

**Protection Strategy for Scenic Byways, Watershed Areas, and Villages
Working Group Meeting #3
May 31, 2019**

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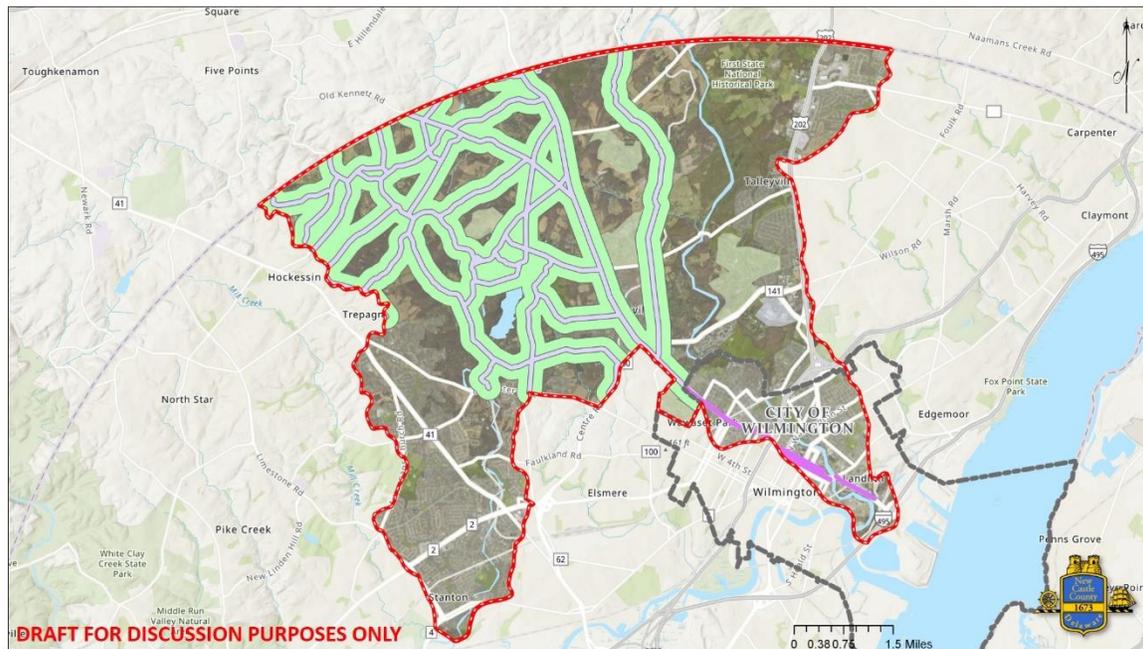
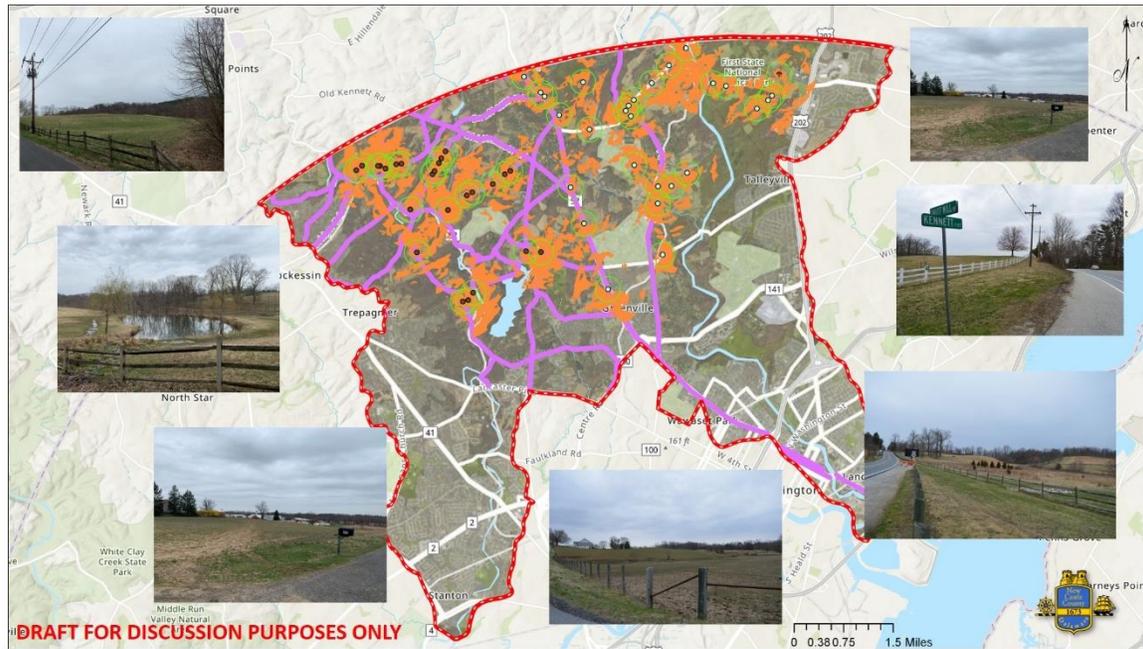
Summary of Meeting

The third Working Group for the Protection Strategy for Scenic Byways, Watershed Areas, and Villages was held on May 31, 2019 at the Department of Land Use. John Gaadt of Gaadt Perspectives, LLC and Department of Land Use Staff presented on the status of Phase 1, Tasks 1-3 and Task 7 of the original Scope of Work, which are nearing completion. These tasks include the completion of a viewshed methodology and fieldwork of the study area and the refinement of a proposed framework and draft ordinance language. Prior to the meeting, members of the Working Group were provided with an updated version of a draft framework and draft ordinance language, as well as a matrix outlining feedback received from the Working Group, Staff / Consultant Responses, and changes to the draft language based on Working Group feedback.

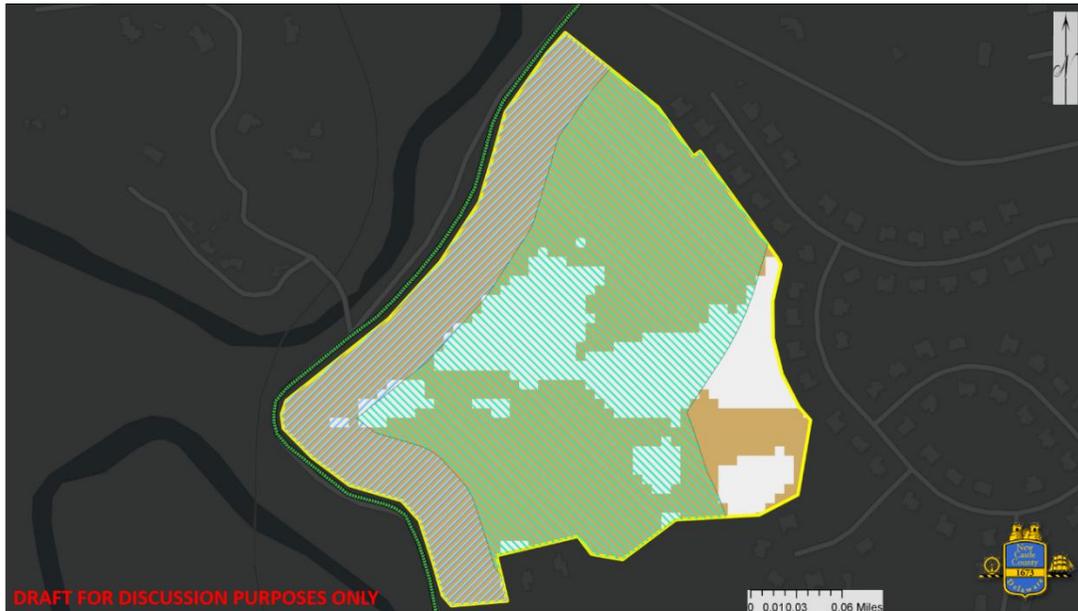
Viewshed Analysis Methodology & Field Verification (ongoing):

Since the previous Working Group meeting held in February, project staff completed fieldwork in the Brandywine Valley National Scenic Byway, Red Clay Scenic Byway, and Beaver Valley (Delaware portion) areas. The fieldwork completed was based on in-house findings as a result from a LIDAR-based, GIS analysis along the roadway corridors in the byway areas. The Working Group was presented with a number of slides

showing the in-house findings and GIS analysis along the byway roads, as well as the scenic viewsheds identified by project staff in the field (with photos). For reference, both the 200 ft., proposed Sub-District 2 and 1,000 ft. proposed Sub-District 3 were added to the overall map of the study area.



Also presented under this portion of the meeting was a visual representation of how sub-districts would be applied in accordance with the proposed ordinance language. The Working Group was presented with a generic example of a parcel with subdistricts and a viewshed analysis layer. Discussion included comments on how the “other areas” would be established based on various factors including contours of the land and vegetation and how proposed development on a parcel can be oriented out of the viewshed based on these other areas.



The image above is representative of a generic parcel, with Sub-District 2 (blue hatched area) and Sub-District 3 (green hatched area) shown atop a GIS analysis of the viewshed on the parcel based solely on contours (vegetation has not been added).

Regulatory Approach / Review of Revised Draft Ordinance Language

Prior to the meeting, Working Group members were provided with a copy of a revised framework, revised draft ordinance language, and a comment spreadsheet. The comment spreadsheet outlined all the comments received from the Working Group, incorporated changes to the code language based on the feedback received from the working group, and project team responses to Working Group comments. The second portion of the Working Group meeting and discussion included a brief presentation by the project’s consultant, John Gaadt, who outlined the changes made to the draft ordinance language including:

- Wording clarifications
- Additions to recognize the desire for design flexibility and acknowledgement of SVPTAC, to provide for additional flexibility and make recommendations to the Department and other decision-making entities.
- Relief for parking requirements
- Application of sub-district table to the Brandywine, Red Clay, and Harriet Tubman byways
- Exemptions for existing structures
- Addition of a buffering requirements table
- Expansion of description of SVPTAC’s role
- Additional restrictions on window signs and overall signage size

The following items were recurring themes in the comments received by Project Staff:

Protection of property rights / desire for additional incentives:

- Design flexibility is encouraged without impacting density; yield based on underlying district
 - Private lots are permitted to contain viewshed areas with permanent protections as open space
 - See financial benefits of conservation design document
 - Setback can be used in density calculations
 - Appeal process and waiver through SVPTAC review
 - Numerous opportunities for modifications
- SVPTAC’s role and composition
- Applicability (building permits, plans, development)
- Perception of large setbacks:
 - 100’ street yard & paving setback counts towards open space requirements (100’ setback is measured from the property line, which is generally further from the roadway edge and outside of DeIDOT Right of Way. This is in accordance with the definition of Setback in Article 33)

- Applications have the ability to go through SVPTAC for relief
- Existing structures located along the byways:
 - Existing structures are exempt (new revision)
 - Additions to these structures would be subject to the overlay, where feasible.
 - Village areas addressed under Phase II

Discussion:

Members of the Working Group were pleased with the changes in the draft ordinance language and offered the following comments:

- Composition of the proposed technical advisory committee should have representation from the byway on which an application is located when appearing before the SVPTAC. Board members recommended that potentially there be a rotating seat on the committee to accomplish this representation.
- Existing structures should be exempt from the requirements of the proposed overlay district standards. Additionally, there needs to be language covering existing structures that are damaged or lost by accident.
- There should be an appeal process through the Board of Adjustment or Planning Board, however some expressed concern that the other boards could disregard the intent behind the proposed ordinance.
- Concern over viewsheds being removed or altered after a plan or permit is approved and how to address that through the planning process.
- Density should remain unaffected by the proposed ordinance language.
- Questions if there is flexibility in the proposed language to include other transportation corridors (for example, railroad corridors).
- Some members of the Working Group expressed the opinion that evaluating the viewshed at a 10 foot interval during the production of a viewshed plan seemed excessive, while other members expressed the opinion that the opinion that 10 foot intervals are intended to protect the viewshed through evaluation.
 - It was recommended that a video option be included in Appendix 1 for the Viewshed Plan requirements.
 - Project staff encouraged the Working Group to provide specific feedback on the methodology behind the viewshed plan section proposed in Appendix 1.