

DEPARTMENT OF TRANSPORTATION

DIVISION OF PLANNING AND POLICY

Statutory Authority: 17 Delaware Code Sections 131, 146 and 508; Chapters 1 and 5
(17 Del.C. §§131, 146, 508)

FINAL

ORDER

Standards and Regulations for Subdivision Streets and State Highway Access

Proposed changes to the Delaware Department of Transportation's Standards and Regulations for Subdivision Streets and State Highway Access were previously advertised in the State Register of Regulations, at Vol. 11, page 67 (July 2007). In addition to written public comments on the proposed changes, the Department held a Public Hearing on July 26, 2007 to receive additional input. Legislative briefings were also held in each county, on September 24, 2007 (Kent), September 26, 2007 (Sussex), and October 3, 2007 (New Castle County). A Public Meeting was also held regarding these proposed changes on October 30, 2007.

Summary of the Evidence and Information Submitted

The comments received and the Department's reactions to those comments are summarized in the accompanying table. These comments caused certain changes to be made in the proposed Standards and Regulations. The Department considers none of these changes to be substantive in nature, and thus causing the need for a new comment period. In addition, the Department committed to working on additional changes regarding "grandfathering," which if sought to be adopted would require a new publication and written comment period before adoption.

No.	By:	Associated with Section	Comment	Response / Action
1	Wheatley Ventures Inc.	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
2	Glenn C. Mandalas, Prickett, Jones & Elliott	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
3	Representative George Carey	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
4	Lessard Builders	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
5	Senator George H. Bunting	N/A	Expression of gratitude for work done on revised regulations and fees.	None Required

6	IPM Equities, Inc.	3.1	Request for grandfathering language.	Provisions will be made with ample time for transition to the new regulations.
		3.1	Observe county regulations for subdivision street design.	DeIDOT agrees, but will also continue to suggest that private subdivision streets be constructed to our higher standard.
		3.1	Request that the proposed regulations be further divided into sections on access to state roads and roads to be dedicated.	DeIDOT does not agree that this is needed.
		3.1	The provisions of inter-connectivity are burdensome and unworkable.	DeIDOT does not agree and believes interconnectivity to be important.
		3.1	The regulations are arbitrary, rigid and completely unworkable.	DeIDOT does not agree and takes exception to this assertion.
7	Representative Joseph Booth	N/A	Could not find meeting notices for the July 26 th public hearing.	Provided copies of newspaper legal notices and press release
			Request for another public hearing.	Briefings for legislators were conducted in each county. DeIDOT also held a public information meeting on 10/30/07.
8	Representative Gerald Hocker	N/A	Request for another public hearing and publication of notice in local newspapers.	Briefings for legislators were conducted in each county. DeIDOT also held a public information meeting on 10/30/07.
9	Joan Wutka	N/A	When will the regulations be implemented?	After the legislative briefings and the October informational meeting the regulations will be filed with the Registrar.
			Will there be any public workshops?	DeIDOT held a public information meeting on 10/30/07.
10	Ocean Atlantic	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
11	Century Engineering	3.6 4.5.2.1 4.5.3.1 3.6.6 3.10.2	Clarify by adding additional language.	DeIDOT has made changes where believed to be appropriate.
12	Scott and Shuman LLC	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
13	David Kenton, Coldwell Banker	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
14	C.T. Bochau, Reventus Real Estate	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
15	Jesse Frederick	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
16	Dolores Slatcher, City Manager, Seaford	N/A	Request for web address for proposed regulations.	DeIDOT provided the address.
17	Robert Harris, Gulfstream Development Corp.	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
18	Glen Urquhart & Company	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.

19	Vance Phillips, Sussex County Council	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
20	Troy Oliver, Mandrin Homes	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
21	John Paradee, Pickett, Jones & Elliott	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
22	Michael Fannin, Country Life Homes	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
23	Harry Miller, Regal Builders	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
24	Maryann Ryan, Royal Acres, Inc.	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
25	A.J. Bierman	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
26	Rich Collins, Positive Growth Alliance	N/A	Will there be grand-fathering?	Provisions will be made with ample time for transition to the new regulations
27	Steve Class, Colonial East LP	N/A	Will there be grand-fathering? Request for a public workshop.	Provisions will be made with ample time for transition to the new regulations DeIDOT held a public information meeting on 10/30/07.
28	Maureen Duffy	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
29	Holly Conaway	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
30	Bill Lucks, Delaware Association of Realtors	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
31	Dave Wheatley, Beaver Properties	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
32	Drew Ward	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
33	Rich Collins, Positive Growth Alliance	N/A	Request for a public workshop.	DeIDOT held a public information meeting on 10/30/07.
34	Nathan Jovanally, ADS/Hancor	5.9	Clarify when use of HDPE drainage pipe is acceptable.	DeIDOT agrees with the suggestion. The text has been modified.
35	Tucker Dempsey, Delaware State Fire Chiefs Association	5.5.1	Street widths are of concern.	DeIDOT has established a special committee to address street width concerns. Recommendations are forthcoming which will reflect the committee findings.
36	Sophie Dear, Kent County Volunteer Firemen's Association	5.5.1	Request that regulations require wider paved streets in the interest of public safety.	DeIDOT has established a special committee to address street width concerns. Recommendations are forthcoming which will reflect the committee findings.
37	Jason Hastings, Bridge Design	5.9	Request that checklist for catch basin design and bridge design review be included in regulations as an appendix.	This has been added.
38	Joint Letter from Representatives Ennis, Outten, Lee and Short	5.5.1	Request that regulations require that roads be wide enough to handle the largest fire fighting equipment.	DeIDOT has established a special committee to address street width concerns. Recommendations are forthcoming which will reflect the committee findings.

39	Bill Betts, Kent County Fire Chiefs Association	5.5.1	Request that opportunity for input to discuss street widths be provided.	DeIDOT has established a special committee to address street width concerns. Recommendations are forthcoming which will reflect the committee findings.
40	Paul Davis, Kent County Fire Chiefs Association	5.5.1	Request that opportunity for input to discuss street widths be provided.	DeIDOT has established a special committee to address street width concerns. Recommendations are forthcoming which will reflect the committee findings.
41	Vance Phillips, Sussex County Council	N/A	Request that DeIDOT make a presentation to Council on the new regulations.	This was done in May 2007.
42	Glen Jones	N/A	Request for meetings to explain regulations.	DeIDOT held a public information meeting on 10/30/07.
43	Judy Hudson	N/A	Request that DeIDOT cancel plans for the new regulations	DeIDOT has a clear need to have updated regulations and will continue to move forward through the adoption process.
44	Anthony DePrima Dover/Kent County MPO	Chapter 1	Developer should reimburse DeIDOT for the cost of TIS reviews.	The proposed review fee will address this.
		Chapter 2	LOS standards proposed should be retained.	The LOS standards have been modified in response to the concerns expressed.
		Chapter 5	Flexible sidewalk standards should be used in low density, rural subdivisions.	The regulations provide for sidewalks on one side of the street under certain defined conditions.
45	Derrick Kennedy Orth-Rodgers & Associates	2.5	Request for a more uniform method of defining a study area	The project study area will change for each project and will be defined working with the developer's engineer and the local land use agency
		2.95	Request that the requirement for ATR data to support manual traffic counts be removed	It is not correct that DeIDOT will ask for ATR data on every approach at every intersection for every TIS. DeIDOT will retain the requirement to supplement manual counts with machine counts.
		Appendix	Request that a checklist for the TIS process be added.	DeIDOT agrees and has added the requested checklist.
		N/A	Request for a public workshop	DeIDOT held a public information meeting on 10/30/07.

46	10/30/07 Meeting Attendee	2.3.2	Will DeIDOT do the area wide study when the \$5/trip fee option is selected?	Yes
		2.3.2	If there is no area wide study or one is in progress but not complete, will the developer have to wait for one to be completed before they can develop?	No, they may pay the fee and proceed with the development review process.
		2.3.2	What is the reason for lowering the threshold?	To account for smaller developments that in the aggregate result in significant traffic impacts requiring mitigation.
		5.5.1	Is there flexibility in the shoulder width in response to site conditions?	Yes, but the burden of proof lies with the developer's engineer.
		5.7.2.3	Changing the allowable spread to half the width will substantially increase the number of inlets?	DeIDOT will keep the 8' spread in the old manual until more analysis can be done on the impacts to design.
47	Eric Buckson Levy Court	N/A	Need to find a way to get development and DeIDOT to combine their efforts.	DeIDOT currently requires developers to make improvements at subdivision entrances, along the property frontage and off-site when it can be demonstrated that traffic increases justify specific road improvements.
		N/A	Come up with a formula that says what you have to do in order to build on a road.	DeIDOT has a well-defined process that includes our standards and regulations, which developers must adhere to. This includes the measurement of impacts and the required road improvements.
		N/A	I want the shoulders and project to be connected.	DeIDOT strives to create as much continuity in road improvements as possible, recognizing that one developer typically cannot be held responsible for improving the pavement for an entire road's length.
48	Representative Bruce Ennis	N/A	I think the regulations ought to be held up until a decision is made whether DeIDOT intends to increase the width.	DeIDOT has established a special committee to address street width concerns. Recommendations are forthcoming which will reflect the committee findings.
49	Bill Chandler Chief, Felton Volunteer Fire Company	N/A	Would like to see the state go to 28-foot wide streets	DeIDOT has established a special committee to address street width concerns. Recommendations are forthcoming which will reflect the committee findings.

50	Rich Collins Positive Growth Alliance	N/A	Website says workshop. Link says public hearing. A gentleman who has done 67,000 traffic studies said DelDOT was the hardest and requires more data.	Ask the "gentleman" to meet with DelDOT if he wishes and we will discuss what we require, why and how it is in the public interest.
		N/A	Spoke to a person on the school board who was concerned about some of the requirements for new school construction.	Input from schools was received as part of a school district subcommittee that assisted in developing the legislations.
		N/A	Have one public workshop in the near future.	DelDOT held a public information meeting on 10/30/07.
51	Holly Rybinski, Associate, Stantec	P-2	Suggest explanation of left-turn credit.	DelDOT does not feel further explanation is required.
		P-3	Typographical errors	The typographical errors have been corrected.

Findings of Fact

Based on the record in this docket, I make the following findings of fact:

1. The proposed amendments to the Standards and Regulations for Subdivision Streets and State Highway Access are useful and proper, as amended pursuant to the comment period process required under the Administrative Procedures Act.
2. The adoption of these proposed changes to the Standards and Regulations for Subdivision Streets and State Highway Access is in the best interests of the State of Delaware.

Decision and Effective Date

Based on the provisions of Delaware law and the record in this docket, I hereby adopt the amended Delaware Standards and Regulations for Subdivision Streets and State Highway Access, as set forth in the version attached hereto, to be effective on December 21, 2007.

IT IS SO ORDERED this 14th day of November, 2007.

Carolann Wicks, Secretary
Delaware Department of Transportation

An authenticated PDF version of the Standards and Regulations for Subdivision Streets and State Highway Access is available here:

[http://regulations.delaware.gov/register/december2007/final/DelDOT Standards .pdf](http://regulations.delaware.gov/register/december2007/final/DelDOT%20Standards%20and%20Regulations%20for%20Subdivision%20Streets%20and%20State%20Highway%20Access.pdf) Standards and Regulations for Subdivision Streets and State Highway Access

11 DE Reg. 816 (12/01/07) (Final)