



Preserving Scenic Views Along Byways Enhanced Factsheet

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SUMMARY

The Scenic Viewshed Protection Overlay District (SVPOD) is intended to preserve, protect, and enhance the scenic resources of designated scenic byways within the County. This district places additional standards on uses in order to protect identified intrinsic qualities, scenic features and other characteristics of designated byways; reduce visual intrusions that are not compatible with such qualities and features; assure that new development, redevelopment or infill is compatible with the scenic resources and intrinsic qualities of the district; and encourage conservation design techniques and strategies that position buildings outside scenic viewsheds or minimize impacts to such viewsheds.

This district is intended to be density neutral; in other words, applicants are entitled to receive the same density that is permitted in the underlying existing zoning district. Furthermore, this district provides applicants with design flexibility unavailable to existing zoning, such as allowing modifications in massing and façade, streetyard setbacks, parking, lot area and design, block design, streets and sidewalks, bufferyards and landscaping, to name a few. Such flexibility even extends to the set-aside of open space, where undeveloped portions of lots in the scenic viewshed area can be credited towards open space requirements.

SCENIC VIEWSHED PROTECTION OVERLAY DISTRICT (SVPOD)

Purpose

The protection, preservation, and enhancement of designated scenic resources is critical to the County, and promotes and enhances the health, quality of life, prosperity and welfare of all citizens of the County. The purpose of the SVPOD is as follows:

- To assure maximum preservation and enhancement of the district's outstanding and unique intrinsic qualities, scenic features and resources,
- To minimize grading, tree removal, signage and changes to the existing character of designated scenic byways, including the natural topography of areas along and adjoining such roads,
- To reduce visual intrusions into the district that are not compatible with the scenic qualities, features and resources of the district,
- To assure that the design and placement of buildings and other improvements preserve, complement, or enhance views from scenic byways,
- To assure that new development, redevelopment, infill development and other changes within the district are compatible with the scenic resources and intrinsic qualities of the district, and consistent with the goals, objectives and management strategies of the

Corridor Management Plans for designated scenic byways, other County studies related to scenic byways, or the Design Guidelines established for the district's byways,

- To achieve scenic viewshed protection along county, state and federally-designated scenic byways through the establishment of sub-districts that regulate building placement, visible building height, landscaping and buffering,
- To require the use of conservation design techniques, as defined in the Unified Development Code (UDC), to minimize impact to the scenic viewshed or position buildings outside the scenic viewshed of any federal, state, or county designated scenic byway, while respecting the property rights of those who own property in a SVPOD,
- To encourage design flexibility that permits modifications in façade, height, landscaping, and open space configuration, and
- To provide a review function by the Scenic Viewshed Protection Technical Advisory Committee (SVPTAC) when variations to District standards are sought or when SVPTAC review can inform other Administrative Boards or Agents.

Applicability

The boundaries of the Scenic Viewshed Protection Overlay District (SVPOD) encompass the land area within the County that will be identified on the Zoning Map, Scenic Viewshed Overlay Area Resources, and the Sub-districts identified in the Development Standards Section.

- All land development plans and applications within the overlay are subject to the requirements of the SVPOD. Applications not complying with the SVPOD as determined by the Department shall be subject to review by the Scenic Viewshed Protection Technical Advisory Committee (SVPTAC).
- The SVPOD shall be in addition to, and shall overlay, all other zoning districts within established SVPOD boundaries, so that any parcel of land lying within the SVPOD shall also lie in one or more of the other zoning districts provided for by this Code.
- The requirements and regulations of the SVPOD are in addition to the regulations of the underlying district. Where conflicts arise between the standards or requirements of the underlying zoning district and the SVPOD, the SVPOD requirements will apply.
- Uses shall be permitted in accordance with the underlying zoning district(s), except as modified herein.
- Existing structures are exempt unless otherwise regulated herein.
- Structures and additions under 480 sq. ft. are exempt from the regulations of this District.

Designation

- Prior to adoption of a Scenic Viewshed Protection Overlay District (SVPOD) by County Council, an area or road shall first be designated as a Scenic Byway by the Federal Government, State of Delaware, or County.
- As inventoried for designation as a Scenic Byway, protection under the terms of this District will be afforded to the following intrinsic qualities: scenic, historic, natural, recreational, cultural, and archeological resources.
- Adoption of an SVPOD shall be consistent with the Comprehensive Plan.
- All applications subject to the requirements of this Division should be consistent with the objectives of applicable Corridor Management Plans, Design Guidelines Manuals, or other County studies related to scenic byways for the specific byway or overlay district in which the application is located.

Scenic Byways, Corridor Management Plans and Other Studies

- Designated scenic byways must be referenced in the County's Comprehensive Plan and have an approved Corridor Management Plan (CMP) or other study prepared by the County. The CMP, or other study, shall include a detailed inventory of the character-defining features of the byway and specific recommendations regarding protection, preservation and enhancement of the scenic resources of the byway. Such studies may include: Corridor Management Plans prepared for State or Federally designated byways, Scenic River and Highway Studies prepared by New Castle County, and GIS Intrinsic Quality Designations prepared by New Castle County. See list of Scenic Viewshed Studies at the end of this document.

Principles to Guide Development

- Goals and Objectives.
 - The protection, preservation, and enhancement of the character-defining features, unique qualities and scenic resources of the scenic byway; including scenic, natural, cultural, historic, archeological, and recreational features.
- Scenic Viewshed Protection.
- Conservation Design.
 - To the maximum extent feasible, applications must utilize conservation design strategies
- Context Sensitive Solutions (CSS).
 - All applications shall utilize context sensitive solutions, materials, and methods compatible with the character of the community's existing culture and landscape,

- Building Scale, Bulk and Mass.
 - The scale and proportions of new construction on properties within this district shall be compatible with buildings on adjacent properties.
 - Buildings shall be designed to utilize scaling of architecture and material elements to reduce the appearance of the height and length of building facades through the use of changes in wall plane, height, and materials. The appearance of mass can be minimized through the use of design elements such as porches, porticos, bay windows, dormer windows, and pergolas.
 - Reduction of Visual Bulk: The effective visual bulk of development shall be reduced so that structures do not create negative impacts on adjacent properties or “stand out” prominently when seen from a distance. The form, mass, profile, and architectural features of the buildings should be designed to be compatible with the scale and character of the visible community.
 - General Massing: Buildings shall be divided into smaller parts, including detached buildings, to reduce effective visual bulk. This is especially important in visible hillside settings.
- Enhanced Resource Protection.
 - In addition to the protections and other standards of the Unified Development Code, applications within the Scenic Viewshed Protection Overlay District (SVPOD) shall also preserve and protect the following natural, cultural, and other character-defining features: old growth forests, stone walls, old lanes, hedge rows, fence rows, historic vegetative plantings, and visible cultural remnants of past human settlement. These features shall be integrated into the overall plan for the property.
- Minimal Impact to Byway.
 - Applications shall avoid visual intrusions into the scenic viewshed. If visual intrusions are unavoidable, the nature, intensity, and quantity of the intrusion must be minimized. All unavoidable visual intrusions must be mitigated with an appropriate level of compensating features.
- Open Space Design and Relationship to Scenic Byways.
 - Designs shall support open space systems that protect scenic vistas, contributing visual features, resources areas, and other character-defining features. Designs should be configured to provide a contiguous and viable greenway and recreational system within the district. Where permitted by the Department, undeveloped portions of residential lots may contain scenic viewshed protection areas, provided such portions of lots are permanently protected.
- Parking Standards. To preserve and enhance the scenic viewshed and further environmental benefit:
 - Required parking may be reduced up to 20% of the minimum parking requirements in this Chapter for non-residential uses within the overlay.

- The maximum number of parking spaces shall not exceed 115% of the minimum parking requirements in the UDC.

Development Standards

Scenic Viewshed Protection Overlay District (SVPOD) for the Brandywine Valley National Scenic Byway Area, Red Clay Valley Scenic Byway Area, and Harriet Tubman Underground Railroad Byway Area (north of City of Wilmington).

- Viewshed Composition. The SVPOD is composed of four (4) elements: roadways, corridors, viewsheds, and other areas. For the purposes of this district these elements are referred to as Sub-Districts as follows:
 - Sub-District 1 (SD-1): Those portions of the SVPOD that are within the ultimate right-of-way as specified by Delaware Department of Transportation's (DelDOT) Functional Classification Map and are thereby under the jurisdiction of DelDOT.
 - Sub-District 2 (SD-2): Those portions of the SVPOD that are within two-hundred (200) feet of either side of the public road right-of-way or property line, whichever is greater, of a designated scenic road (SD-1) and which are also within established scenic viewsheds or contain vista points as depicted on viewshed overlay maps contained in Appendix 8. SD-2 may also be referred to as the Inner Corridor.
 - SD-2 are the protective areas immediately adjacent to the scenic road rights-of-way that require the highest degree of viewshed protection.
 - Unless otherwise permitted by this Article, all areas within SD-2 (with the exception of visual intrusions) must be protected, conserved and enhanced.
 - Development shall avoid visual intrusions into this sub-district pursuant to the Table. Where visual intrusions are unavoidable, impacts shall be minimized and mitigated with a sufficient level of compensating features. Mitigation is subject to the approval of the County, pursuant to the findings of a Viewshed Plan as identified in Appendix 1 to this Chapter and shall demonstrate compliance with Review Procedures. The County or applicant may request additional review by the Scenic Viewshed Protection Technical Advisory Committee (SVPTAC). Where the County determines that the proposed mitigation pursuant to the Viewshed Plan is equal to or exceeds the objectives for landscaping and buffering contained in the SVPOD Development Standards Section below, or where such mitigation negates the need for such landscaping or buffering, the Department shall have the option to waive some or all of the landscaping requirements herein.
 - Buildings, building additions, and accessory structures shall not be constructed in this sub-district unless no other option is available. Where no other options are available, the Department of Land Use may establish a street yard setback consistent with the goals and objectives of the applicable Corridor Management

- Plan, Design Guidelines Manuals or other County study to provide the least intrusion possible.
- Scenic corridors shall be protected in accordance with the terms of Scenic Easements, below.
 - Existing structures, historic structures, existing farm complexes, or identified villages or hamlets in SD-2 shall be exempt from the standards contained in the SVPOD Sub-District Standards. Where feasible and achievable, additions to or modification of such structures, complexes, hamlets or villages shall mitigate impacts to viewsheds consistent with the objectives of this district.
- Sub-District 3 (SD-3): Those portions of the SVPOD that are between two-hundred (200) feet and one-thousand (1,000) feet of the public road right-of-way or property line, whichever is greater (SD-1), and which are also within established scenic viewsheds or contain vista points. SD-3 may also be referred to as the Outer Corridor.
- Development permitted within this sub-district shall maximize conservation design strategies and minimize impacts and visual intrusions into the viewshed.
 - If visual intrusions are unavoidable within this sub-district, the visual impacts shall be mitigated pursuant to the SVPOD Sub-District Standards Table. Mitigation is subject to the approval of the County, pursuant to the findings of a Viewshed Plan and shall demonstrate compliance with, Review Procedures. The County or applicant may request additional review by the Scenic Viewshed Protection Technical Advisory Committee (SVPTAC). Where the County determines that the proposed mitigation pursuant to the Viewshed Plan is equal to or exceeds the objectives for landscaping and buffering contained in the SVPOD Corridor Development Standards below, or where such mitigation negates the need for such landscaping or buffering, the Department shall have the option to waive some or all of the landscaping requirements of this Article.
 - Visual intrusions set back from the scenic roadway(s) within this sub-district shall be eligible for reduced landscaping, buffering, screening or other mitigation requirements, subject to County approval. For example, utility structures not otherwise placed outside the SVPOD shall require less mitigation if they are placed towards the outer perimeter (beyond 600 feet) of this sub-district (1,000 feet).
- Other Areas subject to the Overlay District: All other portions of the SVPOD that are not within Scenic Districts 1, 2, or 3. In addition, areas of SD-2 and SD-3 that are not within established scenic viewsheds or do not contain vista points are considered part of these areas.
- Regulation in these areas is limited to Visible Building Height restrictions contained in the SVPOD Sub-Districts Table. All buildings within six-hundred (600) feet of the right-of-way or property line, whichever is greater (SD-1), are subject to the requirements of the SVPOD Sub-Districts. The County or applicant may

request additional review by the Scenic Viewshed Protection Technical Advisory Committee (SVPTAC).

- Site Access. Deleterious changes to scenic byways shall be minimized. Points of access must be carefully considered and minimized through the use of common driveway easements and new public roadways that avoid multiple individual driveways along scenic byways.
- Scenic Viewshed Protection Overlay Sub-District Standards Table.

The sub-district development standards contained in the SVPOD Sub-Districts Table, below, regulate street yard setbacks, visible building façade, landscaping and grading/earthwork for development within the SVPOD. The purpose of these standards is to reduce the overall impact of development on the scenic resources and intrinsic qualities of the byways and, where feasible, complement or enhance views from scenic byways.

Street yard setbacks reduce direct impacts to roadway visibility, provide for proper ingress and egress, reduce infringements on adjoining properties, provide room to buffer objectionable uses or soften the impact of such uses, and serve as filtration areas for storm water run-off. Visible building façade standards reduce the overall impact of a building façade's height and width on the scenic byway through selective screening or alternative building placement and architectural design. Landscaping, buffering and screening attempt to soften or conceal the buildings from the scenic roadway. Finally, limits to grading and earthwork are intended to maintain the scenic character, viewsheds and elevations consistent with the scenic quality of roadways and the scenic viewsheds and vista points that existed prior to proposed development.

| <i>Sub-Districts Standards Table</i> <i>Brandywine Valley National Scenic Byway, Red Clay Scenic Byway and Harriet Tubman Underground Railroad Byway - North of Wilmington</i> | | | |
|---|--|---|--|
| | Sub-District 2 (SD-2) (0-200 ft.) | Sub-District 3 (SD-3) (>200 ft. to 1,000 ft.)¹ | Other Areas subject to the Overlay District |
| Street Yard & Paving Setback from ROW² | | | |
| S, SE, SR | 100-foot minimum | N/A | Per underlying district |
| All other Districts ³ | 40-foot minimum | - | Per underlying district |
| Visible Building Mass⁴ (as measured from ROW² of SD-1) | | | |
| Less than or equal to 100 ft. | Not permitted | - | - |
| >100 – 150 ft., | 20 percent | - | - |
| >150 – 200 ft., | 40 percent | - | - |
| >200 – 400 ft., | - | 60 percent | - |
| >400 – 600 ft., | - | 80 percent | - |
| >600 ft. | - | 100 percent | - |
| Visible Building Height⁵ (as measured from ROW² of SD-1) | | | |
| Less than or equal to 100 ft. | - | - | Not permitted |
| >100 – 150 ft., | - | - | 20 percent |
| >150 – 200 ft., | - | - | 40 percent |
| >200 – 400 ft., | - | - | 60 percent |
| >400 – 600 ft., | - | - | 80 percent |
| >600 ft. | - | - | 100 percent |
| Landscaping, buffering, screening | Per Buffering in SVPOD Corridor Standards, below | | |
| Grading & Earthwork | Limit to 10-foot maximum cut or fill | - | - |

¹ If located within the established scenic viewsheds or vista points.

² Right of way as established by DeIDOT.

³ Reduction in Street Yard and Paving Setback may be permitted by the Department.

⁴ If located within the established protective district setbacks, the percentage of the underlying district's permitted visible building mass (building height and width) that is allowed to be seen from a scenic byway. The percent seen applies to both height and width. Example: SD-2 within 100-150ft. = 20% of building height may be seen and 20% of the building width may be seen. If the building is reoriented so that the longest side is oriented away from the byway, screening on the façade facing the byway will not be required. This is accomplished by changing rooflines, elevations, screening, grading, shifting building bulk from the side yards to the front or rear yards within the permitted building envelope (reorienting the building mass so that less is in the scenic viewshed or vista). Does not apply to structures outside of the viewshed or vista point. Additions to existing structures within the viewshed shall adhere to this standard.

⁵ These areas, outside the scenic viewshed or scenic vistas, are exempt from these standards *except* where the visible building height will impact the scenic viewshed or scenic vista. Under such circumstances, only the building height within 600 ft. of the ROW must be mitigated when the height would otherwise infringe upon the scenic viewshed or scenic vista and as viewed from a scenic byway. Example: Other Areas that are within 100-150ft. from ROW = 20% of allowable building height may be seen.

Examples of Viewshed Preservation Techniques

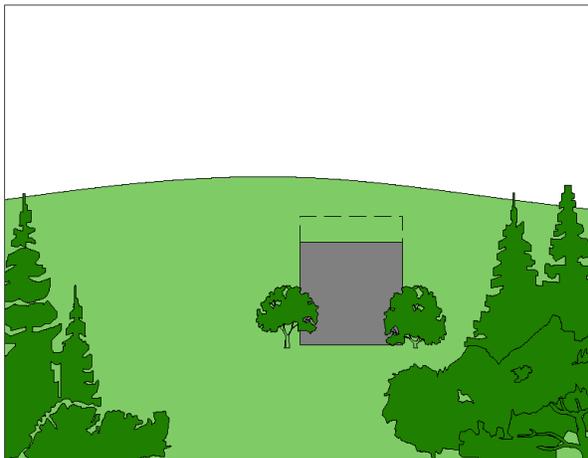


Figure 1 - Building height is reduced and building screened to reduce impact on the viewshed

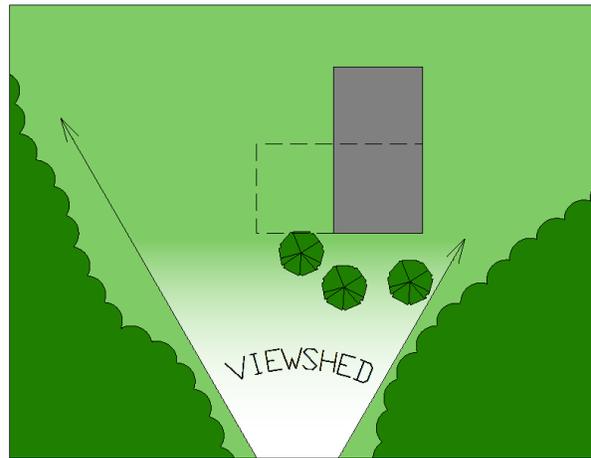


Figure 2 - Building in viewshed is reoriented and screened to reduce impact on viewshed

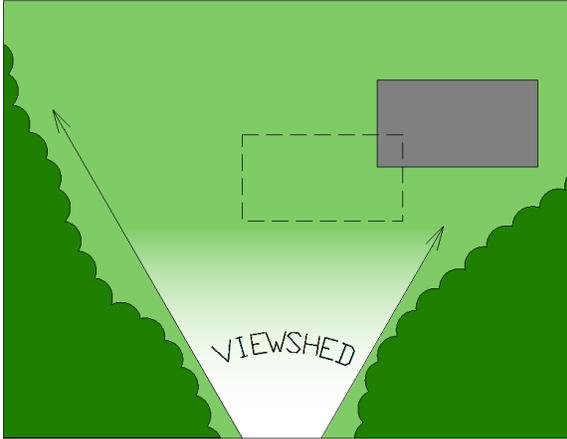


Figure 3 - Building is relocated to be partly outside the viewshed

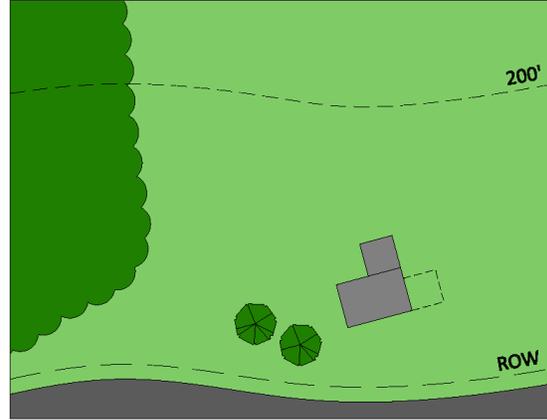


Figure 4 - Addition to existing structure is placed to the rear of the building rather than directly in the viewshed

- The objective of the SVPOD is to preserve scenic viewshed corridors with little or no buffering. Where visual intrusions or other impacts to the viewshed area are unavoidable, all land development plans and applications shall provide screening and buffering in accordance with this section.

SVPOD CORRIDOR STANDARDS

| Buffer Width | |
|---------------|--|
| | Within Scenic Viewshed Protection Overlay District |
| 50' | Existing forest to be preserved or combination of forest preservation plus additional landscaping up to 6 planting units per 100 linear feet of street frontage, whichever achieves the greatest screening potential |
| >50' to 100' | Existing forest to be preserved or combination of forest preservation plus additional landscaping up to 12 planting units per 100 linear feet of street frontage, whichever achieves the greatest screening potential |
| >100' to 150' | Existing forest to be preserved to the greatest extent feasible, or combination of forest preservation plus additional landscaping up to 10 planting units per 100 linear feet of street frontage, whichever achieves the greatest screening potential |
| >150' to 200' | Existing forest to be preserved to the greatest extent feasible, or combination of forest preservation plus additional landscaping up to 8 |

| | |
|-----------------|---|
| | planting units per 100 linear feet of street frontage, whichever achieves the greatest screening potential |
| >200' to 400' | Existing forest to be preserved to the greatest extent feasible with priority given to forest that maximizes scenic viewshed protection, or combination of forest preservation plus additional landscaping up to 4 planting units per 100 linear feet of street frontage, whichever achieves the greatest screening potential |
| 400' or greater | Existing forest to be preserved to the greatest extent feasible, with priority given to forest that enhances scenic viewshed protection, plus 2 plant units per 100 linear feet of street frontage |
| 600' or greater | Existing forest to be preserved to the greatest extent feasible, with priority given to forest that enhances scenic viewshed protection, plus 1 plant unit per 100 linear feet of street frontage. If at least 30 acres of scenic viewshed protection are provided, no landscaping is required |

Scenic Viewshed Protection Technical Advisory Committee (SVPTAC)

A Technical Advisory Committee shall be established to provide oversight for all SVPOD’s on matters deemed important by the Department. The SVPTAC shall have an opportunity to review applications and make written recommendations to the Department, the Board of Adjustment, the Planning Board or other bodies. Any application for a variance shall be transmitted to the SVPTAC, which shall have forty-five (45) days from the filing of the application to review and issue its recommendation.

Design Guidelines Manual, Corridor Management Plans (CMPs), and Other Studies

- In addition to the standards set forth herein, each designated scenic byway within the County shall adopt design guidelines as part of the establishment of the Scenic Viewshed Protection Overlay District (SVPOD). In lieu of design guidelines, CMPs or other planning studies may be referenced.
- Design guidelines shall be a reference document, providing guidance in implementing this Article. Where design guidelines currently do not exist, Corridor Management Plans or other County Scenic Byway Planning Studies shall be referenced for design guidance.
- Design guidelines shall provide general instructions to applicants regarding design approaches, alternative solutions, appropriate materials and elements that are

compatible with the district; and other information to assist an applicant in achieving the goals and objectives herein.

Signs Within the Scenic Viewshed Protection Overlay District (SVPOD)

- General Sign Practices. Reducing sign usage should be utilized to avoid sign clutter inconsistent with the visual character of the SVPOD and to minimize, to the greatest extent practicable, the amount of signage in the District.
- Prohibited Signs. In addition to the prohibitions outlined in Sec. 40.06.040, the following signs are prohibited in the SVPOD:
 - Electronic Variable Message Signs (EVMS),
 - Marquee signs,
 - Projecting signs,
 - Roof signs,
 - Window signs,
 - Wall signs that project above a roofline, and
 - Off-premises advertising. No off-premises advertising, billboards, and other off-premises signage shall be permitted in the SVPOD, and no billboards or other off-premises signage shall be erected within, oriented toward, or situated to be observed from any scenic byway.
- Size. All signs requiring a permit associated with a non-residential use in the SVPOD shall be limited to fifty (50) percent of the sign area permitted in the underlying zoning district.
- Height. All signs requiring a permit in the SVPOD will be limited in height to fifteen (15) feet, or one-half the height of the underlying zoning district, whichever is less.
- Lighting. If lit, the light source shall be exterior to the sign using shielded, low wattage, and diffuse white light. Back-lit and internally illuminated signs are prohibited.

Scenic Easements

Intrinsic Qualities preserved on a development plan shall be protected with scenic easements that permanently preserve the resources in perpetuity, pursuant to the following:

- Identified intrinsic qualities must be protected by an easement consistent with the purposes of this District, the terms of which shall be approved by the County, with the County being a party to the easement.
- Historic or conservation easements may be used to secure protection of intrinsic qualities, under such terms and conditions as approved by the County, provided the County is also a party to the easement. Pre-existing easements may be suitable for protection, provided the terms of which are acceptable to the County.

- Portions of lots that are protected by newly-created scenic viewshed protection easements shall be credited as part of any required open space under the terms of the UDC.

Modifications

The general requirements of the UDC may be modified in order to further the goals and objectives of scenic viewshed protection, subject to review and approval by the County. The Department of Land Use shall review the request and evaluate whether the proposed modifications are necessary to the preservation of the scenic resources of designated scenic byways. Applicants must clearly articulate how their modifications will further the goals and objectives of scenic viewshed protection. Modifications will only be permitted where it can be shown they are necessary to achieve the purposes of this District. The Department of Land Use shall review any modification in light of a Viewshed Plan as identified in Appendix 1 to this Chapter.

Specifically, the requirements of the following sections may be modified in the SB Overlay District if the goal of protecting, conserving or enhancing the byway is achieved.

- Use Regulations
 - Division – Loading and parking standards.
 - Sec. Off-street parking. Off-street parking requirements may be reduced for cause, provided public safety is satisfied.
- District Intensity and Bulk Standards
 - Division– District performance standards
 - Sec.– District and bulk standards.
 - Minimum open space ratio. Protected resources may be preserved by scenic or conservation easements on lots and credited toward minimum open space requirements.
 - Minimum lot area. Bufferyards and scenic corridors may occur on lots.
 - Landscaping.
 - Landscaping modifications are permitted where a revised planting scheme mimics the natural landscape and native plant species of the byway area and enhances scenic viewsheds. Landscape design should be in keeping with the context of the surrounding area, be that a natural landscape or formal garden, and be consistent with a byway’s design guidelines. In general, the use of non-native species is discouraged.
 - Scenic corridors. Scenic corridors may be permitted on private lots if a protective easement is provided.
 - Bufferyard performance standards.

- In the Scenic Viewshed Protection Overlay District (SVPOD) bufferyards are also required in minor land development and minor subdivision applications.
- Subdivision and Land Development Design Principles
 - Subdivision layout.
 - Blocks. Modifications to block design shall be permitted if conservation design is utilized and scenic viewshed protection is achieved.
 - Lots. Modifications to lot design shall be permitted if conservation design is utilized and scenic viewshed protection is achieved. Applicants are encouraged to use conservation design techniques to site buildings outside the scenic viewshed and are permitted to use flexibility in configuring the size of lots and the placement of buildings on lots. Smaller lots, zero lot-lines and other flexible siting techniques are permissible provided the applicant demonstrates a logical configuration and contextually sensitive approach to lot sizes and setbacks.
 - Improvement and Design Standards
 - Streets.
 - Curbs. Curbs may not be required in SVPODs, subject to plan review of specific applications. In general, curbs should be avoided where possible consistent with a naturalized open-section road capable of supporting disconnected runoff managed in above-ground stormwater best management practices. If roadway or other areas are intended to be dedicated to the State (DeIDOT), DeIDOT may determine curb need, pending proposed entrance, internal roadway intensity, and stormwater management requirements. Alternative materials may be utilized, subject to acceptability of design by County or State agencies.
 - Sidewalks and shared-use pathways. Sidewalks may be required in the SVPOD, subject to plan review of specific applications. If sidewalks are required for public safety or accessibility purposes, trails and shared-use pathways, in lieu of sidewalks are also permitted. Alternative materials may be utilized, subject to acceptability of design by County or State agencies. Alignments may vary to adjust to existing topographic and natural features. Other forms of egress easements or agreements are encouraged to ensure public accessibility or connectivity to existing paths and trails. Sidewalks and shared-use pathways intended for public use or within the public right of way shall be compliant with applicable accessibility standards.
 - Grading and drainage.
 - Storm drainage. Storm drainage and stormwater management features shall conform to County green technology best management practices, and be designed in a contextual and compatible manner, maximizing natural features and plantings.
 - Other utilities.

- Electric and communications utilities. Undergrounding of facilities may be required in minor, as well as major subdivisions and land development projects in the SVPOD. Where approved by the SVPTAC, above-ground screening may be permitted where it can be shown that such screening achieves the same or similar outcome to undergrounding facilities.
- Parking and loading.
 - Waiver of parking lot design standards. Waivers are permitted in the SVPOD in order to achieve district goals, preserve scenic viewsheds and to create parking facilities that are contextual and compatible with the scenic beauty in the district.
- Exterior lighting standards. Waivers to the standards of this Chapter may be permitted in order to avoid light pollution in scenic viewsheds.
- Landscaping, Trees, and Erosion. Modifications to this Chapter are permitted in order to achieve forest, landscaping and plantings that mimic the natural features and native plant species of the district and enhance scenic viewsheds. Bufferyard and scenic corridor standards may be decreased where it can be shown that reductions in planting or buffering advance scenic viewshed protection and enhancement.
- Modifications
 - Zoning modification. Modifications to construction envelopes, bufferyards, street yard setbacks and road frontage may be permitted by the Department without the necessity of seeking a variance if scenic viewshed protection is maximized.

Exemptions and Variances

- Modifications. Where applications are in strict conformity to the goals, objectives, and standards of the Scenic Viewshed Protection Overlay District (SVPOD), and where the Department has discretionary authority, strict adherence to the design and development criteria of the underlying base zoning district may be waived or modified.
- Subdivision Variances. Modifications to subdivision standards shall be considered by the Planning Board, as required by the UDC.
- Zoning Variances. Dimensional variances to zoning standards will be considered by the Board of Adjustment, as required by the UDC.
- Design variances will be considered by the Department during the standard review process.
- Deprivation Standards. If the application of the standards of the SVPOD impact the use of a property, such impacts may be reviewed under the deprivation standards as outlined in the UDC.

Review Procedures

- Applications must demonstrate compliance with the purpose, goals and objectives of the district, and protect, conserve and enhance the district's resources consistent with the goals and objectives of the Corridor Management Plan or other County studies related to scenic byways. Where applicable, applications must also conform to the Design Guidelines established for the district's byways.
- Any proposed land development application within a Scenic Viewshed Protection Overlay District (SVPOD) shall follow the procedures of the UDC, except as modified herein.
- In addition to other review requirements, required applications within the SVPOD shall submit a Viewshed Plan.
- Applications shall protect or enhance the scenic viewshed as specified in this District. If the Department determines an application does not fully protect or enhance the scenic viewshed, it must include a 'Scenic' Environmental Impact Assessment Report (S-EIAR) with the application pursuant to the UDC Environmental Impact Assessment Report requirements. S-EIAR's shall be submitted by a landscape architect registered in the State of Delaware.
 - The S-EIAR must demonstrate how the application has:
 - Avoided visual intrusions to the scenic viewshed;
 - Minimized visual intrusions into the scenic viewshed; and
 - Sufficiently mitigated all visual intrusions with an appropriate level of compensating features as approved by the SVPTAC.
 - Any additions or mitigated visual intrusions within the scenic viewshed shall be context-sensitive and compatible with the scenic and natural character of the byway.

Definitions

This Section provides definitions for terms in this District that are technical in nature or that otherwise may not reflect a common usage of the term. All definitions appearing in the Definitions section of the UDC shall be applicable to this District, except to the extent of inconsistency with any definitions appearing in this Section.

Bulk. The qualitative readily visible composition and perceived shape of a structure's volumes. Bulk is affected by variations in height, setbacks and stepbacks of upper stories.

Corridor. The road or highway right-of-way and the adjacent area that is visible from and extending along the road or highway. The distance the corridor extends from the road or highway could vary with the different intrinsic qualities as evaluated by the County.

Corridor Management Plan (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 a

scenic 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. The document should be generally consistent with the State of Delaware standards for such plans.

Context Sensitive Solutions (CSS). An approach to integrating land use and transportation decision-making and design that takes into consideration the communities and lands through which streets, roads, and highways pass ("the context"). CSS plans and designs streets, roads and highways so that they are more sensitive to local communities and lands. CSS recognizes that transportation projects can be an asset for communities and enhance the environment.

CSS is a collaborative, interdisciplinary approach that leads to preserving and enhancing scenic, historic, community, and environmental resources. Characteristics of CSS include:

- a. the project is in harmony with the community, and it preserves the environmental, scenic, aesthetic, historic, and natural resource values of the area;
- b. the project is perceived as adding lasting value to the community as a whole; and
- c. the project involves efficient and effective use of resources (time and budget) of all involved stakeholders.

Façade. One exterior side of a building.

Features, character-defining. Elements and features within a scenic area or 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, contributing. Structures or other physical features, such as a historic building or designated public park, that can be easily identified and are often inventoried and categorized by agencies, organizations, or byway sponsors.

Features, visual. The observation of elements or features in the landscape (without the aid of an instrument) that contribute to or detract from the character and nature of a scenic area, or a scenic area's character-defining features or intrinsic qualities.

Intrinsic Quality. Scenic, natural, historic, cultural, recreational, or archeological features that are considered representative, unique, irreplaceable, or distinctly characteristic of an area.

Mass(ing). The arrangement of the building's bulk, including relative openness and solidity. Pursuant to the Scenic Viewshed Protection Overlay District, mass refers to the height and width of buildings as seen from the byway.

Scale. Building elements and details as they proportionally relate to each other and to humans.

Scenic Byway. A public road having special scenic, historic, recreational, cultural, archeological, or natural qualities that have been recognized as such through legislation or some other official declaration.

Scenic Easement. A portion of a lot or parcel that is covered by an easement, running in favor of the County, or a nonprofit agency, providing protection or enhancement of the scenic qualities of such land. Conservation easements, historic easements and permanent agricultural easements may be utilized to meet all or a portion of a required scenic easement.

Scenic Resource –

1. A general term of reference for elements, features, viewsheds, intrinsic qualities, physical improvements, etc. of a road or corridor that provide scenic beauty or character.
2. A high degree of natural beauty and historic or cultural value, characterized by one or more of the following:
 - a. scale of landscape (size, dimension, etc.),
 - b. characteristics of roadway(s) (runs with topography, winds through landscape, changes with terrain, etc.),
 - c. scenic accents or vistas along roads,
 - d. historic characteristics of the landscape, of roads or along roads (covered bridges, stone bridges, historic houses, stone walls, etc.),
 - e. natural resources or ecosystems in close proximity to, or visible from, roads (watercourses, wetlands, rock outcrops or other geologic formations, woodlands, wildlife habitat, etc.), and
 - f. parkland or recreation along or adjacent to roadways.

Scenic Viewshed - The land area generally adjacent to and visible from a scenic byway or road. A scenic viewshed is identified using a motorist's line of sight, as measured from multiple observation points along the roadway, with a point of view approximately six (6) feet above

the roadway pavement. The scenic viewshed includes all land area visible from the observation points in a winter, or leaf-off, condition.

Scenic Vista – A broad or expansive view of a landscape, the scenic boundary of which is primarily defined by forest cover or other buffering features within the public viewshed.

Vista Points – Locations or vantage points along scenic byways and roadways from which scenic vistas are viewed. Vista points are further depicted in Corridor Management Plans and other County studies related to scenic byways.

Visible Building Mass - That portion of a building that is permitted to be viewed from the scenic road. The visible building mass is identified using a motorist's line of sight, as measured from multiple observation points along the roadway, with a point of view located approximately six (6) feet above the roadway pavement. The visible building mass includes all building area visible from the observation points in a winter, or leaf-off, condition.

Visual Accents – Elements or improvements that are compatible with the character-defining features of a scenic byway and protect and/or enhance a byway's intrinsic qualities. Visual accents include visually significant landscapes, structures, and landforms within the public viewshed (i.e., visible from scenic roadways) that serve as indicators of natural, cultural, and/or historic processes, contain multiple resources that together form visually significant groupings, or are clear examples of superior features or characteristics. Visual accents can be natural or man-made.

Visual Intrusions - Elements or improvements that are not compatible with the character and nature of a scenic area and do not add to the protection or enhancement of a scenic area's character-defining features or intrinsic qualities. Visual intrusions may be identified in applicable studies or may be comprised of new improvements and structures that impact the byway (e.g. transmission lines, new structures proposed in a scenic viewshed, opaque fences, etc.).

ADMINISTRATION

The Scenic Viewshed Protection Technical Advisory Committee (SVPTAC) will provide a review function pursuant to a list of administrative responsibilities identified in the UDC. Among the actions the SVPTAC will review are the following:

- Scenic Environmental Impact Assessment Reports
- Zoning Variances
- Use Variances

- Subdivision Variances
- Minor and Major Subdivision Review
- Limited Uses
- Zoning Permits
- Beneficial Uses

ADMINISTRATIVE AGENTS

As an Administrative Agent of the UDC, the purposes and duties of the Scenic Viewshed Protection Technical Advisory Committee (SVPTAC) are to:

- Provide technical support and recommendations to the Department concerning the technical definition, criteria, and standards contained in the District or as otherwise referenced in the Code.
- Advise the Department when it is determined that scenic viewshed protection standards contained in this Article or elsewhere in the Code should be amended.
- Provide technical support and recommendations to the Department, Board of Adjustment and Planning Board concerning any application concerning the District.
- Advise the Department when the SVPTAC determines that the District, or any regulations, interpretations or policies promulgated pursuant to the District, should be amended.
- Assist the Department as requested.
- Provide technical support, review and recommendations on all applicable variance applications.
- Upon the request of the Department, SVPTAC shall provide recommendations regarding application of the standards to rezoning, subdivision, and land development submissions relative to any issue involving the District or a protected resource so identified in the Code that contributes to the intrinsic qualities of a Scenic Viewshed Protection Overlay District (SVPOD).
- Provide technical support and recommendations to the Department concerning the transfer of development rights that may impact SVPOD Areas.

APPLICATION REVIEW PROCEDURES

PRE-APPLICATION SKETCH PLAN REVIEW/CONFERENCE

- In addition to other requirements in the UDC, a pre-application sketch plan review conference will be required for all major and minor plans located in or within the viewshed of Scenic Viewshed Protection Overlay Districts (SVPODs).

- Site design and management practices shall be examined to determine how minimal disturbance can be achieved while maintaining a high standard of community design. Discussion points for scenic byways will include scenic viewsheds, corridors and scenic vistas into or out of the site (including visual accents and vista points pursuant to Federal Government, State of Delaware, or County Scenic designation).
- Subsequent submission. For major and minor plans located within the viewshed of Scenic Viewshed Protection Overlay Districts (SVPODs), the applicant shall have six (6) months from the date of the pre-application sketch plan review conference to submit an exploratory plan.

Notice of Public Hearings

The Department of Land Use will provide notice in the newspaper of Scenic Viewshed Protection Technical Advisory Committee (SVPTAC) applications.

APPLICATION AND PLAN REQUIREMENTS

Where required in the District, applicants shall prepare a Viewshed Plan. The Viewshed Plan shall be prepared by and bear the seal of a registered landscape architect licensed in the State of Delaware. The Viewshed Plan shall include the following minimum information:

- A written narrative of any scenic resources, visual features, scenic viewsheds or vista points identified in the respective Corridor Management Plan (CMP) or other County studies related to scenic byways and included viewshed overlay maps contained in Appendix 8. Any observable additions to or deletions from the scenic landscape must be explained in the plan narrative. Any or all of the requirements for a viewshed plan may be waived by the County where it can be shown conclusively that no scenic resources are within or affected by the proposed activity.
- Photographic or video documentation of the subject property as viewed from the identified scenic byway. Such documentation shall be submitted for the entire length of frontage of the subject property and shall document multiple observable angles from each location. Photographs or video shall specifically identify the existence, where applicable, of the scenic viewsheds, vistas, and contributing features contained in Appendix 8. Photographs or videos shall be taken from the observed height of a vehicle window, approximately six (6) feet above ground level. Photographs shall be taken at no less than 20ft. intervals and video at a speed not to exceed the speed limit of the roadway in question.
- Graphic or enhanced photographic representation of proposed buildings or other improvements, if any, in the setting of the scenic resources identified in subsections 1 and

2 above. Such documentation shall include the impact on other character-defining resources, such as trees and shrubs, that currently contribute to the property's overall scenic quality.

The viewshed plan shall clearly indicate how the identified scenic resources are to be preserved and explain any efforts utilized to minimize disturbance to, and enhance the characteristics of, the scenic byway. Information shall be submitted in the form of a written narrative with accompanying photographs, maps, and graphic representations in CAD format.

FEES

Fees shall be assessed for the following plan review:

- Viewshed Plan review – \$500.00
- Applications within SVPOD areas requiring SVPTAC review - \$750.00

SCENIC VIEWSHED PROTECTION TECHNICAL ADVISORY COMMITTEE REPRESENTATION

Representation on the Scenic Viewshed Protection Technical Advisory Committee (SVPTAC). One representative from each of the following who shall have voting privileges:

The County Department of Land Use (per LUGM)
The County Department of Public Works (per PWGM)
DNREC (Delaware Department of Natural Resources and Environmental Control)
DelDOT (Delaware Department of Transportation)
The County Chamber of Commerce
Two (2) Environmental Advocacy Group Representatives
Cultural Resource Professional or Historic Architect
Registered Landscape Architect or Licensed Forester
Registered Civil or Environmental Engineer or Consulting Engineers' Council
Designated Scenic Byway Representative from each SVPOD designated area
Civic Association Representative from each SVPOD designated area
At-large General Public Representative

The members shall be appointed by the County Executive or their designee for a four (4) year term. The members may be reappointed, and each member shall serve until a successor is appointed. The chairman shall be the Department of Land Use representative unless otherwise designated by the County Executive.

SCENIC VIEWSHED OVERLAY AREA RESOURCES

The Department of Land Use will make available the following resources that identify and map scenic viewshed areas:

- Identified Intrinsic Qualities Map
- Reference to Viewshed GIS Maps
- Subdistricts Map
- Illustrative Graphics related to Table 40.18.501.
- Land section graphic showing subdistricts

In addition, the following planning studies will be available for review:

- Brandywine Valley Scenic River and Highway Study
- Brandywine Valley National Scenic Byway Corridor Management Plan
- Red Clay Valley Scenic River and Highway Study
- Red Clay Valley Scenic Byway Corridor Management Plan
- Open Space and Historic Resources Preservation of the White Clay Valley
- Southern New Castle County Scenic River and Highway Study
- Delaware's Bayshore Byway Corridor Management Plan
- Harriet Tubman Underground Railroad Byway