption process. This report is partially intended for the Council and public to better understand the genesis of this project and the objectives of the design standards and design guidelines.



Summary of Community Input

In the first public workshop held February 12, 2015, participants were asked to brainstorm amongst themselves the following questions:

1. *Where are the special places (in the watershed/byway)?*
2. *What are your hopes and fears?*
3. *What is appropriate for this place?*

Among the special places identified in the Byway were the following:

- Hoopes Reservoir;
- 2 covered bridges (both national register – 2 of 3 in state);
- Old stone walls/fences;
- Open farm vistas ('19th century farms);
- Views from roads to ridgelines;
- Ashland Road and Coverdale Farm;
- Wilmington-Western Railroad watershed protection (views from train as well as of train);
- Kiamensic Mill race (historic resource outside Byway);
- Greenbank Mill (part of historic Marshallton Plan and historic resource outside Byway);
- Brandywine Springs Amusement Park (historic resource outside Byway);
- Creek Road vistas along Red Clay Creek;
- Hoopes Reservoir vistas;
- Birding areas;
- Mt Cuba Center;
- Auburn Heights State Lands;
- Overlook Farm;
- NVF;
- Coverdale Farm;
- Scenic vista driving over the reservoir;
- Valley Garden Park;
- Auburn Mill trails;
- Mason Dixon marker(s);

- Beautiful vistas – fields and forests;
- Red Clay Creek;
- Route 82;
- Yorklyn Post Office;
- Brandywine Springs Park;
- Mills in Yorklyn;
- Creative Arts Center;
- DNS;
- Vic Mead.

Overall hopes for the Byway included:

- Stabilize the streambank to protect roads/property;
- Connect developments with walkways (off DE 48) and create walkways in the Valley;
- Align walkways with State Park planned trails; Consider traffic calming along Brackenville Road;
- Provide public access to Hoopes Reservoir;
- Provide a pull off at Hoopes Reservoir;
- Re-open a trail around the reservoir (need greater recreational opportunities);
- Desire to see off-road pathways for bikes and walkers;
- Seek more conservation easements (DNS expansion);
- Keep natural buffers and hide development;
- Set development back from roads – aesthetics, privacy, preserve vistas;
- Establish a Wilmington and Western commuter line;
- Encourage traffic calming and limiting traffic flow (add more stone walls);
- Repurpose NVF and Snuff Mill;
- Retain the wall on Old Kennett Road;
- Eliminate “New Jersey Barrier” bridges on Old Kennett Road;
- Develop a Red Clay Scenic Greenway;
- Improve bridges in Yorklyn.



Concerns (fears) largely reflect a fear of inappropriate change and inconsiderate development taking place in the Byway and included:

- Tree cutting/ forest removal; Loss of irreplaceable trees for road widening;
- Mt. Cuba road drainage;
- Lack of coordination (MOU w/ DelDOT: notification & discussion/ coordination, example: 300 ft. tree at Foxhall Road cut down);
- Non-contextual subdivision of land;
- Changes to roadway character;
- Burden on infrastructure (roads and septic) with additional density;
- Environmental issues at former Hercules site;
- Water quality of Red Clay Creek and Hoopes Reservoir;
- Concern for unprotected parcels, both large and small;
- Loss of historic structures - example: carriage house on Hercules Road;
- Homes on hills disturbing natural vistas;
- Excessive signage;
- Roads becoming a “thruway” from Rt. 202 to western suburbs;
- Flooding;
- Future development;
- Poor water quality due to fertilizer runoff and industrial contamination;
- Industrial look on Yorklyn Road in Yorklyn;
- Barley Mill road concerns;

- Blind hill on Way Road;
- Limited term conservation easements.

What's appropriate for the Byway included the following:

- New development that protects views;
- Architecture that blends with the landscape;
- Use of natural materials in building construction that "blend" (wood, stone, cedar shake);
- Height restrictions;
- Expanded habitat;
- Natural landscape using native plant species - "working with the landscape" – trees, grading, views, etc.;
- Restoration and repurposing of NVF;
- Natural buffers that hide development;
- Development set back from roads – aesthetics, privacy, preserve vistas;
- Traffic calming and limiting traffic flow;
- Connecting developments with walkways.

What is important to recognize is that while a majority of the hopes, fears, special places and "what's appropriate" are identified in the Corridor Management Plan, public sentiment has not changed in the eight years since the plan was completed.

The second public workshop, held May 18, 2015, asked attendees to examine a sample development parcel (hypothetical parcel not actually in the Byway), select site features that deserve protection, decide the most appropriate place for development, and select the tools that both protect the important resources of the site and permit some level of development. Attendees were asked to discuss the most appropriate tools to protect the intrinsic qualities of the Byway, how and where such tools were to be used, and

the level of control needed to accomplish preservation goals.

Resources attendees believed deserved some level of protection included:

- Stream, floodplain, and wetlands;
- Critical Natural Areas;
- Byway viewsheds (immediate foreground – up to 250 feet from the roadway);
- Ridgelines;
- Historic structures;
- Natural Resources identified in the UDC

As concluded by attendees, the most appropriate tools by which to develop would include:

- Ridgeline protection techniques;
- Cluster development buffered by trees;
- Context sensitive design (including application to development entrance road);
- Some level of permanent protection (eased open space, protective/restrictive easements - scenic views, historic settings)
- Multi-point vista control (given the vista points along the scenic road);
- 100 foot forest buffer;
- Architectural design standards;
- Minimum buffer and distance (set-back) requirements from road;
- View protection linked w/ environmental protection (stream, wood-

lands, and CNA);

- View protection linked with historic resources (historic setting);
- Context sensitive road design standards (entrance road and Byway);

What is important to note from this meeting is that attendees felt strongly that some level of development should be permitted, but that such development be done in a manner respectful of the intrinsic qualities of the Byway. Levels of control attendees felt warranted ranged from full preservation (some features deserve mandatory protection) to conservation design (development design respectful of resources).

The third public workshop, held June 16, 2016, allowed attendees to examine mapping and exhibits germane to the design guidelines and overlay district. After brief descriptions, attendees were able to discuss the proposed overlay district and design guidelines with the consultant team. In general, all those in attendance supported the approach taken. Additional questions generally focused on next steps, which as described involved finalizing the district standards and design guidelines, completing the final report, and submitting all materials to the County for further action. The County may make additional changes in-house, after which it intends to seek County Council support for adoption.



Appendices

- 1) Project Advisory Committee
- 2) Summary of Best Practices Matrix
- 3) Advisory Committee Meeting Notes
- 4) Public Workshop Meeting Notes
- 5) Reference Documents
- 6) Glossary of Terms

Appendix 1

Red Clay Valley Scenic Byway Advisory Committee

The Advisory Committee includes members of the Red Clay Valley Scenic Byway Alliance (the management entity for the Byway, of which the Delaware Nature Society is chair), public officials, agency representatives and others from the broader public. The following individuals donated their time and expertise as members of the Advisory Committee.

Robert Weiner, New Castle County
Councilman and Council Liaison

William Bizjak, Red Clay Valley Scenic
Byway Alliance

James Jordan, Red Clay Valley Association & Byway Alliance

Lisa Pertzoff, Red Clay Valley Scenic
Byway Alliance

Sarah Stevenson, Mount Cuba Center &
Byway Alliance

Jeff Greene, Delaware Greenways

Charles Stirk, Civic League of New
Castle County

Gary Burcham, Red Clay Valley Scenic
Byway Alliance

John Iwasyk, Historic Red Clay & By-
way Alliance

Appendix 2

Summary of Best Practices Matrix

	Modify UDC	Add To UDC
1. Preserving Scenic Viewsheds		
a. Multi-point vista controls		X
b. Minimum buffer and distance (setback) requirements		X
2. Regulating Scenic Roadways		
a. Design Review Advisory Committee (DRAC)		X
b. Context sensitive road design standards		X
c. Context sensitive design for non-road infrastructure		X
d. Context sensitive design relative to landscaping		X
3. Linked View Preservation		
a. View protection linked with environmental protection		X
i. Specified and approved plant lists	X	
ii. Streams, waterbodies and associated riparian buffers	X	
b. View protection linked with signage/billboard regulations	X	
i. Sign and billboard restrictions	X	
ii. Size, type and quantity restrictions		X
4. Implementation		
a. Overlay Zoning		X
b. Conservation design standards	X	
c. Protective/Restrictive Easements		X
i. Scenic viewshed protective easements		X
ii. Historic easements for environmental / landscape settings		X
d. Planning, review, monitoring, and management protocols	X	

BEST PRACTICES NOT RETAINED IN OVERLAY RECOMMENDATIONS

Measure	Notes
Transfer / Purchase of Development Rights Program	Limited "sending area" within byway
General (open space) protection goals	Voluntary/nonprofit education programs
Historic environmental settings	Addressed through other measures
Establish historic roads classification	Addressed through other
Protection of features that contribute to rural character	Voluntary/nonprofit education programs
Greenway and connected open space planning	Address through other planning programs
Protections against negative or intrusive views	Addressed through other measures
Minimum open space ratios	Addressed through other zoning measures
Open space design standards	Voluntary/nonprofit education programs
Increase 'green' in existing developments	Voluntary/nonprofit education programs
Landscape management	Voluntary/nonprofit education programs

Appendix 3

Advisory Committee Meeting Notes

**Red Clay Valley Scenic Byway Design Standards Overlay
Advisory Committee Meeting #1
Tuesday, February 10, 2015, 1 p.m., Ashland Nature Center**

MEETING NOTES

1) Introductions

Fifteen individuals representing the Advisory Committee and the Red Clay Valley Scenic Byway Alliance attended the meeting (list of attendees shown at the bottom).

2) Brief project overview

Heather Dunigan (WILMAPCO project manager) gave a brief introduction to the project and introduced John Gaadt (lead consultant) and David Ager (landscape architect/planner). Mr. Gaadt and Mr. Ager ran through a PowerPoint (PP) presentation which outlined the history of the Byway, described the intent and purpose of the project, discussed their evaluation of the County's Unified Development Code (UDC) and the Byway's Corridor Management Plan (CMP), and outlined examples of design standards elsewhere in the country. In general, the PP was well received although the group concluded that the content was too detailed for use as a presentation at the first Public Meeting to be held February 12.

Mr. Gaadt and Mr. Ager agreed to modify the presentation for the purposes of the public meeting, as well as address formatting and design issues. Further discussion follows.

3) Review of the Unified Development Code (UDC):

Has the UDC addressed the recommendations of the Corridor Management Plan (CMP)?

Mr. Gaadt and Mr. Ager identified planning activity at the state, county and local levels and concluded that the UDC does not adequately reflect the planning objectives of the CMP, the County Comprehensive Plan or state planning objectives. The UDC provides no rural zoning opportunities nor does it incentivize such options, yet planning at all levels identifies the Red Clay Valley as a rural area. While no opportunities for sewer currently exist (thus limited some development potential), the entire area is primarily zoned for 2-acre large lot suburban development. Such a development pattern will not ultimately protect the intrinsic qualities of the Byway.

Comments from those in attendance included:

- Need to include rural district in the UDC (doesn't currently exist)
- Rural standards don't exist or not incentivized
- Resource protection is limited in the byway
- 2 + acre zoning does not protect the area from development
- Comprehensive Plan limits sewer
- "Suburban estate" zoning which doesn't adequately protect rural areas – byway is designated in the Comp plan, CMP, and state zoning as a rural area
- Need to add scenic protection in the UDC

Mr. Ager and Mr. Gaadt asked that everyone keep in mind that the guiding principle of the CMP is to protect and enhance the intrinsic qualities of the Byway.

4) Investigation of Best Management Practices

Mr. Ager highlighted some of the examples of BMPs the consultant team has evaluated to date. Many more examples exist and he and Mr. Gaadt will be evaluating other approaches throughout the life of the project.

Two of the examples discussed were of a Transfer of Development Rights (TDR) program in Gaithersburg, MD and a corridor entry and frontage protection strategy in Park City UT. TDR has been shown to be very effective in some parts of the country, allowing for the transfer of development rights from “preservation” areas to “development” areas. Corridor protection programs, such as in Park City, provide protection in critical viewsheds (within 300 feet of the corridor), and allow varying levels of development the further away from the corridor.

It was stated that an objective of this project is to develop a Menu of Strategies for achieving the vision, mission, goals and objectives of the CMP.

One significant question is whether the steering committee (and public) should push for a change of the zoning in the UDC and/or whether this effort will confine itself to the development of an overlay that will incentivize protection.

5) Public Outreach

Goal: To give the public access to the planning effort and the opportunity to comment on implementation strategies

For the first public meeting, a short presentation with photos/graphics will be used to:

- Give a brief history and background of the Byway (5 minutes)
- Define the project and identify the goal/purpose (5 minutes)
- Discuss issues at stake and representative tools to address issues (10 minutes)
- Break into groups & discuss “what is appropriate for this place” – hopes, fears, favorite things - present each groups findings
- Use this meeting to inform investigation of strategies

Additional discussion centered on the desire to adequately involve the public. Consideration was given to the idea that a second public meeting be held partway through the process to discuss the menu of strategies using a design charrette approach; images and other components of a “visual preference survey” could be used to explain and rank the various strategies available.

6) General Discussion

- Always state the purpose/goal very clearly
- Get adequate feedback from the public – need to be educated and need to know what the options are
- Clearly define the options, explain zoning differences, TDRs, etc.
- Use photos to show the different methods and successes
- Photos/maps/graphics to clearly show the threats – if all land was built out according to the present zoning
- Explain the barriers or downsides of each option (including unintended consequences)
- An approach is needed that can be politically supported and implemented
- Downzoning is a hot button
- Need is urgent but project needs to be well thought out
- A public duty is to protect and pass on to future generations the intrinsic values of the byway
- Keep first meeting general not too many details and explanation
- Make sure the public understands that they are full participants in the process

Advisory Committee Meeting Attendance:

Ginger North, Gary Burcham, Bob Weiner, Ann Gravatt, Lisa Pertzoff, William Bizjak, Valerie Cesna, Stuart Sirota, Randi Novakoff, Heather Dunigan, David Ager, John Gaadt, Jeff Greene, Charles Stirk, Jim Jordan

**Red Clay Valley Scenic Byway Design Standards Overlay
Advisory Committee Meeting #2
Thursday, April 23, 2015, 9:30 a.m., Ashland Nature Center**

MEETING NOTES

1) Introductions

Thirteen individuals representing the Advisory Committee and the Red Clay Valley Scenic Byway Alliance attended the meeting (list of attendees shown at the bottom).

2) Review of February 12 Public Workshop

Mr. Gaadt gave a brief synopsis of the Public Workshop, in particular the roundtable discussion that posed the following questions: where are the special places in the Byway; what are your hope and fears for the Byway; and, what is appropriate for the place (Byway).

It was acknowledged that although many special places exist, such as Hoopes Reservoir, Mt. Cuba Center and Ashland Nature Center, the unique features of the Byway also stand out; included among these are the covered bridges, stone walls, historic fences, rock outcrops and open vistas that contribute to the visual quality of the Byway.

Further, when asked what is appropriate for the Byway, respondents confirmed the findings of the Corridor Management Plan (CMP) and the need for voluntary and regulatory tools that protect the Byway. This consistency, among other things, helps validate the need for action.

3) Presentation and Discussion of Best Management Practices

Based on the guiding principle of the CMP to protect and enhance the intrinsic qualities of the Byway, Mr. Ager identified planning activity at the federal, state, county and local levels throughout the nation that address the protection of scenic byways and intrinsic qualities. This ‘Summary of Best Practices Research’ is contained in a Memorandum dated April 21, 2015 and Mr. Ager gave an overview of the research conducted and the project team’s focus on ‘view protection’ as the vehicle to protect scenic, natural and historic intrinsic qualities. Among other things, Mr. Ager described several approaches to view protection and gave concrete examples (with illustrative graphics) of tools used in other jurisdictions.

Mr. Ager’s presentation, as intended, led to a lively discussion of tools and preservation strategies appropriate for the Byway and watershed. Some spoke to the need to “recognize what could have been”, while others spoke to the need for predictability and certainty in the development process. Some spoke to the need for ‘incentives’ to do the right thing, such as increased density when buffering development or preserving vast amounts of open land, while others spoke to the need for a ‘scenic commission’ to provide a review role during development.

Additional comments from those in attendance included:

- Concepts should be implementable and monitored, and must be able to translate into legally defensible legislation.
- Hometown Overlay Districts and Design Review Committees provide an existing model that has been used in New Castle County.
- Need to include rural district in the UDC (doesn’t currently exist)
- Interest in incentives to protect the Byway
- Need for visual buffers and setbacks
- Desire for clustering development in the Byway (2 + acre zoning does not protect the area from development); some suggested ‘by-right’ cluster to incentive its use.
- Good development will only happen with the use of ‘carrots and sticks’ (incentives and regulations)
- Preservation involves not just views from the road but views to the road and beyond (visual approach to development that recognizes views from the outside in, but also from other locations – Ashland Nature Center, etc.)

- Design guidelines will be needed for DelDOT and NCC (with a possible MOU between NCC and DelDOT to adhere to the guidelines)
- Proactive developer / community coordination is needed.
- The Red Clay Valley Scenic Alliance already exists and can serve as the community organization who does early review.
- New Castle County web site provides extensive information regarding all proposed land use activity and can be monitored by the Alliance.
- Additional community feedback will shape the recommendations to balance degree of scenic protection vs. property rights.

Many of those in attendance were interested in the approach Mr. Ager and Mr. Gaadt recommend. Based on the April 21 Memo, Mr. Gaadt suggested the following basic framework for moving the discussion forward:

- Follow the guidance of the CMP, making scenic protection a primary goal, with natural protection as a secondary goal. Use the existing historic ordinance to provide protections for cultural, historic and archeological sites or incorporate the ‘scenic’ component of the cultural landscape/historic setting into the overall scenic protection standards.
- For scenic protection, assume the vista and view accent points along the roadways as identified in the CMP.
- Provide the highest level of scrutiny and preservation closest to the roads themselves. Have a more lenient approach as development occurs further from the road and no additional restrictions where development would not be visible from the road.
- Overlay this primary strategy with a secondary strategy of natural area protection. Use the existing UDC structure but provide guidance (perhaps in the form of an overlay zone) for more stringent regulations, if they protect and/or enhance the scenic quality of the byway and are linked to legally defensible and objective metrics (examples: watershed (environmental) protection/stream protection, soils, setbacks, rock outcrops, tree cover, etc.).
- Consider a trail, greenway or organizational open space approach to see if the protected lands can be linked in some fashion.
- Provide a zoning framework that rewards good development and limits negative visual intrusions.
- Provide a review authority that has expertise in scenic protection. (i.e.: administration by a well-qualified board supported by adequate staff and resources, especially if detailed design review is to take place).
- As expressed in the CMP, promote and support all non-regulatory approaches for scenic protection in parallel to, and in concert with, the new regulatory framework.
- Supplement the new code written design standards with visual aids and guidebooks to make clear what the community desires, thus reducing uncertainty for prospective developers.

4) May 18 Public Workshop

Mr. Gaadt discussed the framework for the May 18 meeting, suggesting that participants in roundtable discussions evaluate resources/conditions on a hypothetical tract of land, select strategies/tools that are available to protect resources but permit appropriate development, and evaluate the effectiveness of the tools selected. With this in mind, Mr. Gaadt asked attendees to review and comment on the roundtable options contained in a handout.

Of the three options presented, attendees suggested the use of two of the alternatives: selecting appropriate tools for use on a hypothetical tract of land and using illustrative examples to explain different tools (showing houses in different settings - different setbacks, sited on hills, sited below viewshed, buffered views, etc.). Techniques should be illustrated through the use of displays to enhance participant understanding of the tools. Following the roundtable exercise, participants will use a sticker survey to vote for those techniques thought to be the most effective. In addition, attendees would be asked to determine whether the development they would permit is being restricted by the tool, is not being restricted, is resulting in compromises to the protection of intrinsic qualities, or whether the tool selected results in over restriction. It was stressed that the public needs to understand how the tools/practices work so that they can determine the best approach to using the tools.

Advisory Committee Meeting Attendance:

David Ager, William Bizjak, Gary Burcham, Valerie Cesna, Heather Dunigan, John Gaadt, Ann Gravatt, Jeff Greene, John Iwaszyk, Ginger North, Randi Novakoff, Stuart Sirota, Sara Stevenson, Bob Weiner, Brian Winslow

**Red Clay Valley Scenic Byway Design Standards Overlay
Advisory Committee Meeting #3
Thursday, May 26, 2016, 1:00 p.m., Ashland Nature Center**

MEETING NOTES

1) Introductions

Individuals representing the Advisory Committee and the Red Clay Valley Scenic Byway Alliance attended the meeting.

2) Overview of process and schedule since last meeting

Mr. Gaadt gave a synopsis of the findings from past Advisory Committee meetings and Public Workshops, including:

- Strong political and technical support for preservation of key intrinsic qualities
- CMP is a foundational and guiding document
- Primary intrinsic quality—scenic, secondary qualities—natural, cultural and historic
- Protect and enhance through prioritized approach of protection, conservation, avoidance, minimization, mitigation; recognition of the rural transect.

Several iterations of the design standards and guidelines have been prepared by the consultants and reviewed by the Planning Partners and other agencies, including the following:

- One draft of Final Project Report
- Two drafts of UDC Code language – Fall 2015 & Spring 2016
- Two drafts of Design Guidelines - Fall 2015 & Spring 2016
- Two meetings with Planning Partners (NCC, WILMAPCO, DelDOT, DNS)
- Third draft of Code language and design guidelines for this meeting

3) Discussion of draft materials:

- Best Practices – This list has been updated since the Committee last saw it, based on discussion held with the Planning Partners and a reality check with NCC staff at a meeting held in December of 2015. Several practices recommended previously were discounted for a variety of reasons, due to current efforts underway by the County, political viability, and staff assessment of practicality.
- Design Guidelines for the Red Clay Valley Scenic Byway Overlay District – Mr. Ager described the revisions to the Guidelines, particularly how the guidelines can be used by applicants and the “story” told in the Guidelines. The guidelines now contain a thorough explanation of the planning policies for identified scenic byways and the tools, techniques and principals by which development should be guided. The sub-districts used to identify impacts and mitigation strategies are further defined and a description of the review process is clearly explained. In addition, the volunteer and education components of the Guidelines are complete and offer preservation strategies beyond the regulation of land development.
- Scenic Byway (SB) Overlay District – A description of the District confirmed that the majority of standards are to be placed in a new Division of the UDC, Division 40.16.100. Although some components addressing landscaping, site capacity, signage, and administration, among others, are contained elsewhere, the district itself is in one place. The essence of the district is to provide 4 sub-districts within which varying levels of viewshed protection, buffer/screening, and building height standards apply.

4) June 16 Public Workshop

Mr. Gaadt discussed the framework for the meeting, which will include a pre-meeting “tour” of exhibits and a Q&A with staff and consultants, followed by a PowerPoint presentation of the final draft products. Additional Q&A provided at the end of the meeting.

Advisory Committee Meeting Attendance:

David Ager, Townscape Design; William Bizjak, Red Clay Alliance/resident; Gary Burcham, Burcham & Associates/resident; Valerie Cesna, New Castle County Land Use; Heather Dunigan, WILMAPCO; John Gaadt, Gaadt Perspectives; Ann Gravatt, DelDOT; Jeff Greene, Delaware Greenways; John Iwasyk, Wilmington and Western Railroad; Ginger North, Delaware Nature Society; Randi Novakoff, WILMAPCO; Brian Winslow, Delaware Nature Center

Appendix 4

Public Workshop Meeting Notes

**Red Clay Valley Scenic Byway Design Standards Overlay
Public Workshop #1
Tuesday, February 12, 2015, 6:30 p.m., Ashland Nature Center**

MEETING NOTES

1) 6:30 – 7 p.m. Displays

A staffed welcome table with sign-in sheet served to direct attendees to mapping and exhibits around the room. Representatives of the Advisory Committee informally chatted with attendees and spoke about the Byway and the maps on display.

2) 7 – 7:30 p.m. Brief presentation and project overview

Mr. Brian Winslow, Director of the Delaware Nature Society (DNS) welcomed everyone to the Ashland Nature Center and spoke briefly about DNS' commitment to preserving the resources of the Byway and the reasons DNS got involved in the initial grassroots effort to plan for the Byway. Ms. Heather Dunigan (WILMAPCO) gave a brief introduction to the project and New Castle County staff (Ms. Valerie Cesna and Mr. Stuart Sirota) spoke briefly to the history of the Byway and the County's role in planning for the protection of the Byway's resources over many years.

Ms. Dunigan introduced Mr. John Gaadt (lead consultant) who gave a PowerPoint (PP) presentation that described the purpose of the public workshop; as background, Mr. Gaadt discussed the history of the Byway, the intrinsic qualities of the Byway (the natural, scenic and historic resources of the Byway), the vision, mission and goals of the Corridor Management Plan (the plan used to develop strategies for Byway protection), and the decisions facing all of us regarding future land development and resource protection.

Mr. Gaadt then described the workshop format and the ground rules for the roundtable discussions that ensued. Attendees seated at tables were given forty minutes to brainstorm amongst themselves the following questions:

Where are the special places (in the watershed/byway)?

What are your hopes and fears?

What is appropriate for this place?

Everyone at each table was encouraged to participate. Thoughts and ideas were documented using flipcharts and maps of the Byway. Lists were prepared to answer the questioned poised to the group. Each table identified a spokesperson; fifteen minutes were allotted for each table to report findings back to the whole group. Further discussion follows.

3) 7:30 – 8:10 p.m. Roundtable Discussion

8:10 – 8:25 p.m. Reports from Roundtables

Each table identified a note-taker, as well as a spokesperson. Participants were asked to use markers and stickers to record their discussion: green stickers were used to identify specific areas for preservation (special places and favorite things), blue stickers were used to mark opportunities for improvement (hopes), red stickers were used to identify threatened areas (fears), and yellow stickers were used to identify what is appropriate for the Byway (specific examples). Once the roundtable discussion started, Advisory Committee members circulated amongst the tables to answer questions and help facilitate discussion. Many ideas, concerns, fears and hopes were identified on the flipcharts, as well as the maps. A summary of each table's discussion, as reported, mapped and written, follows (arranged in no particular order).

Table 1

- Overall Hope is to stabilize the streambank to protect roads/property
- Special Places and Things to Save – Hoopes Reservoir; 2 covered bridges (both national register – 2 of 3 in state); old stone walls/fences; open farm vistas (‘19th century farms’); views from roads to ridgelines; Ashland Road and Coverdale Farm; Wilmington-Western Railroad viewshed protection (views from train as well as of train)
- Concerns/Fears – Tree cutting/ forest removal; loss of irreplaceable trees for road widening; Mt. Cuba road drainage; MOU w/ DelDOT (notification & discussion/ coordination – example: 300 ft. tree at Foxhall Road cut down; non-contextual subdivision of land; changes to roadway character; burden on infrastructure (roads and septic) with additional density
- Appropriate – New development that protects views; architecture that blends with landscape; use of natural materials in building construction that “blend” (wood, stone, cedar shake); height restrictions; expanded habitat; natural landscape using native plant species; “working with the landscape” – trees, grading, views, etc.
- Mapped Items
 - Hopes (blue sticker) – Hoopes Reservoir trail; flood control on Barley Mill Road; pull-off for view of Reservoir on Campbell Road; flood control on Mt. Cuba Road; flood control on Yorklyn Road; Wilmington-Western commuter line; Red Clay stream restoration; bikeways/ pathways; conservation easements – more acquisition by DNS
 - Fears (red sticker)– House on ridgeline along Barley Mill road; unsafe traffic conditions at intersection of Barley Mill and Ramsey Roads; NVF contamination in Yorklyn; deer fencing; water quality (wells, septic, fishing); potential development; road changes/ “improvements” (widening, congestion, speeding)
 - Special places (green sticker) – Rolling Mill road accents; Hillside Mill road accents; view of Hoopes Reservoir from Campbell Road; Valley Garden Park; Covered Bridge Farm; viewsheds along Ashland School Road; dam along Snuff Mill Road; Barley Mill and Brackenville Roads intersection; Auburn Mill park and open space at state line; meandering roads
 - Appropriate (yellow sticker) – Development set back from roads (preserve views), privacy landscaping; buffer creation

Table 2

- Hopes – Connect developments with walkways (off DE 48) and create walkways in the Valley; align walkways with State Park planned trails; traffic calming along Brackenville Road; public access to Hoopes Reservoir
- Special Places and Things to Save – Kiamensic Mill race (historic resource outside Byway); Greenbank Mill (part of historic Marshallton Plan and historic resource outside Byway); Brandywine Springs Amusement Park (historic resource outside Byway); Creek Road vistas along Red Clay Creek; Hoopes Reservoir vistas; birding areas; Mt Cuba; Auburn Heights State Lands; Overlook Farm; NVF; Coverdale Farm
- Concerns/Fears – Former Hercules site (environmental issues, runoff to Creek); water quality of Red Clay Creek and Hoopes Reservoir; protect/remove dams on Creek; concern for unprotected parcels, both large and small; historic structures (most in private ownership) – example: carriage house on Hercules Road
- Mapped Items
 - Hopes (blue sticker) – Keep road widths the same; Traffic calming on Old Kennett Road; bike connections between development and throughout Byway; bikeway along Rt. 82 (Creek Road, Mt. Cuba Road, etc.); traffic calming on Brackenville Road (but not widening); public access to Hoopes Reservoir
 - Fears (red sticker)– Unprotected viewsheds, both large and small; Wilmington’s control of Hoopes Reservoir; environmental issues at Hercules site (outside of Byway)
 - Special places (green sticker) – Historic resources outside of Byway (see Special Places, above); iron works north of Rt. 48; Valley Garden Park; Hoopes Reservoir; DNS; Old Mill Village (NVF); Coverdale Farm
 - Appropriate (yellow sticker) – Connect Yorklyn trail into the Valley

Table 3

- Hopes – Pull off at Hoopes Reservoir desired; would like to see the trail around the reservoir reopened (need greater recreational opportunities); desire to see off road pathways for bikes and walkers (bicycle Sundays? – close certain roads for biking only on that day); seek out more conservation easements (DNS expansion); keep natural buffers and hide development; want to see development set back from roads – aesthetics, privacy, preserve vistas; Wilmington and Western commuter line; encourage traffic calming and limiting traffic flow (add more stone walls)
- Special Places and Things to Save – Covered bridges; Mt. Cuba Observatory (light pollution); deer fencing (pros and cons); driving over the reservoir; Valley Garden Park; Auburn Mill trails; Mason Dixon marker(s); Coverdale Farms; beautiful vista – fields and forests; Red Clay Creek (restoration – dam removal, increase beauty, return to natural state – shad return?; stone walls
- Concerns/Fears – homes on hills disturbing natural vistas; excessive signage; valley becoming a thruway from Rt. 202 to western suburbs; flooding; Mt. Cuba Road near Ramsey Road – not safe for two vehicles to pass; potential development plans; poor water quality due to fertilizer runoff, industrial contamination, hazards due to flooding
- Mapped Items
 - Hopes (blue sticker) – Rock outcrops at Mt. Cuba Road/Creek Road
 - Fears (red sticker)– Road bed concerns at Creek Road and Hillside Road
 - Special places (green sticker) – Vistas along Way Road and Ashland-Clinton School Road; Covered Bridges (Ashland and Rolling Mill); rock outcroppings; Hoopes Reservoir; Mt. Cuba

Table 4

- Hopes – 1. Repurpose NVF and Snuff Mill; 2. Retain the wall on Old Kennett Road; 3. Eliminate “New Jersey Barrier” bridges on Old Kennett Road; 4. N/A; 5. Open Hoopes Reservoir to public; 6. Develop a Red Clay Scenic Greenway; 7. Improve bridges in Yorklyn. Note: numbering refers to blue stickers on aerial map.
- Special Places and Things to Save – 1. Route 82; 2. Valley Garden Park; 3. Auburn Heights (land and museum); 4. Coverdale Farm; 5 & 6. Hoopes Reservoir and Dam; 7. Yorklyn Post Office; 8. Country Center; 9 & 10. Covered bridges; 11. Mt. Cuba; 12. False Mill on Faulkland Road; 13. Brandywine Springs Park; 14. Mills in Yorklyn; 15. Creative Arts Center; 16. DNS; 17. Overlook Farm; 18. Vic Mead. Note: numbering refers to green stickers on aerial map.
- Concerns/Fears – 1. Industrial look on Yorklyn Road in Yorklyn; 2. Barley Mill drop-off; 3. Blind hill on Way Road; 4. Limited term conservation easements. Note: numbering refers to red stickers on aerial map.
- Appropriate – 1. Restoration and repurposing of NVF; 4. Yorklyn garage strip (redevelopment/facelift). Note: numbering refers to yellow stickers on aerial map.
- Mapped Items
 - Hopes (blue sticker) – Safe passage for all; keep roads in good repair; alternative use network for pedestrians and bicycles; maintain historic character
 - Fears (red sticker)– Preserving the Valley without overdevelopment.

4) 8:25 p.m. Wrap Up/ Next Steps

Mr. Gaadt thanked everyone for attending the workshop and recognized the significant effort of all those who contributed to the roundtable discussions. There is much to consider moving forward. The next steps for the Advisory Committee and its consultants (John Gaadt, Gaadt Perspectives, LLC and David Ager, Townscape Design, LLC) are to incorporate the results of the workshop into the project research, continue to assess “best practices” for protecting the Valley’s intrinsic qualities, further review the Byway’s Corridor Management Plan and the County’s Unified Development Code (and identify any conflicts or consistency between the two documents), and plan for a second public meeting to discuss observations and develop a “menu of strategies” for resource protection.

Note: A list of attendees from the sign-in sheet is attached.

**Red Clay Valley Scenic Byway Design Standards Overlay
Public Workshop #2
Tuesday, May 18, 2015, 6:30 p.m., Ashland Nature Center**

MEETING NOTES

1) 6:30 – 7 p.m. Displays

A welcome table with a sign-in sheet served to direct attendees to mapping and exhibits around the room. The consultant team and representatives of the Advisory Committee informally chatted with attendees and spoke about the Byway and the exhibits on display.

2) 7 – 7:35 p.m. Presentation - Introduction to the Byway, Project Goals, Description of Feedback and Results of the 1st Public Workshop, Summary and Description of Best Practices

Ms. Dunigan introduced Mr. John Gaadt (lead consultant) who introduced the project team (Dave Ager, Alex Meitzler, and Cherian Eapen). Mr. Gaadt described the project and summarized the roundtable discussions from the first public workshop, specifically what the participants selected as special places in the Byway, their hopes and fears for the Byway and what they feel is appropriate for the Byway.

Next, Mr. Ager discussed the research effort undertaken to identify protection strategies for the Byway. More than a thousand planning documents, codes, and laws were consulted that provide varying levels of protection to scenic byways. Four generalized categories appropriate to the Red Clay Valley emerged from the research: preserving scenic viewsheds, regulating scenic roadways, linking view preservation (in conjunction with preservation of natural and historic resources), and implementation techniques (such as overlay zoning techniques and protective easements). Mr. Ager described each category and gave examples of the tools potentially available for use in the Byway. Among other things, it was recognized that DelDOT controls what happens inside the rights-of-way of the Byway's roads and New Castle County controls the land area outside the rights-of-way. It was also recognized the area in the immediate foreground (150-200 feet) plays a significant role in the visual character of the Byway's roads.

In addition, it was recognized that protection levels can run the gamut from full preservation to volunteer efforts. In particular, Mr. Ager recognized six generalized levels of protection: full preservation (example: land or easement purchases), conservation – limited development (example: downzoning), conservation design (example: density exchange, TDR, clustering), protection through incentives (example: performance standards, density bonuses), voluntary approaches (example: voluntary easements and density transfers), and education and outreach (example: seminars, websites, non-profit leadership). Upon completion of this portion of the presentation, Mr. Gaadt described the workshop format and the ground rules for the roundtable discussions. Participants, more or less equally divided between two tables, were given thirty minutes to examine a sample development parcel (hypothetical parcel not actually in the Byway), select site features that deserve protection, decide the most appropriate place for development, and select the tools that both protect the important resources of the site and permit some level of development. Attendees were asked to discuss the most appropriate tools to protect the intrinsic qualities of the Byway, how and where such tools were to be used, and the level of control needed to accomplish preservation goals. Thoughts and ideas were documented using flipcharts and participants marked the sample development parcel map with markers. Appropriate preservation areas were identified, as were developable areas.

3) 7:35 – 8:05 p.m. Roundtable Discussion

8:05 – 8:25 p.m. Reports from Roundtables

Each table identified a note-taker, as well as a spokesperson. Participants were asked to use markers and stickers to record their discussion. Once the roundtable discussion started, Advisory Committee members and consultant team members circulated amongst the tables to answer questions and help facilitate discussion. Many approaches were discussed, including the types of tools most suitable for resource protection and development given site constraints. A summary of each table's discussion follows.

Table 1

- Areas to protect: wetlands, including stream and floodplain, Critical Natural Area, and Byway viewshed (immediate foreground – up to 250 feet from the roadway); there was also a strong desire to provide ridgeline protection
- Potential areas for development include below the ridgeline directly behind the historic house and (when properly buffered) the area immediately adjacent to the New Castle County park land
- Suggested approaches/tools
 - ridgeline protection techniques,
 - cluster development buffered by trees,
 - context sensitive design (including application to entrance road),
 - some level of permanent protection (eased open space),
 - multi-point vista control (given the vista points along the scenic road)
 - 100 foot forest buffer
 - Architectural design standards
- Levels of control ranged from “full preservation” to “conservation design”. Only for view protection was “protection through incentives” seen as viable. The overall finding was that some level of development should be permitted, however preservation should be mandatory.

Table 2

- Areas to protect: stream, floodplain and wetlands, Critical Natural Area, trees, Byway viewshed (immediate foreground - up to 250 feet from the roadway), historic structure, and ridgelines
- Potential areas for development include the area in the foreground of the historic house (provided it is buffered from the road), the ridgeline behind the historic house, the open area on the northern side of the tract adjacent to the property line (both east and west of the stream), and the area immediately adjacent to the New Castle County park land (when properly buffered)
- Suggested approaches/tools
 - multi-point vista control (given the vista points along the scenic road)
 - minimum buffer and distance (setback) requirements
 - view protection linked w/ environmental protection (stream, woodlands, and CNA)
 - view protection linked with historic resources (historic setting)
 - context sensitive road design standards (entrance road and Byway)
 - protective/restrictive easements (scenic views, historic settings)
- Levels of control ranged from “full preservation” to “conservation design”, with view protection linked to rural character and signage using “protection through incentives”. Finding appropriate areas to develop was important to this group, however like the first group, this table believes preservation should be mandatory.

4) Sticker Survey – Individual preferences for Byway protection tools

With guidance from the planning exercise, each individual was asked to select appropriate tools for use in the Byway; in addition, each individual was asked to indicate their preference for a degree of regulation (full preservation through education and outreach). It should be noted that participants were not asked to vote for their ‘favorites’ but rather indicate tools they think are appropriate for use in the Byway; furthermore participants were not limited to a set number of selections, the intent being to see if any trends emerged (particularly given the likely use of multiple approaches as part of a tool box of preservation techniques).

See the attached survey sheet for a tally of selections.

5) 8:25 p.m. Wrap Up/ Next Steps

Mr. Gaadt thanked everyone for attending the workshop and acknowledged everyone’s participation. The next steps for the project include developing a framework or action, drafting design standards with supplemental visual aids, preparing a draft report of findings (culminating in a final report at the conclusion of the project), and conducting a final public meeting in early Fall to discuss the project’s recommendations (prior to the County’s formal public hearing process/ introduction of legislation).

Note: A list of attendees from the sign-in sheet is attached.

Red Clay Valley Scenic Byway Design Standards Overlay
Public Workshop #3
Thursday, June 16, 2016, 6:30 p.m., Ashland Nature Center

MEETING NOTES

1) Displays

A welcome table with a sign-in sheet served to direct attendees to mapping and exhibits around the room. The consultant team and representatives of the Advisory Committee informally chatted with attendees and spoke about the Byway and the exhibits on display.

2) Presentation - Introductions, Project Goals, Description of Process To-Date

Ms. Dunigan introduced Mr. John Gaadt (lead consultant) who described the project and summarized the progress made since the last meeting. Consultant staff and the Planning Partners and Advisory Committee prepared, discussed and revised numerous regulatory approaches based on agency and public comment.

Several practices necessitate modifying or amending the UDC; these include strategies to preserve scenic viewsheds, regulate scenic roadways, and link viewshed protection with other UDC standards. Some practices, originally considered, such as transfer of development rights (TDR) were not retained in the final recommendations for a variety of reasons, such as limited sending areas (for TDR), or the need for voluntary compliance.

Mr. Ager gave a summary of the Overlay district, noting that the standards are:

- Performance Based, not Prescriptive,
- Defined within Jurisdictional Boundaries,
- Limited to Major and Minor Plan Submissions and Sign Applications, and
- Include a Design Review Advisory Committee (DRAC)

The four sub-districts were described and it was explained that each sub-district has variations of standards relating to building placement, height, and landscaping. Included in the review process is a Design Review Advisory Committee (DRAC), a separate reviewing agency that works in coordination with the County's Department of Land Use.

The Design Guidelines were introduced as a way to help applicants, the DRAC, and residents better manage growth in the Byway. The Guidelines are intended to provide:

- An Overview and Quick Reference to the UDC language,
- A description of the Qualities of the Red Clay Valley Scenic Byway,
- Strategies for protection,
- Tools, Techniques and Examples on how to use the tools,
- A description of the Scenic Byway (SB) Overlay District, and
- A description of the Development Review Procedures

A Q&A session followed. In general, all in attendance supported the approach taken. Questions focused on next steps and implementation. One question concerned the coverage of the Byway and whether the Byway could be expanded in the future to cover the lower portion of the watershed. While the original Byway included only those nominated roadways that are contiguous, future efforts should evaluate expanding the Byway.

3) Wrap Up/ Next Steps

After this meeting, the intent is to finalize the overlay district standards and design guidelines, complete the final project report, and submit all materials to the County for further action. It is the County's intent to make any additional changes in-house, seek a County Council member's support to introduce legislation to adopt new UDC standards, and undertake the process necessary to adopt the Byway overlay.

Appendix 5

Reference Documents

Red Clay Valley Scenic Byway Corridor Management Plan, May 2008
Delaware Scenic and Historic Highways – Program Guide, Delaware Department of Transportation, November 10, 2001
Context Sensitive Solutions for Delaware Byways, Delaware Department of Transportation, June, 2011
Title 9, Delaware State Code, State of Delaware
New Castle County Unified Development Code, New Castle County, Delaware, 1997 as amended
Corrigan v. City of Scottsdale, 720 P.2d 528 (Ariz. App. 1985)

References to Best Practices

The following list of documents are for reference purposes only, however, each offers valuable insight into preparing an application for approval in the Red Clay Valley Scenic Byway Overlay District. Therefore the reader is encouraged to review the following documents to further one's understanding of conservation design, context sensitive solutions and the art of creating new housing and improvements that are compatible and complementary to the rural and scenic character of the byway.

Arendt, Randall. 2015. *Rural By Design, Planning for Town and Country*. Second Edition. Washington, D.C.: American Planning Association.

Duerksen, Christopher J. and R. Matthew Goebel. December 1999. *Aesthetics, Community Character, and the Law*. PAS Report Number 489/490. Washington, D.C.: Scenic America and the American Planning Association.

Yaro, Robert D. et al. June 1989. *Dealing With Change in the Connecticut River Valley: A Design Manual for Conservation and Development*, Third Edition. Amherst: Lincoln Institute of Land Policy and the Environmental Law Foundation.

Partial List of Communities with Scenic Protection Strategies, Policies and Ordinances; Reference Manuals; and Model Codes and Ordinances

1) Alaska

a) State

- i) http://www.blm.gov/ak/st/en/prog/nlcs/fortymile_nwsr.html

b) City of Sand Point, AK

- i) Sensitive Lands Overlay.

c) City of Unalaska, AK

- i) Open-Space District, includes 'scenic resources'.

2) Arizona

a) State

- i) <http://azdot.gov/about/scenic-roads/designating-a-state-scenic-road/guidelines-and-rules>
- ii) <http://azdot.gov/about/scenic-roads>

b) Apache Junction, AZ

- i) General reference to scenic areas, minimal usage.
- ii) General reference to underground utilities to 'protect the views of the Superstition Mountains'.

c) Casa Grande, AZ

- i) Viewshed protection for conditional use permits for telecommunications facilities.

d) Cave Creek, AZ

- i) Land use categories, Desert Residential, Conservation Mountain; Residential/Special Scenic Quality, and Open Space. Note: could not obtain actual code.

e) Chino Valley, AZ

- i) General reference to scenic drives and parkways. *Note: did not download code.*

f) Dewey-Humboldt, AZ

- i) Open Space Resource Conservation Zones, with

(1) Design Review Overlay Zones include scenic vistas.

(2) Restrictions on Wireless Communications in scenic areas.

(3) Hillside development restrictions.

g) El Mirage AZ

- i) Requires alternative design of cell towers.

h) Florence, AZ

- i) Hillside development ordinance.
- ii) "...preservation of scenic beauty for the benefit of the general public..."

i) Lake Havasu City, AZ

- i) Hillside subdivisions. "...preservation of scenic beauty for the benefit of the general public..."
- ii) Bridgewater Channel Overlay District. "...intended to maintain the unique scenic, historic and recreational resources of the area..."
- iii) Body Beach District. "...to preserve and enhance the unique scenic, historic, and recreational resources of the area..."

j) Payson, AZ

- i) Uses overlay districts somewhat like PUD. *Did not copy ordinance.*

k) San Luis, AZ

- i) Aesthetics Overlay Zone.

- l) Tucson, AZ
 - i) Scenic Corridor Overlay zones
 - ii) Hillside Development Zone
 - iii) Gateway Corridor Zone
- m) Tusayan, AZ
 - i) Scenic ridgeline protection – telecommunication towers.
 - ii) Restrictions on
- n) Yuma, AZ
 - i) Aesthetic Overlay District.
- 3) California
 - a) State
 - i) http://www.dot.ca.gov/hq/LandArch/scenic/guidelines/scenic_hwy_guidelines_04-12-2012.pdf
 - ii) <http://www.dot.ca.gov/dist3/departments/mtce/scenic.htm>
 - iii) <http://mikethompson.house.gov/newsroom/news-articles/new-york-times-protection-sought-for-scenic-california-region>
 - iv) <http://www.dot.ca.gov/hq/LandArch/scenic/cahi/sys.htm>
 - v) <http://www.fhwa.dot.gov/byways/states/CA>
 - b) California Coastal Commission
 - i) <http://www.coastal.ca.gov/index.html>
 - ii) Historic viewshed integrity: <http://www.coastal.ca.gov/meetings/mtg-mm12-9.html>
 - c) Adelanto, CA
 - i) Scenic Highway. "...areas or scenes of exceptional beauty or historic or cultural interest..."
 - ii) Signage restrictions along scenic highways.
 - d) Alhambra, CA
 - i) Open space zone. "...to prevent inappropriate development of areas which should be regulated to provide for scenic , recreational, historic, conservation, aesthetic or public health and safety uses..."
 - e) Anaheim, CA
 - i) Scenic Corridor Overlay Zone.
 - f) Antioch, CA
 - i) Scenic easement program.
 - g) Auburn, CA
 - i) Open space and conservation districts.
 - h) Baldwin Park, CA
 - i) Berkeley CA
 - j) Brea City, CA
 - i) Hillside residential development.
 - k) City of Coronado CA
 - l) City of Sonoma
 - i) Gateway district: "preserve scenic vistas".
 - ii) Scenic easements.
 - iii) Scenic corridors.
 - iv) Scenic vistas to surrounding hillsides.
 - v) Telecommunication and Antenna criteria.
 - vi) Purpose of development code includes: "... Conserve and protect the city's natural beauty, including scenic views, hillside open space, and historic and environmental resources..."
 - m) City of Oakley
 - i) Greenways and greenbelts: "protects scenic... resources".
 - ii) Heritage and protected trees: "The City finds it necessary to preserve trees on private property in the interest of the public health, safety and welfare and to preserve scenic beauty;"
 - iii) Screening requirements for 'scenic areas'.
 - iv) Roof mounted antennas: "shall not be placed in direct line of sight of scenic corridors or where they will significantly affect scenic vistas, unless the facilities incorporate appropriate techniques to camouflage, disguise and/or blend them into the surrounding environment."
 - v) Scenic easements and dedication of development rights.
 - n) Chico, CA
 - i) Foothill development criteria; overlay zone.
 - ii) Creekside corridor development.
 - iii) Tree preservation regulations, with scenic purpose.
 - iv) Transfer of development rights.
Could not download code.
 - o) Corona, CA
 - i) Foothill protection.
 - ii) Overlay zones.
 - iii) Culver City, CA
 - iv) Special purpose Open Space District.
 - v) Signs in the public right of way, limits.
 - p) Cupertino, CA
 - i) Cluster residential development; general reference to preservation of "unique scenic vistas".
 - ii) Tree protection ordinance; purpose: "Protect aesthetic and scenic beauty".
 - iii) Low-contrast earth-tone building colors required with LRV of 60 or lower.
 - q) Danville, CA
 - i) Scenic Hillside and Major Ridgeline Development
 - r) Elk Grove
 - i) Dedications of park for scenic purposes; scenic easements.
 - ii) Wireless communication restrictions.

- iii) Tax revenue easements; scenic.
- s) Escondido, City of, CA
 - i) Zoning Code. Article 55, Grading and Erosion. Section 33-1066. Design Criteria. Section 33-1067A. Hillside and Ridgeline Overlay District. Section 33-1068A. Clearing of Land and Vegetation Protection.
 - 1. Includes illustrated design guidelines to protect the natural and topographic character and identity of the environment and the visual integrity of hillsides and ridgelines.
 - 2. Designates overlay district with density transfer program;
 - 3. sets restrictions on vegetation removal.
- t) Eureka, CA
 - i) Sign restrictions.
 - ii) Scenic coastal protection.
- u) Fairfax, CA
 - i) Ridgeline protection.
 - ii) Hillside area development overlay zones.
 - iii) Telecommunication tower – scenic corridors.
- v) Fullerton, CA
 - i) Commercial greenbelt areas, mostly for landscaping and buffering of residential. Did not copy code.
- w) Gridley, CA
 - i) Open space district.
 - ii) Agricultural overlay district.
- x) Indio, CA
 - i) Scenic corridor zones.
 - ii) Scenic highways, additional dedication.
- y) La Miranda, CA
 - i) General reference to scenic enhancement, not applicable.
- z) Los Angeles, CA
 - i) Scenic Parkways and Corridors
- aa) Los Angeles County CA
 - i) Ridgeline development restrictions.
 - ii) Retaining wall height restrictions.
- bb) Los Gatos CA
 - i) Building size and footprint restrictions.
 - ii) Ridgeline development restrictions.
 - iii) Use of ‘viewing platform’ (areas of view point source measurement).
 - iv) Form, height and massing restrictions.
 - v) Architectural review.
 - vi) Grading minimization standards.
 - vii) Qualitative grading requirements.
 - viii) Landscaping standards, fire retardant and fire break design criteria.
 - ix) Color standards of LRV 30 or lower.
- x) Hillside development standards and guidelines.
- cc) Madera, CA
 - i) Resource conservation and open space zoning.
- dd) Menifee, CA
 - i) Hillside Protection and scenic vista protection. Hillside development density transfers.
- ee) Monrovia, CA
 - i) Residential Foothill development standards.
 - ii) Height controls, ridgeline controls.
- ff) Murrieta, CA
 - i) Combined tree, environmental and hillside development overlay districts.
 - ii) Hillside development design standards.
- gg) Napa County CA
 - i) Viewshed Protection Combination District.
 - 1. Viewshed findings required.
 - ii) Building size restrictions.
 - iii) Ridgeline development restrictions.
 - iv) Form, height and massing requirements.
 - 1. 24’ or less as measured from finished grade along 50% of perimeter.
 - 2. Roof angles and composition must conform to surrounding landforms and landscaping in order to qualify for administrative review.
- hh) Ontario, CA
 - i) Scenic Highway Element of General Plan.
 - ii) Scenic corridors.
- ii) Oxnard, CA
 - i) Scenic Highway.
 - ii) Wireless communication facility restrictions.
 - iii) General Plan’s “scenic resource protection goals and policies”.
 - iv) Scenic coastal areas.
 - v) TDRs for scenic protection: Open Space Easement: ” a restriction on real property which will preserve for public use or enjoyment the natural or scenic character of open space land”.
- jj) Palo Alto, CA
 - i) Special purpose districts for open space and agricultural protection include scenic qualities protection purpose clause.
- kk) Pinole, CA
 - i) Scenic vistas and preservation
- ll) Pismo Beach, CA
 - i) Scenic and height overlay districts.
 - ii) Vista protection.
 - iii) Architectural Review Overlay Zone
 - iv) View Considerations (V) Overlay District

- v) Transfer Density (TD) Overlay District
- mm) Riverbank, CA
 - i) Tree protection purpose clause references scenic beauty.
- nn) San Benito County, CA
 - i) Scenic Highway (SH) district.
- oo) San Bernardino County, CA
 - i) Scenic corridors.
 - ii) Open Space Overlay Zone.
 - iii) Development standards in scenic areas.
- pp) San Diego County, CA
 - i) General references to ‘scenic areas’.

Did not copy code.
- qq) San Gabriel, CA
 - i) Scenic easement program.
 - ii) Scenic and public access easements.
- rr) San Francisco, CA
 - i) Scenic easements.
- ss) San Joaquin, CA
 - i) Resource conservation and Open Space Zone.
- tt) San Jose, CA
 - i)
- uu) San Rafael CA
 - i) Hillside development district.
 - ii) Building size restrictions.
 - iii) Ridgeline development restrictions.
 - iv) Grading limitations.
- vv) Santa Barbara County CA
 - i) Viewshed requirements.
 - ii) Design review of buildings outside of historic areas.
- ww) Santa Clara County CA
 - i) Cupertino
 - ii) Los Altos Hills
 - iii) Los Gatos
 - iv) Milpitas
 - v) Morgan Hill
 - vi) San Jose
 - vii) Saratoga
- xx) Santa Cruz County CA
 - i) Comprehensive landscape ordinance tailored to hillside development.
- yy) Santa Paula, CA
 - i) Hillside grading practices.
 - ii) Open space zones.
 - iii) PUD overlay zones.
- zz) Signal Hill, CA
 - i) Open Space district.
- aaa) The City of Thousand Oaks, CA
 - i) Design Review
 - ii) Scenic easements.
- bbb) Tulare, CA
 - i) Preservation of heritage trees. Code not copied.
- ccc) Visalia, CA
 - i) Open space maintenance districts
- ddd) Woodside, CA
 - i) Sensitive area protection.
 - ii) Slope / net area protection standards.
 - iii) Hillside development regulations.
 - iv) Building size restrictions.
 - v) Stream corridor protection.
 - vi) Tree protection.
 - vii) Non-reflective building materials required.
 - viii) Must use trees and shrubs from approved list suited for hillside development.
- eee) Yolo, CA
 - i) Scenic vistas and viewsheds; limits on wind energy systems.
- 4) Colorado
 - a) State
 - i) <http://www.colorado.com/activities/scenic-drives>
 - b) Boulder (Colorado), County of. 2008.
 - i) Land Use Code. 4-1300 Expanded TDR Program and Structure Size Thresholds for Single Family Uses. 6-700 Transferred Development Rights Planned Unit Development. 6-800 Conservation Easement. 2008 Expanded Transfer of Development Rights program.
 - c) Castle Rock CO
 - i) Zoning Code. Chapter 17.14. Skyline/Ridgeline Protection Regulations.
 - 1. Designates five significant geographical landform types and creates overlay district to protect these visually sensitive features.
 - 2. “most sophisticated ridgeline protection ordinance in US”
 - (a) Restricts color of buildings.
 - (b) Regulates vegetation and design.
 - (c) Regulates use of floodlights.
 - (d) Limits use of exposed basements.
 - ii) “skyline areas”
 - 1. No primary or accessory structures can be built in the ‘most sensitive’ skyline and ridgeline areas.
 - 2. Uses ‘viewing platforms’.
- d) Colorado Springs CO
 - i) Hillside Overlay Zoning District; hillside protection program.
 - (1) The purpose of the overlay district is to allow people to “develop and maintain hillside properties in an environ-

mentally sensitive fashion,” while also ensuring that visual impacts of development are mitigated to the maximum extent possible.

- ii) Mandatory regulations and design guidelines.
- iii) Separate manual for design guidance outside of code.
- iv) Design review performance standards:
 - (1) Have applicable code development standards met?
 - (2) Is terrain disturbance minimized?
 - (3) Cut and fills minimized?
 - (4) Natural landform retained?
 - (5) “Visual compatible stabilization measures” utilized?
 - (6) Natural features incorporated into site design?
 - (7) Structures sited off of the ridgeline?
- e) Denver
- i) Mountaintop View Ordinance
- ii) View Corridor protections
- f) Jefferson CO
- i) Jefferson (Colorado), County of. 2005. Land Development Regulation. Section 9. Rural Cluster Process.
 - (1) Provides an alternative, voluntary method of land division that encourages the clustering of single family residential dwellings and the reservation of open space in rural areas.
- g) Telluride CO
- i) Form, height and massing restrictions
 - (1) Recommends setting buildings into slopes to reduce apparent height.
 - (2) Step down, cascade design to building to reduce mass.
- ii) Landscaping: natural
- iii) Transitional Hillside Treatment Area and Transitional Hillside Overlay Zone.
- 5) Connecticut
 - a) Danbury CT
 - i) http://www.ct.gov/csc/lib/csc/pendingproceeds/docket_357/exhibit_l2.pdf
 - b) Hamden, CT
 - i) Scenic Roads
 - c) Waterbury CT
 - i) ‘Scenic’ part of Chap. 155: Inland Wetlands and Watercourses.
- ii) Environmental Control Commission.
- 6) Florida
 - a) State
 - i) <http://www.fhwa.dot.gov/byways/states/FL>
 - b) Boynton Beach, FL
 - i) Scenic tours, not applicable.
 - c) Cape Coral, FL
 - i) ‘Scenic’ considered in historic preservation review.
 - d) Davie, FL; Town of

i) Land Development Code. Article IX. Rural Lifestyle Regulations. Division 2. Scenic Corridors Overlay District.

(1) “Scenic corridor buffers” required along designated scenic corridors in overlay zone; provides standards for permitted structures, improvements, and uses, fencing and mailbox design, and landscaping requirements within corridors.

- e) Flagler, FL
- i) <http://flaglercounty.org/index.aspx?NID=268>
- f) Lake Mary, FL
- i) City of Lake Mary Conservation Project.
- ii) Sign code.
- g) Palm Shores, FL
- i) Scenic roads.
- h) Pompano Beach, FL
- i) Fences along scenic highway.
- ii) Major Administrative Adjustment public benefit: “Permanent protection of scenic views”
 - iii) Overlay zones.
 - i) St. Lucie FL
 - i) Ordinance implementing the TDR program outlined in Towns, Villages, and the Countryside: A New Pattern of Settlement for North St. Lucie County comprehensive plan element. Ord. No. 06-018.
 - 7) Georgia
 - a) State
 - i) Georgia Dept. of Community Affairs
 - (1) Model scenic overlay ordinance.
 - b) Dade County, GA
 - i) Scenic highways.
 - ii) Outdoor signage limits to maintain “scenic beauty”.
 - c) Harlem, GA
 - i) Historic setting ‘scenic’.
 - ii) Sign Regulations
 - d) Monrovia, GA
 - i) General statement for residential development to “preserve or minimize the impact on view corridors and scenic vistas”.
 - e) Murrieta, GA
 - i) Viewsheds, wall design
 - f) Troup County GA
 - i) Scenic Corridor Overlay District
 - 8) Illinois
 - a) Carol Stream, IL
 - i) Scenic views considered in preliminary plan
 - ii) Sign ordinance
 - b) Chicago, IL
 - i) Special purpose districts: Parks and open space district. Just passing reference. Did not copy code.
 - c) Frankfort, IL

- i) Sign regulations.
- ii) No destruction of significant features may include scenic vista.
 - d) Galena, IL
 - i) Corridor Overlay District.
 - e) Galesburg, IL
 - i) Telecommunication limits in scenic corridors.
 - f) Glencoe, IL
 - i) No destruction of significant features may include scenic vista.
 - g) Jeffersonville, IL
 - h) Justice, IL
 - i) No destruction of significant features may include scenic vista.
 - i) Kenilworth, IL
 - i) Special use permit requires no: “Damage to or destruction of natural scenic or historic features of significance to the village or the immediate neighborhood”.
 - j) Litchfield, IL
 - i) Special development standard requires “Due regard shall be shown for preserving outstanding scenic, cultural or historic areas”.
 - k) Lockport, IL
 - i) Sign ordinance established “To enhance the physical appearance of the city by preserving the scenic and natural beauty of the area”; among other reasons.
 - l) Mahomet, IL
 - i) Sign ordinance.
 - m) Markham, IL
 - i) General Use Regulations; special use permit: “No destruction of significant natural, scenic or historic features”.
 - n) McHenry County, IL
 - i) Conservation Design Developments, Viewshed protection.
 - o) Mettawa, IL
 - i) Scenic easement program.
 - ii) Scenic corridors.
 - iii) Design standards, roadway buffers.
 - iv) Greenways plan.
 - p) Orland Park, IL
 - i) Scenic easement tax credit.
 - q) Peotone, IL
 - i) PUD approval requires consideration of scenic vistas.
 - r) Poplar Grove, IL
 - i) Signage controls
 - s) Port Barrington, IL
 - t) Romeoville, IL
 - i) Scenic conservation easements.
 - u) Roscoe, IL

- i) Outdoor Advertising Signs, restrictions.
- v) South Elgin, IL
- i) Fen Groundwater Recharge Areas, includes scenic protection.
 - ii) General scenic vista ‘due regard’ protection in subdivision ordinance.
 - w) Sparta, IL
 - i) General reference to scenic protection in PUDs.
 - x) Troy, IL
 - i) Sign regulations.
 - y) Tuscola, IL
 - i) General reference in street design: “Due regard shall be shown for preserving outstanding scenic, cultural, or historic areas”
 - ii) General reference in special use standards: “Will not result in the destruction, loss, or damage to cultural, scenic, or historic features”
 - z) Will County, IL
 - i) Historic preservation includes “scenic areas”
 - ii) Park, open space and special purpose district.
 - aa) Wilmette, IL
 - bb) Madison, IL
 - i) General reference to scenic vistas in PUDs.
 - 9) Indiana
 - a) New Albany, IN
 - i) Billboard restrictions.
 - b) Aurora, IN
 - i) Telecommunication tower restrictions.
 - c) Berne, IN
 - i) Sign ordinance; general reference to scenic amenities.
- Did not copy ordinance.
 - d) Beverly Shores, IN
 - i) Scenic road.
 - e) Boone County, IN
 - i) Agricultural preservation includes “rural and scenic qualities”
 - ii) Design guidance to “protect...natural and scenic features”
 - f) Brownsburg, IN
 - i) “due consideration...for scenic and historic points of interest...” in design standards of subdivision code.
 - ii) Use of greenways.
 - iii) Special exceptions must “not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance”.
 - g) Cass County, IN
 - i) Sign ord. references scenic qualities...weak..
 - h) Clear Lake, IN
 - i) Lake regulations to protect “scenic beauty” of Clear

Lake; purpose clause.

- i) Crawfordsville, IN
- i) Stream Corridor District references ‘scenic’ qualities.
- ii) “Stream Corridor District. The purpose of the stream corridor district (“SC”) is to preserve and protect the existing natural and scenic qualities of lands adjacent to streams of unique historical, scenic and recreational value...”
- iii) PUD regs. Ref. scenic.
- j) Elkhart, IN
- i) Conditional use requirement that: “Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance”
- k) Ellettsville, IN
- i) Municipal Public Districts. “...emphasis will be placed on limiting and regulating human activity in those areas where... Scenic quality or open space is unique and/or irreplaceable.”
- ii) Antennas, amateur radio facilities, satellite dishes, and personal wireless service facilities. “...to conserve the scenic, historic, aesthetic and environmental quality of the town...”
- iii) Scenic gateways and corridors.
- iv) Scenic qualities in PUDs.
- l) Fort Wayne, IN
- i) Historic preservation and other zones
- m) Greenfield, IN
- i) Wireless communication facilities.
- n) View corridors.
- i) Greensburg, IN
- o) Conservation districts refer to ‘scenic beauty’.
- i) Greenwood, IN
- ii) General reference to ‘scenic’ and ‘historic’ points of view in design standards.
- p) Huntingburg, IN
- i) Scenic qualities, scenic approaches,
- q) Jeffersonville, IN
- r) Knox County, IN
- i) Comprehensive plan recommends scenic easements for agr. And open space.
- s) Lake County, IN
- i) Comprehensive plan recommends scenic protection in rural resource areas.
- ii) Community character benchmarks include ‘scenic qualities’
- t) Madison, IN
- i) Signage includes reference to ‘scenic and natural beauty’
- u) Marion, IN
- i) References to wireless communication facility requirements.

- v) Monticello, IN
- i) References to wireless communication facility requirements.
- w) New Albany, IN
- i) Scenic corridors.
- ii) Billboards.
- iii) PUDs.
- x) New Carlisle, IN
- i) Greenways; which could include ‘scenic roadways’.
- y) New Castle, IN
- i) Scenic reference in wireless telecommunications facility regulations.
- z) Noblesville, IN
- i) Conditional use requirements. “Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance”
- aa) Perry County, IN
- i) Scenic Districts.
- ii) Scenic Corridor Overlay District.
- bb) Seymour, IN
- i) Conservation subdivisions.
- cc) Washington, IN
- i) Signage.
- dd) Winfield, IN
- i) Subdivision procedures: “natural scenic drainage courses”.
- 10) Iowa
- a) State Byways
- i) <http://www.iowadot.gov/iowasbyways/index.aspx>
- b) Clear Lake, IA
- i) Sign regulations refer to ‘scenic beauty’.
- c) Clinton, IA
- i) Wireless Communication Facilities: reference to ‘scenic corridors’...
- d) Coralville, IA
- i) Sign standards refer to “scenic beauty”
- e) Denison, IA
- i) Scenic corridors and overlay district.
- f) Mount Vernon, IA
- i) Design standards (166.12) includes ‘preservation of scenic, historic, and natural features’
- g) Pleasant Hill, IA
- i) Conservation design.
- h) Wahpeton, IA, one reference to ‘scenic areas’; not applicable to this project.
- 11) Kentucky
- a) Covington, KY
- i) Viewshed Protection Overlay Zone. VP-O zone
- ii) Viewshed and Hillside Protection Overlay

- iii) http://www.covingtonky.gov/documents/Zoning_code_july_2005.pdf
 - b) Erlanger, KY
 - i) Billboard control.
 - c) Jessamine County, KY
 - i) Scenic easements.
 - d) Lawrenceburg, KY
 - i) Regulation of cellular towers.
 - e) Louisville-Jefferson County Metro Government
 - i) Sign limits in scenic areas.
 - f) City of Ludlow, KY
 - i) Scenic (conservation) easements required.
 - g) Madisonville, KY
 - i) Sign controls.
 - h) Maysville, KY
 - i) Corridor Overlay District
 - i) Middleton, KY
 - i) Sign restrictions, scenic corridors.
 - j) Mt. Washington, KY
 - i) Sign restrictions.
 - k) City of Paris, KY
 - i) Scenic roads.
 - l) Richmond, KY
 - i) Historic districts and scenic easements.
 - m) St. Matthews, KY
 - i) Sign restrictions; scenic corridors.
 - n) Woodford County, KY
 - i) Scenic Viewshed protection.
 - ii) Heritage preservation districts.
 - iii) Purchase of conservation easement programs.
 - iv) Points for scenic highway and byways setbacks/view protection.
- 12) Maine
 - a) Falmouth ME
 - i) Zoning Ordinance. Section 3.13. Resource Conservation Zoning Overlay District. Conservation Zoning Checklist.
 - (1) Conservation subdivisions are the preferred form of development in Resource Conservation Overlay Districts. Ordinance includes commentary.
 - b) Hermon, ME
 - i) Communication facilities.
 - ii) Special conditions requirements.
- 13) Maryland
 - a) State
 - i) <http://planning.maryland.gov/PDF/OurProducts/Publications/OtherPublications/nationalroad/visions.html>
 - ii) <http://planning.maryland.gov/PDF/OurProducts/Publications/OtherPublications/nationalroad/Washington.html>
 - iii) <http://www.roads.maryland.gov/Index.aspx?PageId=567>
- b) Allegany County
- i) Cumberland MD
- (1) http://www.ci.cumberland.md.us/new_site/index.php/contents/view/568
 - (a) Example of weak ordinance
 - c) Anne Arundel County, MD
 - i) Scenic and Historic Roads Commission.
 - ii) Scenic and historic roads.
 - iii) Signage restrictions.
 - iv) Open Space Conservation Overlay Zone.
 - d) Baltimore County, MD
 - i) Scenic Viewshed protection.
 - e) Carroll County, MD
 - i) Open space maintenance law.
 - ii) Solar energy and scenic vistas. “The system cannot unreasonably interfere with the view of, or from, a site of significant public interest (scenic, road, historic resources, etc.).”
- f) Frederick County, MD
- i) Resource conservation zoning district.
- ii) Agricultural districts limited to 3 lots and remainder on ‘original tract’.
- iii) Cluster subdivisions.
- iv) Open space recreation floating zone district.
- g) Garrett County, MD
- i) Viewsheds and protection.
- h) Howard County, MD
- i) Rural and low density clustering.
- i) Montgomery County, MD
- i) Scenic easement tax credit.
- ii) Agricultural preservation and TDRs.
- iii) Cluster zoning.
- iv) Rural neighborhood zoning.
- v) Tree canopy laws.
- vi) Stream protection laws and guidelines.
- vii) Forest protection laws.
- viii) Rural and rustic roads.
- j) Prince Georges County
- i) x
- 14) Massachusetts
 - a) City of Boston
 - i) View corridors.
 - b) Amherst MA
 - i) Open space plan, multi-faceted.
- 15) Michigan
 - a) Auburn, MI
 - i) Visual impact definition regarding wind energy.
 - b) Bingham Farms, MI
 - i) Sign ordinances.

- c) Breitung, MI
- i) Scenic Preservation District.
- d) Burtchville Township, MI
- i) Open Space Preservation, residential clustering option.
- e) Burton, MI
- i) Signage restrictions.
- f) Coldwater, MI
- i) Open space protection, Viewshed protection.
- g) Elk Rapids, MI
- h) Township of Erie, MI
- i) Franklin, MI
- i) Natural buffer zones
- j) Gerrish Township, MI
- i) Open Space preservation communities.
- k) Hopkins Township, MI
- i) PDRs and scenic corridors.
- l) Kochville Township, MI
- i) Conservation-Greenbelt districts
- m) Manchester, MI
- i) PUDs, signs,
- n) Pinckney, MI
- i) Rural road character preservation.
- o) Reed City, MI
- i) Hersey River Overlay District, PUDs.
- p) Saginaw, MI
- i) Telecommunication facilities.
- q) Southgate, MI
- i) Design standards include scenic value.
- r) Standish, MI
- s) City of Sterling Heights, MI
- i) General reference to ‘scenic and natural beauty’ in sign ord. Did not copy
- t) Webberville, MI
- i) Scenic references in PUDs, supplemental regs.
- u) Williamstown Township, MI
- i) Development rights.
- ii) Wetland protection.
- v) Wolverine Lake, MI
- i) General references to ‘due regard’ of ‘scenic points’
- ii) Scenic and open space easements.
- w) Yates Township, MI
- 16) Minnesota
- a) Apple Valley, MN
- i) General reference in conditional use permits.
- ii) Scenic easements.
- b) Austin, MN
- i) Subdivision regulations, scenic protection easements.
- c) Bloomington, MN
- i) Scenic easement program.
- d) Cannon Falls, MN
- i) Cannon Scenic River Land Use Districts.
- ii) Bluff Protection Overlay District.
- e) Cologne, MN
- i) Scenic easements along lakes.
- ii) In subdivision design standards
- f) Dayton, MN
- i) Scenic easements.
- g) Forest Lake, MN
- i) Conditional use, PUDs.
- ii) Rural Open Space Cluster Development.
- h) Goodview, MN
- i) Billboards.
- i) Greenfield, MN
- j) Jordan, MN
- i) Reference to parkway with ‘scenic amenities’.
- ii) PUDs: scenic enhancement.
- k) La Crescent, MN
- i) City is near 3 national scenic byways.
- l) Lake Elmo, MN
- i) Scenic easements.
- m) Lakeland, MN
- i) St. Croix River Overlay Zone.
- ii) Signs, ‘due regard’ for ‘scenic points’.
- n) Lindstrom, MN
- i) Scenic corridors.
- o) Milaca, MN
- i) Wild and Scenic Rum River Protection Area
- p) Mora, MN
- i) Reference to scenic in PUD and conditional use.
- q) Owatonna, MN
- i) Scenic easements.
- r) St. Michael, MN
- i) Signs and telecommunication towers.
- s) Waseca, MN
- i) Protective and scenic easements.
- ii) PUDs
- 17) Missouri
- a) Scenic Missouri billboard controls
- i) New billboard construction prohibited.
- ii) Tree removal for visibility prohibited.
- iii) Existing billboards could not be rebuilt, replaced or relocated.
- iv) Local authority to regulate reaffirmed.
- 18) Nevada
- a) Clark County NV
- i) Restrictions on height of retaining walls.
- b) Las Vegas NV

i) http://lasvegasnevada.gov/files/UDC_LasVegasBoulevardScenicBywayOverlay.pdf

19) New Hampshire

a) New Hampshire Department of Environmental Services, State of. 2006.

i) "Steep Slope and Ridgeline Protection." In *Innovative Land Use Planning Techniques: A Handbook for Sustainable Development*.

(1) Thorough overview of issues surrounding hillside development; includes model ordinance template.

20) New Jersey

a) Regional

i) New Jersey Pinelands Commission. 2008. *The New Jersey Pinelands Development Credit (PDC) Program*.

b) Hammonton, NJ

i) Environmental Commission

c) Reference to 'scenic beauty' and 'scenic and natural sites'.

i) Scenic corridors with 200' setbacks.

d) Voorhees, NJ

i) Historic site and scenic linked.

ii) Stream buffers include scenic.

21) New Mexico

a) Albuquerque, NM

i) Environmental protection and heritage conservation.

ii) Several goals in Comprehensive Plan include scenic view protection.

iii) Scenic corridors.

iv) Scenic easements to 'protect open space views'.

v) Design overlay zone include 'scenic' and 'significant views'.

b) Valencia County, NM

i) Wireless communication.

ii) Scenic corridors.

iii) Road design

22) New York

a) State

i) <http://www.dos.ny.gov/opd/programs/consistency/scenicass.html>

ii) <http://www.dos.ny.gov/opd/programs/HudsonSASS/Hudson%20River%20Valley%20SASS.pdf>

b) Regional

i) Hudson River Valley Greenway

(1) <http://www.hudsongreenway.ny.gov/Planning/General.aspx>

ii) Adirondack Mountains NY

(1) <http://adirondack.maps.arcgis.com/apps/OnePane/basicviewer/index.html?appid=625564b0f5b249f2ba29a931f23891ad>

(2) Central Pine Barrens Joint Planning and Policy Commission. 2004. *Central Pine Barrens Comprehensive Land Use Plan*. Volume 1. Chapter 6. Pine Barrens Credit Program. Central Pine Barrens Joint Planning and Policy Commission. 2004. *The Pine Barrens Credit*.

(a) Program Handbook: A User's Guide to the Central Pine Barrens Transferable Development Rights Program. Second Edition.

(b) One of the oldest and most successful TDR programs in the country. More information available at <http://pb.state.ny.us/>.

c) Day NY

i) <http://apa.ny.gov/gis/>

d) Dutchess County

i) Dutchess County Greenway Compact

(1) <http://www.co.dutchess.ny.us/CountyGov/Departments/Planning/17329.htm>

ii) Amenia NY

(1) <http://www.ameniany.gov/document-center/building-zoning/zoning/687-scenic-protection-map-2.html?path=building-zoning/zoning>

(2) <http://www.ecode360.com/13959894?highlight=scenic#13959894>

e) Easthampton NY

i) http://www.dos.ny.gov/opd/programs/pdfs/SASS_Report20081229_All.pdf

f) Hurley NY

i) http://townofhurley.org/plan/html/overlay_districts.html#scenic

g) New York City

i) Scenic View District

(1) The Special Scenic View District (SV) is intended to prevent obstruction of outstanding scenic views as seen from a public park, esplanade or mapped public place. No buildings or structures are allowed to penetrate a scenic view plane except by special permit of the City Planning Commission. The Brooklyn Heights Scenic View District (SV-1) extends over an area west of the Brooklyn Heights Promenade to protect the views of the Lower Manhattan skyline, Governors Island, the Statue of Liberty and the Brooklyn Bridge.

h) North Elba NY

i) <http://www.northelba.org/?page=government/code-enforcement/code-regulations>

i) Saratoga Springs NY

i) Scenic Overlay Zones for community entrance corridors.

ii) Zoning Ordinance. Article 4. Conservation Subdivision Regulations.

(1) Provides development standards, requires conserva-

tion analysis, discusses permanent open space requirements, and provides design guidelines.

- j) Thousand Islands Scenic Area NY
- i) <http://www.scenic1000islands.com/>
- k) Woodstock NY
- i) <http://woodstockny.org/content/Boards/View/4>
- 23) North Carolina
 - a) State
 - i) <http://www.ncdot.gov/travel/scenic/>
 - b) Regional
 - i) Land-of-Sky Regional Council
- (1) Mountain Ridge and Steep Slope Protection Advisory Committee. 2008. Mountain Ridge and Steep Slope Protection Strategies.
 - (a) Study examines impacts of development in the mountains of western North Carolina, calls for coordinated regional effort to protect priority conservation areas and promote smarter development patterns.
 - c) Albemarle County, NC
 - i) Residential cluster development.
 - ii) Watershed protection areas.
 - d) Ashe County, NC
 - i) Sign controls in scenic corridors.
 - ii) Tower controls in Blue Ridge Parkway viewshed.
 - e) Asheville NC
 - i) Hillside and Ridgetop Regulations: A Recommendation for Asheville, North Carolina.
 - (1) Staff report examining Asheville's approach to hillside development and making several recommendations for a different approach in the future. Includes overview of hillside regulations from other communities.
 - f) Bessemer City, NC
 - i) Scenic View Overlay District.
 - ii) Limits on telecommunication towers.
 - g) Camden County, NC
 - i) Scenic easements, corridors.
 - h) Canton, NC
 - i) Canton Pigeon River Scenic walking trail.
 - i) Town of Carthage, NC
 - i) Scenic byways in town.
 - j) Cary, NC
 - k) Conservation Residential Overlay District. See Southwest Area Land Use Plan.
 - i) Thoroughfare Overlay..."maintain scenic natural beauty" with 100' depth along certain roads.
 - l) Chimney Rock Village, NC
 - i) Residential Conservation Development District Overlay.
 - ii) Conservation easements include 'scenic'.

- iii) Conservation District Overlay Ordinance includes 'scenic'.
- iv) Steep slope development standards include 'preservation of scenic views and vistas',
 - m) Clayton, NC
 - i) Scenic corridor.
 - n) Columbus, NC
 - i) Mountain and Hillside Development.
 - o) Creedmoor, NC
 - i) Telecommunication towers; restrictions in 'scenic areas' and along 'scenic roadways'; height restrictions.
 - p) Dare County, NC
 - i) Sign restrictions; wireless communication restrictions.
 - q) Duck, NC
 - i) Telecommunication restrictions.
 - r) Garner, NC
 - i) Scenic corridor, districts.
 - s) Greensboro NC
 - i) <http://www.greensboro-nc.gov/index.aspx?page=3062>
 - ii) <http://www.greensboro-nc.gov/index.aspx?page=1728>
 - t) Holden Beach, NC
 - i) Conservation district with 'scenic' values identified.
 - u) High Pont NC
 - i) Eastchester Drive Scenic Corridor Overlay District
 - v) Johnston County, NC
 - i) Municipal Transition District: "protect and preserve the natural scenic beauty"...
 - ii) Details of district are total crap...does nothing to meet the purpose clause. This is an example of how NOT to do it.
 - w) Kill Devil Hills, NC
 - i) Limits on towers and overhead transmission systems.
 - x) Lewisville, NC
 - i) Comprehensive plan, scenic vista protection.
 - y) Liberty, NC
 - i) Scenic corridor.
 - z) Locust, NC
 - i) Open space districts with variable OSR of 20 to 60%.
 - ii) Preservation includes "rural heritage features" such as hedgerows, fence lines, etc.
 - aa) Marion, NC
 - i) Scenic corridors.
 - bb) Marvin NC
 - i) Viewshed buffers.
 - cc) Richlands, NC
 - i) Conservation areas and conservation easements.
 - dd) Southport, NC
 - ee) Sparta, NC

- i) Control of towers, Viewshed of Blue Ridge Parkway.
- ff) Taylorsville, NC
- i) PUDs with scenic consideration.
- gg) “Scenic shall include sensitive view corridors from roads, parks and other public area.”
 - i) Cluster development.
- hh) Yadkinville, NC
- i) Conservation subdivisions.
- 24) Ohio
 - a) Amelia, OH
 - i) Telecommunication towers and Viewsheds.
 - b) Avon Lake, OH
 - i) Scenic river areas.
 - c) Beavercreek, OH
 - i) Scenic river designation; affects swm design.
 - d) Bentleyville, OH
 - i) Special Restricted Development Districts, include “maximize...scenic beauty”.
 - e) Bowling Green, OH
 - i) Recreational – Conservation District.
 - ii) Planned Overlay Development.
 - f) Broadview Heights, OH
 - i) Restrictions on stormwater runoff to State scenic rivers.
 - g) Brook Park, OH
 - i) Restrictions on stormwater runoff to State scenic rivers.
 - h) Brooklyn Heights, OH
 - i) Riparian setbacks include the public purpose of “contributing to the scenic beauty and environment of the Village”
 - ii) Carlisle, OH
 - iii) Conditional uses, PUDs, signs; general reference.
 - i) Cincinnati OH
 - i) <http://www.cincinnati-oh.gov/planning/planning-projects-studies/public-view-corridor-overlay-pv-overlay/>
 - ii) (Problem downloading documents)
 - iii) Public View Corridor Overlay Zone (currently in draft form).
 - iv) Environmental Quality – Hillside District.
 - v) News box restrictions.
 - j) Cleveland, OH
 - i) Purpose clause of open space district: ‘scenic enjoyment’
 - ii) “scenic railways”
 - iii) Wireless communication facilities.
 - iv) Other general references to scenic vistas.
 - k) Columbiana, OH
 - i) Agricultural – Open Space conservation district.
 - l) Dublin, OH
- i) Scenic roadways.
- ii) “...scenic natural environment along existing public streets...”
- iii) Indian Run Scenic Cliffs
- m) Elyria, OH
 - i) Conservation Open Space District. Purpose: “...protect the rural, natural and scenic qualities...”
 - ii) Design Standards.
 - n) Englewood, OH
 - i) Environmental Quality District; includes reference to ‘scenic views’
 - o) Euclid, OH
 - i) Hillside Districts.
 - ii) Wireless communication towers.
 - p) City of Fairlawn, OH
 - i) Open Space Conservation District
 - ii) Design standards.
 - q) Franklin, OH
 - i) Parkland dedications
 - ii) Signs.
 - iii) Scenic river.
 - iv) Planned Residential Overlay District. “...scenic vistas and rural views...and...conservation of existing scenic resources”.
 - v) Conditional use findings.
 - r) Grafton, OH
 - i) General references to “scenic beauty of the village” in conditional use findings, manufactured homes district, and signage.
 - s) Green, OH
 - i) General references to ‘scenic vistas’ and ODNR scenic rivers program.
 - t) Greenwich, OH
 - i) General references to ‘scenic’ in conditional uses, parkland.
 - u) Hicksville, OH
 - i) General references to ‘scenic’ in conditional uses, parkland.
 - v) Hudson, OH
 - i) General reference to ‘scenic beauty’ in tree ordinance.
 - w) Indian Hill, OH
 - i) Scenic drives.
 - ii) Scenic River Area.
 - x) Jefferson, OH
 - y) Village of Jefferson, OH
 - z) Kelleys Island, OH
 - i) Environmental protection overlay district includes scenic vistas.
 - aa) Kirtland, OH

- i) General references to ‘scenic’ in signs code and PUDs.
- bb) Logan, OH
- i) General references in sign ord. and PUDs.
- cc) London, OH
- i) General references in sign ordinance, parkland, signage.
- dd) Marblehead, OH
- i) General references in conditional use.
- ee) Mason, OH
- i) General references in conditional use.
- ff) Mentor-on-the-Lake, OH
- i) General reference to ‘scenic beauty’ in riparian protection corridor.
- gg) Montgomery, OH
- i) Sign regulations.
- hh) Mount Gilead, OH
- i) Sign regulations: “preserve the scenic and natural beauty of the Village”
- ii) New Albany, OH
- i) SWM references to ‘scenic’.
- jj) New Carlisle, OH
- i) General references to scenic in PUDs, conditional use, sign ord.
- kk) North Royalton, OH
- i) References in signage, stormwater, riparian setbacks water quality sections.
- ll) Norton, OH
- i) References in stormwater, water quality, and sed. control.
- mm) Oak Harbor, OH
- i) Cluster subdivisions reference ‘scenic beauty/vistas’.
- nn) City of Painesville, OH
- i) References to scenic in stormwater and PUD.
- oo) Parma, OH
- i) Primary Open Space Zoning District
- pp) Put-in-Bay, OH
- i) “Scenic river area. An area declared a scenic river area by the Director of Natural Resources under R.C. Chapter 1547 and includes those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.”
- qq) Reynoldsburg, OH
- i) Scenic road.
- rr) Rittman, OH
- i) Cluster home subdivisions. “Scenic value”.
- ss) Springdale, OH
- i) Tree preservation.
- tt) Tipp City, OH
- i) References to ‘scenic’ in park and recreation section.
- uu) Toledo, OH
- i) Overlay district.
- vv) Vandalia, OH
- i) General references in PUD and SWM.
- ww) Waynesville, OH
- i) Scenic easements.
- xx) West Alexandria, OH
- i) Signs cannot interfere with ‘scenic views’.
- yy) Westerville, OH
- i) General references throughout.
- zz) Willard, OH
- i) General statement for PUD development includes preservation of scenic vistas.
- aaa) Willowick, OH
- i) References in stormwater code.
- bbb) Xenia, OH
- i) References in parkland dedication.
- ccc) Yellow Springs, OH
- i) Scenic corridors.
- 25) Oklahoma
- a) Oklahoma City OK
- i) http://www.okc.gov/planning/urbandesign_com-mapp/index.html
- 26) Oregon
- a) State
- i) <http://www.fhwa.dot.gov/byways/states/OR>
- b) Canby, OR
- i) General reference for parklands.
- c) Klamath County OR
- i) <http://www.klamathcounty.org/>
- d) Multnomah (Oregon) County of. 2007.
- i) East of Sandy River Rural Area Plan.
- (1) Second of five Rural Area Plans to be completed through Multnomah County’s Rural Area Planning Program.
- (2) Includes Citizens’ Advisory Committee’s Vision Statement.
- e) Portland OR
- i) <http://www.portlandoregon.gov/bps/article/64465>
- ii) <http://www.portlandoregon.gov/bps/index.cfm?&a=64465&c=36238&>
- 27) Pennsylvania
- a) <http://www.fhwa.dot.gov/byways/states/PA>
- b) Bucks County
- i) Buckingham Twp.
- (1) Successful TDR program.
- ii) Newtown Twp.
- (1) Highway Classification Map includes ‘scenic’ roads.
- iii) Upper Makefield Twp

- (1) Lower Delaware Wild and Scenic River Area
- c) Chester County
- i) East Fallowfield Twp.
- (1) Scenic Byways ordinance.
- ii) East Vincent Twp.
- (1) French Creek Scenic Corridor Overlay
- iii) Franklin Twp.
- (1) Scenic Roads Map
- d) Johnstown, PA
- i) Excluded transactions. “A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501©(3) of the Internal Revenue Code of 1954, (68A Stat. 3, 26 U.S.C. Section 501©(3)), and which has as its primary purpose preservation of land for historic, recreational, scenic , agricultural or open space opportunities;”
- e) Lancaster (Pennsylvania), County of. 2006. Comprehensive Plan for Lancaster County.
- i) Balance: The Growth Element. Rural Strategy.
- (1) This most recent update of Lancaster County’s plan provides a comprehensive strategy to reduce new residential growth in rural areas and maintain the viability of the traditional land-based rural economy.
- f) Lackawanna County
- i) Thornhurst Twp.
- (1) Conservation Opportunities Map
- ii) Tioga County
- (1) Twp. Of Clymer
- (2) Tax exemption for scenic, etc.
- g) Pike County PA
- i) <http://srcp.pikepa.org/>
- ii) “Scenic Rural Character Preservation Program”
- iii) Scenic Rural Character Preservation Board
- h) Lower Chichester Township, PA
- i) Transfer tax same as Johnstown.
- i) Philadelphia, PA
- i) Transfer tax.
- ii) Base and overlay districts
- j) Swarthmore, PA
- i) References in floodplain management.
- ii) Transfer tax.
- k) Upper Providence, PA
- l) East Nottingham Twp.
- i) Scenic Resources Inventory.
- 28) Rhode Island
- a) Middletown, RI
- i) Scenic roads.
- 29) South Carolina
- a) Blythewood, SC
- i) Scenic easements.
- b) Calhoun Falls, SC
- i) Scenic corridors.
- c) Camden, SC
- i) General reference in landscape ordinance.
- d) City of Dillon, SC
- i) Rural district, ‘weak’.
- e) Folly Beach, SC
- i) Corridor development standards have general goal of protecting scenic vistas.
- f) Goose Creek, SC
- i) Architectural Review Design Guidelines; includes scenic views protection.
- g) Greenville County, SC
- i) Designated scenic highways – billboard restrictions.
- h) County of Greenville, SC
- i) TDRs, cluster development, tree preservation.
- ii) Scenic highways.
- iii) Scenic corridors.
- iv) Billboard restrictions.
- i) Mt. Pleasant, SC
- i) Scenic highways.
- ii) Overlay and special use districts.
- j) Richland County, SC
- i) Scenic Viewsheds.
- k) West Columbia, SC
- i) Scenic referenced in Drought ord.
- l) York County, SC
- i) Rural road preservation.
- ii) Scenic overlay.
- 30) South Dakota
- a) South Dakota Basic Code
- b) Spearfish, SD
- i) Scenic gateways, signage, special regulations.
- 31) 31)Tennessee
- a) Collierville, TN
- i) General reference in stormwater regulations.
- 32) Texas
- a) Coastal Commission
- i) <http://www.glo.texas.gov/what-we-do/caring-for-the-coast/grants-funding/projects/completed/06-020-scenic-resources-design-guidelines.html>
- b) Austin TX
- i) <http://www.austintexas.gov/department/gis-and-maps>
- ii) City of Austin, Texas; Capitol View Ordinance, 1984.
- c) Cleburne, TX
- i) Scenic/Limited Areas.
- d) Dallas, TX
- i) General references to ‘scenic’.
- e) Fort Worth, TX

- i) Scenic preservation zones.
- f) Freeport, TX
- i) Beautification, Parks and Recreation Committee
- g) Greenville, TX
- i) Scenic corridors.
- h) Gun Barrel, TX
- i) Signage.
- i) Harker Heights, TX
- i) References in signage ord.
- j) Keene, TX
- i) Signage purpose clause includes: “Do not interfere with scenic views”
- k) Marlindale, TX
- i) Certificate of Appropriateness required in scenic corridor.
- l) Mt. Pleasant, TX
- i) General references in signage and landscape sections.
- m) San Antonio TX
- i) <http://www.sanantonio.gov/historic/viewsheds.aspx>
- ii) <http://www.sanantonio.gov/historic/historicsites/Zoning.aspx>
- n) Tyler, TX
- i) References in landscape and tree preservation division.
- o) Wimberley, TX
- i) Scenic overlay
- 33) Utah
- a) Farmington City, UT
- i) http://www.farmington.utah.gov/downloads/community_development/scenic_byway_corridor_exhibit.pdf
- ii) http://www.farmington.utah.gov/downloads/community_development/chapter41.pdf
- b) Park City UT
- i) Land Management Code. Chapter 2.20. Frontage Protection Zone (FPZ).
- (1) Establishes setbacks and development standards for main entry corridors. Setbacks are a minimum of 100’ but may be increased significantly for open meadow vistas.
- ii) Scenic corridors.
- iii) Gateways with setbacks and landscaping controls.
- iv) Scenic protection linked to larger growth management strategy.
- c) Salt Lake City UT
- i) Foothills and Canyons Overlay Zoning District
- (1) Lot and density requirements.
- (2) Slope protection standards.
- (3) Grading standards.
- (4) Road and site access criteria.
- (5) Access to trails and public lands.
- (6) Fencing.
- (7) Tree and vegetative protection.
- (8) Natural hazard protection.
- (9) Stream corridor and wetlands protection.
- (10) Wildlife habitat protection.
- (11) Construction activity and limits of disturbance minimization.
- 34) Vermont
- a) Bristol VT
- i) <http://www.townofbristolnh.org/Government/Conservation%20Committee/Minutes/2014/011514.pdf>
- b) Franklin County
- i) Georgia Town VT
- (1) In the form of shoreline and agricultural protection primarily.
- (2) Must be a ‘wind’ opportunity area like Garrett county MD since there is so much discussion as to ‘adverse impact’ to scenic vistas due to renewable energy sitings.
- (3) http://www.townofgeorgia.com/index.asp?SEC=BF489ABD-72D8-4A86-B76A-0CB3DB1E8292&Type=B_LIST
- (4) Viewshed/Scenic Overlay per 24 V.S.A. ss 4414(2)
- ii) Hyde Park Town VT
- (1) <http://hydeparkvt.com/history.html>
- (2) <http://hydeparkvt.com/pdfs/2015-0401%20DRAFT%20-%20Hyde%20Park%20Town%20LUDR.pdf>
- (3) Viewshed/Scenic Overlay per 24 V.S.A. ss 4414(2)
- (4) Just proposed new land use and regs, 4-1-2015 still in draft form.
- iii) Lincoln Town VT
- (1) Couldn’t find web site but 2012 Vermont listed them as one of 7 (4%) of the municipalities in Vermont with a Viewshed/Scenic Overlay per 24 V.S.A. ss 4414(2)
- iv) Ludlow Village VT
- (1) http://www.ludlow.vt.us/index.asp?Type=B_BASIC&SEC={4D554E46-1701-47F4-A890-E3EFC75C0122}
- (2) Mostly scenic protection in PUD and sign ordinance. Much discussion in the comprehensive plan though, which was adopted in 2013...probably working on new ordinances.
- (3) Viewshed/Scenic Overlay per 24 V.S.A. ss 4414(2)
- v) Shelburne Town VT
- (1) <http://www.shelburnevt.org/>
- (2) Lakeshore Overlay District
- (3) Viewshed/Scenic Overlay per 24 V.S.A. ss 4414(2)
- vi) Stowe Town VT
- (1) Viewshed/Scenic Overlay per 24 V.S.A. ss 4414(2)
- vii) Westminster VT
- (1) Zoning Ordinance. Article X. Ridgeline Protection

Overlay District.

(a) Carefully developed, recently amended ordinance providing ridgeline protection and minimizing visual impact of hillside development.

viii) Windham Town VT

(1) Viewshed/Scenic Overlay per 24 V.S.A. ss 4414(2)

ix) Waitsfield VT

(1) http://www.waitsfieldvt.us/src/scenic_roads_plan.cfm

(2) Scenic Roads Enhancement and Protection Plan: Scenic roads, scenic roads committee, inventory of protected places, routine maintenance,

35) Virginia

a) Loudoun County, VA

i) Open Space Use Tax Qualification

ii) Rural Neighborhoods

iii) Agricultural preservation districts.

iv) Loudoun (Virginia), County of. 2007. Revised General Plan. Chapter 7, Rural Policy Area. Chapter 9, The Towns. Chapter 10, Existing Villages. Chapter 11, Implementation.

(1) Plan sections framed by Smart Growth and Revitalization Principle 5: Ensure rural residential development that maintains rural character, preserves the environment, water quality, and natural features, and develops at overall densities that do not exceed the capacity of rural roads and public facilities, or compromise the growth of the rural economy.

b) Lynchburg, VA

i) <http://www.lyncburgva.gov/section-351-433-scenic-corridor-overlay-district-sc>

c) New Kent County, VA

i) Zoning Regulations. Section 98-yy. SCO, Scenic Corridor Overlay District.

(1) This draft language has been extensively debated and revised as part of New Kent's zoning ordinance update; mid-2009 adoption of the new finalized code is anticipated.

d) Prince William County, VA

i) <http://www.pwcgov.org/government/dept/planning/zoning/pages/maps-and-publications.aspx>

e) Weirton, VA

36) Washington, DC

a) Design review boards and high architectural standards.

37) Washington State

a) State

i) <http://www.fhwa.dot.gov/byways/states/WA>

ii) <http://www.wsdot.wa.gov/LocalPrograms/ScenicByways/>

b) Spokane WA

i) Zoning Code. Chapter 14.820. Rural Cluster Development.

(1) Implements comprehensive plan rural growth element. RCDs minimize impacts to necessary public services, preserve agriculture and forestry uses as well as sensitive environmental areas, and can also enhance rural fire protection.

38) West Virginia

a) Jefferson County WV

i) Visual assessment for 340 corridor.

39) Wisconsin

a) Fox Point WI

i) Design review of buildings outside of historic areas

40) Wyoming

a) <http://www.wyomingtourism.org/things-to-do/parks-and-nature/scenic-byways>

41) US Federal Agencies

a) US Code

i) <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title16/html/USCODE-2010-title16-chap1-subchapLIX-T.htm>

ii)

b) Federal Highway Administration

i) All American Roadways

ii) National Scenic Byway Program

(1) <http://www.fhwa.dot.gov/infrastructure/scenichistory.cfm>

(2) <http://www.fhwa.dot.gov/byways/>

(3) <http://www.fhwa.dot.gov/byways/byways>

(4) <http://www.fhwa.dot.gov/byways/byways/2020/maps>

iii)

c) Bureau of Land Management: great online Viewshed mapping tool

i) http://www.blm.gov/wy/st/en/programs/nlcs/Historic_Trails/gis_viewshed_maps.html

ii) http://www.blm.gov/wy/st/en/programs/nlcs/Historic_Trails/gis_viewshed_data.html

d) National Park Service

i) Battlefield protections

42) US Territories

43) Other Sources

a) 2002 summary of scenic overlays in USA

i) <http://www.cga.ct.gov/2002/olrdata/pd/rpt/2002-R-0653.htm>

b) State Scenic Byways

i) <http://www.fhwa.dot.gov/byways/states/IN>

ii) <http://www.fhwa.dot.gov/byways/byways/2279>

iii) http://www.fhwa.dot.gov/hep/scenic_byways/

iv) <http://www.fhwa.dot.gov/byways/states/NH>

v) <http://www.newmexico.org/scenic-byways/>

vi) <http://www.fhwa.dot.gov/byways/states/CO>

vii) <http://www.fhwa.dot.gov/byways/states/ME>

viii) <http://www.fhwa.dot.gov/byways/states/AZ>

- ix) <http://www.fhwa.dot.gov/byways/states/IA>
- x) <http://www.fhwa.dot.gov/byways/states/AR>
- xi) <http://www.fhwa.dot.gov/byways/states/IL>
- xii) <http://www.fhwa.dot.gov/byways/states/OH>
- xiii) <http://www.fhwa.dot.gov/byways/states/NY>
- xiv) <http://www.fhwa.dot.gov/byways/states/UT>
- xv) <http://www.fhwa.dot.gov/byways/states/ID>
- xvi) <http://www.fhwa.dot.gov/byways/states/AK>
- xvii) <http://www.fhwa.dot.gov/byways/states/MO>
- xviii) <http://www.fhwa.dot.gov/byways/states/WV>
- xix) <http://www.fhwa.dot.gov/byways/states/TX>
- xx) <http://www.fhwa.dot.gov/byways/byways/2489>
- xxi) <http://www.fhwa.dot.gov/byways/states/MN>
- xxii) <http://www.fhwa.dot.gov/byways/byways/2286/maps>
- xxiii) <http://www.fhwa.dot.gov/byways/states/NV>
- xxiv) <http://www.fhwa.dot.gov/byways/states/WI>
- xxv) <http://www.wsdot.wa.gov/LocalPrograms/ScenicByways/Map.htm>
- xxvi) <http://www.fhwa.dot.gov/byways/byways/2281>
- xxvii) <http://www.fhwa.dot.gov/byways/states/GA>
- xxviii) <http://www.fhwa.dot.gov/byways/byways/10781>
- xxix) <http://www.fhwa.dot.gov/byways/states/SC>
- xxx) <http://www.fhwa.dot.gov/byways/states/MI>
- xxxi) <http://www.fhwa.dot.gov/byways/byways/2463>
- xxxii) <http://www.fhwa.dot.gov/byways/states/MD>
- xxxiii) <http://www.fhwa.dot.gov/byways/byways/2482>
- xxxiv) <http://www.fhwa.dot.gov/byways/byways/2346>
- xxxv) <http://www.fhwa.dot.gov/byways/byways/11185/maps>
- xxxvi) <http://www.fhwa.dot.gov/byways/byways/2023/maps>
- xxxvii) <http://www.fhwa.dot.gov/byways/byways/2261>
- xxxviii) <http://www.fhwa.dot.gov/byways/byways/2345>
- xxxix) List not complete.
- c) Conservation Subdivisions - Background and Model Ordinances
 - i) Belansky, Evan, and Stacey Justus. 2000. *The Conservation Subdivision Design Project: Booklet for Developing a Local Bylaw*. Metropolitan Area Planning Council.
 - (1) Discusses definitions and basic elements of a conservation subdivision bylaw; reviews existing conservation subdivision bylaws in Massachusetts, provides model bylaw with commentary.
 - ii) Meck, Stuart. 2007. "Cluster Development: Modern Application of an Old Town Form." *Zoning Practice*. August.
 - (1) Model ordinance with commentary permitting cluster development by right; includes density bonus provisions.
 - iii) Natural Lands Trust and the Pennsylvania Department of Conservation and Natural Resources. 2001. *Growing Greener: Putting Conservation into Local Codes*.
 - (1) Report details the four step "Growing Greener" conservation development process and includes frequently asked questions and several PA case studies.
 - iv) Ohm, Brian. 2001. *A Model Ordinance for a Conservation Subdivision*. University of Wisconsin – Extension.
 - (1) Model ordinance contains substantial commentary.
 - d) Scenic View Protection – Reports and Model Ordinances
 - e) Duerksen, Christopher, and R. Matthew Goebel. 1999. *Aesthetics, Community Character, and the Law*. Chapter 3. View Protection. Planning Advisory Service Report No. 489/490. Chicago: American Planning Association. PDF attached.
 - (1) Discusses legal aspects of view protection regulations, including scenic road and corridor regulations.
 - f) Georgia, State of, Department of Community Affairs. 2007. *Alternatives to Conventional Zoning*. Section 7.7. Scenic Corridor Overlay District. With Commentary.
 - (1) Model scenic corridor overlay district with commentary. Requires development setback of 100', roadway buffer of 40' where retention of trees and significant vegetation is required.
 - ii) Kindschi, Thomas K., and Charles Causier. 1999. "Preserving Endangered Rural Character." *Lake Erie Balanced Growth Program, Balanced Growth Toolkit, Model Zoning Codes*.
 - (1) Study of preserving rural character in Sheboygan County, Wisconsin; includes model scenic corridor overlay and illustrated design guidelines.

Appendix 6

Glossary of Terms

The following are terms unique to scenic viewsheds and other issues discussed herein, as well as to the overlay district which have been recently added to the Division 40.33.300. General Definitions of the Unified Development Code (“UDC”).

Accents. Elements and/or improvements that are compatible with the character and nature of a scenic byway and add to the protection and/or enhancement of a byway’s character-defining features and/or intrinsic qualities.

Corridor Management Plan or CMP. A corridor management plan is a written document that specifies the actions, procedures, controls, operational practices, and strategies to maintain the archaeological, cultural, historic, natural, recreational, and scenic qualities that support the byway’s designation. The plan should:

- Be developed with community involvement,
- Provide for the conservation and enhancement of the byway’s intrinsic qualities as well as the promotion of tourism and other economic development, and
- Provide an effective management strategy to balance these concerns while providing for the users’ enjoyment of the byway.

Features, character-defining. Elements and features within a byway that, if lost or altered as a result of a transportation improvement or other action, would change the byway’s character and value.

Features, perceived. Features such as a peaceful rural landscape or a historic town that can be anticipated and appreciated by byway travelers, but may be less likely to be specifically identified in project documents or in field evaluations. Often multiple elements contribute to these features.

Features, tangible. Characteristics such as a historic building or state park that can be easily identified and are often inventoried and categorized by agencies, organizations, or byway sponsors.

Intrinsic Quality. Intrinsic qualities are those features and qualities that are irreplaceable and which make the byway special and unique, as described in the byway’s Corridor Management Plan (CMP). Intrinsic qualities and other character-defining features are the foundation for designation as a byway.

Intrinsic qualities, protection of. The act or process of applying measures necessary to sustain the existing form of identified character-defining byway features. This includes both physical features associated with the roadway, and features within the roadway’s scenic viewshed.

Intrinsic qualities, conservation of. The act of design that creates a stable condition or a gradual process of appropriate development that prevents a relapse of a desired byway intrinsic quality or character-defining feature.

Intrinsic qualities, enhancement of. The act of augmenting existing byway intrinsic qualities by increasing or magnifying their beauty, effectiveness, or perceived value or improving their environmental context.

Intrusions. Elements and/or improvements that are not compatible with the character and nature of a scenic byway and do not add to the protection, nor enhancement of, a byway’s character-defining features and/or intrinsic qualities.

Scenic Viewshed. The scenic viewshed includes all land and existing improvements visible from the scenic byway roadway network, as measured from multiple observation points along the roadway edge, with a viewpoint of between three (3) and four (4) feet above the roadway pavement edge. The scenic viewshed includes all land area visible from the observation points in a winter, or leaf-off condition.

ACKNOWLEDGEMENTS

Special thanks to the members of the project Advisory Committee (see Appendix 1 for a list of members) and the public for their commitment to the Byway, their attendance at meetings, and their support of this project. A special thanks also goes to the Project Partners, without whom this project would not have been possible: WILMAPCO (who provided overall project management), New Castle County (the implementing agency for land use regulations), DelDOT (the implementing agency for transportation), and the Delaware Nature Society (the coordinating organization for the Byway Alliance).

Consultant support was provided by Gaadt Perspectives, LLC (lead consultant, environmental and land use planning), Townscape Design, LLC (landscape architecture and planning), A Morton Thomas (transportation planning and engineering), and Temoss (transportation planning and context-sensitive design).

The preparation of this document was financed in part with funds provided by the Federal Government, including the Federal Transit Administration and the Federal Highway Administration of the United States Department of Transportation.

