



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

March 9, 2005

Ms. Sandy Reynolds
Town of Frederica Zoning Commission
14 E. David Street
P.O. Box 294
Frederica, DE 19946

RE: PLUS review – PLUS 2005-02-01; Town of Frederica Comprehensive Plan amendment

Dear Ms. Reynolds:

Thank you for meeting with State agency planners on February 23, 2005 to discuss the proposed Town of Frederica Comprehensive Plan amendment.

Please note that changes to the amendment, 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.

Executive Summary

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. ***Our office notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.***

- No objections were noted to amendments 1 – 8, 10 and 11. The State objects to amendment 9 for the reasons listed in the specific state agency comments.

The following are a complete list of comments received by State agencies:

Office of State Planning Coordination – Contact: Connie Holland 739-3090

Our office would like to commend the Town of Frederica for its efforts to implement their comprehensive plan. We understand that this plan amendment was initiated due to the efforts of the Town to develop a Land Development Ordinance and prepare a comprehensive rezoning for the town as recommended by the Certified Plan and required by Del. C.

- The plan amendment suggests a number of parcel specific changes. Our office has no objection to amendments 1 through 8, 10 and 11 as indicated in the plan document. These amendments indicate minor adjustments that appear to mostly bring the plan into compliance with the current use of the parcels or reflect changes that have occurred since the plan was adopted.
- **Our office formally objects to the inclusion of Amendment 9, which is a parcel of land located East of Route 1.** The Certified Plan indicates that this parcel was to remain in Agricultural Use, but we understand that the property owner has requested the change to residential use and that the town is recommending the change. Our office agrees with the Certified Plan that this parcel should be in agricultural use for the following reasons:
 - The subject parcel is located East of Route 1. The State has a longstanding policy discouraging growth E. of Route 1 in favor of agricultural preservation and natural resource conservation.
 - The parcel is engaged in active, agricultural production and has apparently been in such production for many years.
 - The bulk of the parcel is impacted by wetlands and sensitive environmental resources which should be left in their natural state.
 - Due to the need to preserve capacity on Route 1 for regional traffic, there are severe access limitations on this parcel due to its configuration in regards to natural resources in the area.
- If the town chooses to change its proposed land use on Amendment 9 back from “Agricultural Residential” to “Agricultural” as in the Certified Plan our office will be able to certify the Plan Amendment. This will allow the Town to proceed with the adoption of the ordinances as discussed last month (PLUS review 2005-01-09).
- **If the town wishes to proceed with the change to “Agricultural Residential” the State Planning Office will not certify the plan.** The procedure for resolving the dispute is summarized as follows:
 - 45 day negotiation period between OSPC and Frederica
 - Referral to LDAC (Livable Delaware Advisory Council)
 - Referral to LDAC Dispute Resolution Process

- Consideration of Dispute Resolution recommendation by LDAC
 - Recommendation to the Governor
 - Governor makes the final decision.
- The dispute may be resolved by amicable agreement by both parties at any stage of this procedure.

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

Amendment 1: The State Historic Preservation office supports the down-zoning of this parcel. It is their understanding that Frederica is enacting a 100' riparian buffer, which will help to protect the prehistoric archaeological sites expected within this parcel. However, this probably will not totally cover any sites there, and SHPO would be happy to work with any developer in the future to delineate any sites for possible inclusion in open space.

Amendments 2 – 7: these changes to zonings will not affect any historic properties, even those within the Frederica Historic District, since the lots either being down-zoned to residential or they have already been disturbed by modern construction.

Amendment 8: this parcel only has low potential for archaeological sites, so this change will not affect any historic properties.

Amendment 9: this parcel contains a historic farmstead, and has high probability for both prehistoric and historic period sites. The State Historic Preservation Office opposes the rezoning of this property from agricultural to residential.

Amendments 10 – 11: no comment.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

Presently, DelDOT is working with Kent County and other State agencies to protect the lands east of Route 1 for agriculture and natural habitat. To this end, DelDOT is working to purchase development rights and to do as much as they can to ensure that their decisions help to support, and not undermine, these goals. For this reason, DelDOT recommends that the Town leave the parcel's future land use designation as Agricultural.

Further, as part of the Corridor Capacity Preservation Program (CCPP), DelDOT seeks to manage access along Route 1 between Dover Air Force Base and Nassau. DelDOT's efforts in that regard include the construction of service roads and interchanges, and the purchase of property and/or access rights. Specifically in the Frederica area, they have plans under development for an interchange at the north end of town, scheduled for construction beginning in Fiscal Year 2006 and a conceptual plan for a future interchange at the south end of town. In between, they plan to limit access on Route 1 to allow only passive uses, such as agriculture. Therefore, unless the owner has plans to build a bridge

over either the wetlands or Route 1, they should expect to leave their land undeveloped. DelDOT has no immediate plans to purchase either the land or the access rights to it but they are willing to begin discussions with the owner if they would like to sell either one.

Questions or concerns about the CCPP may be directed to Mr. Charles Altevogt, DelDOT's Project Engineer for the program. Mr. Altevogt may be reached at (302) 760-2124.

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

Amendment 1

This parcel was reviewed under PLUS 2004-11-05 as a residential development. The parcel lies entirely within development zone 3.

Significant comments were submitted through the PLUS process regarding this parcel. The parcel is constrained by floodplains and wetlands and is geographically separated from downtown Frederica, making its location inappropriate for residential development in keeping with the Livable Delaware agenda.

As indicated in your application, DNREC recommended that this site be set aside as a community park and recreation area to allow for preservation of the State Natural Area located nearby. Changing the land use of this parcel to residential could still result in high level impacts due to clearing, inputs into the Murderkill River from construction activities as well as subsequent landowner activities. Currently, requirements for forest protection and wetland buffers are inadequate, as evidenced by the site plans we have reviewed for other developments proposed along the Murderkill River in this general vicinity. The existing riparian buffer should be maintained and wetlands should be protected by a vegetative buffer of no less than 100 feet (preferably 300 feet). In addition, these buffer areas should not be permitted to contain lot lines or stormwater management ponds.

Any rezoning should contain mandates for the conservation of wetlands, forest and riparian buffers and should clearly designate an area that is "off-limits" to development for use as a regional greenway/park.

Amendment 8

What are Frederica's parks and recreation needs, now and in the future? How can this need be addressed by re-zoning potential parkland for residential development? Parcels to be acquired and used for recreation and open space in the future to replace the lost opportunity with this parcel must be identified and included in this comprehensive plan amendment.

Amendment 9

The entire parcel is within the Investment Level 4 area. The site is significantly constrained. It is entirely within the 100-year floodplain. It has a significant acreage of tidal and forested wetlands, including a Delmarva Bay in the northern portion of the site. Residential development at this site would be inconsistent with the State Strategies and with Livable Delaware guidelines as the site is not adjacent to services, schools or shopping and would require heavy vehicular use by residents.

Cumulative impacts are a concern here considering that there a large number of residential units proposed along the Murderkill River in this general vicinity. There are state rare species within or adjacent to the Murderkill River that could be affected by detrimental changes to water quality and a loss of riparian habitat if this parcel is developed. There is also a Bald Eagle nest downstream and this area serves as a foraging corridor for this federally listed bird.

State Fire Marshal's Office – Contact: John Rossiter 739-4394

The Delaware State Fire Marshal's Office has no objections to the amendments to the Frederica Zoning Ordinance. Plan approval is required from the DE State Fire Marshal's Office prior to any recordation and or construction.

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for an appointment. Applications and brochures can be downloaded from your website. www.delawarestatefiremarshal.com, technical services link, plan review, applications, or brochures.

Department of Agriculture - Contact: Mark Davis 739-4811

The Delaware Department of Agriculture and the Delaware Forest Service commends the town and its residents for their efforts to revise their comprehensive plan and land-use ordinances. DDA is pleased to see that the town is considering a rural zoning designation for that portion of the town which is located east of SR-1. The DDA supports the town's efforts to preserve or limit density in that area. The state maintains a long standing and uncompromising policy of limiting development east of SR-1 in Kent County. If the Town of Frederica desires any assistance in implementing their proposed rural zoning ordinance for this area, please do not hesitate to contact Mark Davis of the Department of Agriculture at 698-4534.

DDA encourages the town to work with the Delaware Agricultural Museum. They also encourage the town to maintain its unique identity and sense of place through the implementation of design ordinances which require new construction to echo the pattern and design of the current town center. Delaware Forest Service has no additional comments at this time on the proposed amendments and offers its services to the town to work to implement their current land use plan.

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.

Delaware State Housing Authority – Contact Karen Horton 739-4263

DSHA supports the plan's recommendation to create a manufactured housing zoning district to balance the needs for affordable housing and aesthetic concerns of locating manufactured homes near the town's historic core. Furthermore, the amendment in concert with the town's plan to develop a land use ordinance would also help to preserve open space and historic character of the Town.

Delaware Emergency Management Agency – Contact: Don Knox 659-3362

Many of the Amendments to Future Land Use Designation, change parcels to Residential designations which will result in significant impacts to public safety. As this takes place, it is important that the Town of Frederica address Public Safety issues such as adequate police, fire, and medical coverage. It is also important to control growth in flood prone areas through proper zoning and building codes.

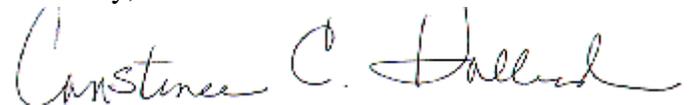
Delaware Economic Development Office – Contact: Dorrie Moore 739-4811

The Delaware Economic Development Office does not support the comprehensive plan amendment with the exception of Amendment 9. They support no development east of Route 1 as expressed by Connie Holland.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

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

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP
Director

CC: Kent County