



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

January 7, 2005

Mr. Stephen J. Lee, AICP
Town of Smyrna
Department of Planning and Inspections
27 South Market Street
Smyrna, DE 19977

RE: PLUS review – PLUS 2004-12-09 Comprehensive Plan Update

Dear Mr. Lee,

Thank you for meeting with State agency planners on December 29, 2004 to discuss the proposed update to the Town of Smyrna Comprehensive Plan.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact David Edgell 739-3090

The Town of Smyrna has experienced a significant amount of growth pressure in the last few years. The Town has seen a large number of new residential, commercial and other projects. The staff has shown an ability to manage this growth while also focusing on capital improvements, downtown redevelopment, and community design so that the town retains its character. Our office is pleased to see that the Town is working on an update which refines their comprehensive plan and on a comprehensive rezoning in order to bring the Town into compliance with the requirements of the Del.C.

Kent County Portion of Smyrna's Plan:

The Certified portions of the plan in Kent County are in the Investment Levels 1 and 2 according to the 2004 State Strategies for Policies and Spending. State Investments will support infill, redevelopment, and new development activities in these areas. The changes proposed to the Certified plan are limited to reclassifying some commercial land use designations. The most notable of these changes is the creation of a "downtown mixed use zone" which will encourage a mixture of uses in a traditional

downtown pattern. This change will support efforts to revitalize Smyrna's downtown, and give the town more flexibility to accommodate a range of land uses.

The Plan Amendment also proposes to create three other commercial zoning designations: service commercial, regional commercial, and corridor commercial. The descriptions of these designations make it clear that they are intended to give the plan some more specificity when considering the zoning districts to apply to individual commercial parcels. The result may also be to give the Town more guidance when considering land use and zoning requests on commercial areas as well. During the PLUS meeting the Town's Planning Director and Town Manager indicated that the changes to the plan would also provide more flexibility to adopt town centered zoning districts and overlay zones which will allow a greater range of uses, better design for commercial and non-residential uses, and even allow for some mixed uses in some locations. The approach outlined at the PLUS meeting seemed to be very feasible and innovative.

There is another suggestion our office would like to make to the Town. Smyrna's comprehensive plan does distinguish between low, medium, and high density residential uses on the land use plan map. However, these distinctions are not clearly defined in the plan text, and it is not clear if they have any bearing on the selection of individual zoning designations for parcels. It is suggested that text be added to the plan in order to clarify this issue and provide additional guidance regarding which residential uses and densities are appropriate in each category. In addition, we suggest that the plan text describe the recent work done by the town regarding design standards and density bonuses for superior design. One or more goals regarding superior design could be added to the text, and form the basis for future ordinance amendments.

Our office has no objections to the future land use map for the Kent County portion of Smyrna's plan. We recommend that these concepts be more completely described in writing and integrated into the plan text.

New Castle County Portion of Smyrna's Plan:

The Town of Smyrna Comprehensive Plan was partially certified by Governor Minner on May 16, 2003. The portion of the Town's plan located in New Castle County was at the time the subject of a dispute between the County and the Town, and currently this area is under litigation. The State Strategies for Policies and Spending identify the New Castle County portion of the Smyrna plan as an "Area of Dispute." As such, our office will have no formal comments on this uncertified portion of the plan until all pending legal action is resolved. Once this occurs, we ask that the Town formally notify our office in writing so that we may review the land use, infrastructure, and growth issues in this area. We have met recently with the Town Manager regarding resolution of the issues surrounding the New Castle County portion of the plan, and are willing to continue these discussions so that the eventual resolution can proceed expeditiously once the legal dispute is resolved.

Also, please note the following points regarding this area of the plan:

1. Our office reserves the right to comment in detail on this portion of the plan once discussions about the New Castle County portion resume. We suggest that the Town of Smyrna take no action to amend their plan in this area until these discussions resume.
2. Please be advised that depending on the outcome of those discussions the New Castle County portion of the Town of Smyrna's comprehensive plan may require further review and consideration through PLUS and/or the Livable Delaware Advisory Council.

Comprehensive Rezoning:

This application also contains a comprehensive rezoning proposal which will bring the town into compliance with the requirements of Title 22, Section 702 c of the Del C. The proposed comprehensive rezoning map appears to match the revised future land use map. We make this statement without having reviewed Smyrna's zoning ordinance in detail, but trust that the planning staff has selected zones compatible with the land use categories in the plan. With this having been said we have no objection to the town completing a comprehensive rezoning as required by Del C.

Recertification Procedures:

After the Town has taken action on these plan amendments, please follow these procedures for recertification of the Kent County portion of the plan:

1. To our knowledge, the Town of Smyrna has never completed and published a final draft of the comprehensive plan. Please revise the plan to include all revisions accepted as of May 16, 2003 and also integrate the new text and maps. Submit the entire, completed plan document for review by our office.
2. The revised comprehensive plan should demonstrate appropriate public participation through the amendment process. The revised plan shall also demonstrate coordination with adjacent jurisdictions (Clayton and Kent County). We consider participation in the PLUS process the appropriate coordination with the State as specified in Title 22, Sect. 702.

Once our office has reviewed the above materials and found them to be complete, we will recertify the Kent County portion of the plan only. If there has been some resolution of the issues in the New Castle County portion of the plan by this time we can certainly consider them concurrently. This recertification will not alter the original certification date of May 16, 2003. A comprehensive plan update will be due on or before May 16, 2008.

Please do not hesitate to contact David Edgell if you have any questions regarding our comments.

State Historic Preservation Office (SHPO) – Contact Anne McCleave 739-5685

Downtown Mixed Use is favored in that it will allow for flexibility and historic buildings to function and become occupied more easily. The historic district review process will make certain that the rehabilitation and use of historic buildings is compatible with the historic district. We want to ensure that the Town informs property owners of historic preservation incentives, such as grants and federal and state tax credits, that are available to help preserve buildings in this area.

Department of Transportation – Contact Bill Brockenbrough 760-2109

Our comments are as follows:

- 1) Because the lands north of Duck Creek are the subject of ongoing legal actions between the Town and the State, we have no comments regarding them. The comments that follow should be considered without regard to those lands.
- 2) We recognize that the proposed revisions may have been sent to your office in draft form, without having been proofread. For that reason, we do not provide details here, but the document should be proofread before it is forwarded to the Town Council.
- 3) The first eight pages of the report suggest that the revisions do six things:
 - a) Separate the Plan's land use recommendations from the zoning map;
 - b) Combine the future land use maps for the areas inside and outside the current Town boundaries;
 - c) Recommend the creation of a Downtown Mixed Use zoning district;
 - d) Recommend splitting the existing Highway Commercial zoning district into two new districts, a Corridor Commercial district and a Regional Commercial district;
 - e) Recommend combining the existing Business & Commercial district and Manufacturing district into an Employment Center and Light Industrial district; and
 - f) Recommend several changes to the zoning map.

The Action Steps listed on page 9 of the report are helpful in clarifying those purposes but a statement of them near the start of the document would be helpful to the reader.

The Department of Natural Resources and Environmental Control – Contact Kevin Coyle 739-3091

TMDLs

The Town of Smyrna is served by Kent County's Waste Water Treatment Plant (WWTP). The treatment plant is subject to (a) Total Maximum Daily Load(s) and the plan should acknowledge that the town may need to work with the County and DNREC to ensure that the required pollutant reductions are attained.

Smyrna is located in the Smyrna River watershed within the Delaware Bay and Estuary

Basin. The waters of the Smyrna River are "impaired." They are unable to fully support their designated uses. These waters are listed as water quality impaired for dissolved oxygen, nutrients and bacteria. The State is under a federal court consent decree to establish Total Maximum Daily Loads for these three stressors by the end of 2006. The State recommends that the Town acknowledge these concerns and work to reduce nonpoint source loading to the ground and surface waters.

Wastewater Capacity

Pending the outcome of the litigation between the Town of Smyrna and Kent County, the allocation agreement will likely need to be revised.

Water Supply

The Final Report of the Public Water Supply Source Water Assessment for Smyrna Water was forwarded to the Town in September 2003. The source water area maps are being revised to reflect the public wells that currently make up the system (4 wells, 3 locations). Any new wells (including those being converted from agricultural wells) will require permits from the Water Supply section. Contact Doug Rambo at 739-4793 with any questions pertaining to the source water program. Contact Rick Rios at 739-3665 with any questions pertaining to well permits.

State Resource Areas

The area designated as Business and Commercial on the north side of Duck Creek between Rt. 13 and SR 1 contains land identified as the Lower Delaware River State Resource Area. State Resource Areas are comprised of lands that contain a variety of natural, cultural and open space resources significant to the state, and include lands held in conservation by various groups as well as lands targeted for conservation and preservation efforts. Consideration should be given to protecting these resources during the design and construction of any future projects.

State Fire Marshal's Office – Contact Kevin McSweeney

The DE State Fire Marshal's Office has no objection to the update of the Town of Smyrna's Comprehensive Plan. It is noted that Downtown Mixed Use may foster the need for commercial/residential mixed uses to install fire suppression systems. The Town should verify that the current (existing) water main infrastructure can supply any fire suppression system that is installed in the future. A 6-inch main can usually supply necessary water. The volume of water is a concern at this time, as a fire pump at a protected property could boost pressure if necessary.

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office.

Department of Agriculture - Contact Mark Davis 739-4811

The Delaware Forest Service recognizes the efforts of the Town of Smyrna as a Tree City USA and Delaware Tree-Friendly Community.

Delaware Economic Development Office – Contact Dorrie Moore 672-6816

The Delaware Economic Development Office supports the project as it was presented. We are pleased to see the economic development component addressing the need for employment opportunities for existing residents and a long range plan that identifies sites for future office, service business, commercial and industrial needs.

Public Service Commission - Contact Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Recent legislation (Senate Bill 99) placed non-governmental companies providing wastewater services to 50 or more customers (in the aggregate) under the regulatory control of the PSC. While rules are not yet in place, governmental agencies offering wastewater services must file data with the Commission regarding its service areas. Contact: Kevin Neilson at (302) 739-4247.

Delaware State Housing Authority – Contact Jimmy Atkins 739-4263

The Comprehensive Plan promotes a diversity of residential and commercial land uses, particularly throughout the downtown area. However, the plan is vague on the types of residential units (i.e., condominiums, townhouses, single family) the Town supports, particularly in the downtown areas. DSHA particularly supports the mixed-use development concept, which blends commercial and residential uses together.

Delaware Emergency Management Agency – Contact Don Knox 659-3362

No comment.

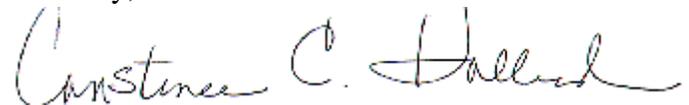
Department of Education – Contact Nick Vacirca 739-4658

No comment.

This concludes our comments. Please provide the Office of State Planning Coordination a written response to these comments noting whether or not specific recommendations were incorporated into the Comprehensive Plan Update and the reasons therefore

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,



Constance C. Holland, AICP
Director

CC: Kent County
New Castle County