



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
STATE PLANNING COORDINATION

January 23, 2006

David Nutter, AICP
Nutter and Associates
507C South Boulevard
Salisbury, MD 21801

RE: PLUS review – PLUS 2005-12-03; Town of Ellendale Comp. Plan Amendment

Dear Mr. Nutter:

Thank you for meeting with State agency planners on January 4, 2006 to discuss the proposed Town of Ellendale comprehensive plan amendment.

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.

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

Office of State Planning Coordination – Contact: Ann Marie Townshend 739-3090

As submitted, the plan amendment appears to include inconsistencies with the Town's recently adopted zoning ordinance. In particular, the amended future land use map shows significant areas identified as "Agriculture/Natural Resources/Open Space". These same areas on the Town's zoning map appear as either R-B (the corner of McCauley and Main Streets) or R-1 (the Town park, area along Jester Street on the east side of town, and the area immediately north, south and west of the railroad in the southeast area of town). Similarly, it identifies several areas as "Institutional/Civic/Government", in areas that are zoned R-B and R-1. Much of the land in the R-B district is shown as "Residential", while the R-B district would also allow some commercial uses. We are concerned that

these inconsistencies may create problems for the Town in the future as applications come in that may be consistent with the zoning but not the comprehensive plan.

According to Title 22, §702, Del. Code:

(c) The comprehensive plan shall be the basis for the development of zoning regulations as permitted pursuant to Chapter 3 of this title. Should a jurisdiction exercise its authority to establish municipal zoning regulations pursuant to Chapter 3 of this title, it shall, within 18 months of the adoption of a comprehensive development plan or revision thereof, amend its official zoning map to rezone all lands within the municipality in accordance with the uses of land provided for in the comprehensive development plan.

(d) After a comprehensive plan or portion thereof has been adopted by the municipality in accordance to this chapter, the comprehensive plan shall have the force of law and no development shall be permitted except as consistent with the plan.

Our understanding from discussions with Mr. Nutter is that the area along the railroad tracks in the southeast portion of town is a part of the Ellendale Swamp and warrants protections. If this is the case, then perhaps a zoning classification should be developed to provide adequate protections if this area were to be developed. The Office of State Planning Coordination would be glad to work with the Town to develop such a zoning classification.

We recommend that if the Town's vision for the R-B district is a mixed use town center, the future land use map show a more general category (mixed use or town center), that would allow for the non-residential uses that are expected to occur in this district.

Before the plan amendment can be certified, the Town must consult with their solicitor to determine consistency between the comprehensive plan and the zoning ordinance and compliance with Delaware Code.

Division of Historic and Cultural Affairs – Contact: Alice Guerrant 739-5685

The Division of Historical and Cultural Affairs has no concerns about this Ellendale Comp Plan amendment but would be happy to work with the town of Ellendale to list the historic parts of the community on the National Register of Historic Places. This listing will provide the property owners the opportunity to take advantage of tax incentives available for the rehabilitation of historic properties. For more information about the tax

incentives or the National Register listing process please contact Robin Bodo at 302-736-7411 or robin.bodo@state.de.us.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

The Town of Ellendale has adopted an amendment to their 2004 comprehensive plan to change how two parcels are designated on the Future Land Use Map. Parcel #2 (Tax Parcel 2-30-27.00-2.00) is a 14.66-acre parcel, located one block north of Main Street (Delaware Route 16) on both sides of the Norfolk Southern railroad tracks. Its designation has been changed from Agricultural / Natural Resources / Open Space to Residential. Parcel #37 (Tax Parcel 2-30-27.17-37.00) is a 0.29-acre rectangular parcel, with 80 feet of frontage on the north side of Main Street and 160 feet of frontage on the west side of the Norfolk Southern railroad tracks. Its designation has been changed from Commercial to Mixed-Use.

DelDOT has no comments specific to the Plan amendment, but they offer the following comments regarding the development of the subject parcels:

1. Parcel #2 is bisected by an active railroad line. DelDOT recommends that any plans for its residential development include fences to keep children and other pedestrians off of the tracks, and buffers and vegetative screening to minimize the noise and vibration experienced by the residents.
2. Parcel #37 is already developed. If it is redeveloped, the owner or tenant will need to obtain a new entrance permit. They should contact the DelDOT Subdivision Manager for Sussex County, presently Mr. John Fiori, in that regard. Mr. Fiori may be reached at (302) 760-2260.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071

Water Resource Protection Areas

DNREC strongly encourages the Town of Ellendale to adopt wellhead protection areas and excellent recharge areas as Critical Areas that need to be protected to insure a sufficient supply of clean drinking water.

They also strongly encourage the Town of Ellendale to adopt ordinances that protect Critical Areas (wellhead and excellent recharge) within the municipal boundaries. This step can be taken after the Critical Areas are adopted in the Comprehensive Plan.

These wellhead area and excellent recharge areas should be included in the comprehensive planning process as suggested by 7 Del. C. Chapter 6082. This is the first step that towards source water protection and allows flexibility in creation of ordinance and regulation through citizen input and review.

Water Resource Protection Areas (WRPAs) are defined as (1) surface water areas such as floodplains, limestone aquifers, and reservoir watersheds, (2) wellhead areas, or (3) excellent recharge areas. The purpose of an impervious cover threshold is to minimize loss of recharge and protect the quality and quantity of ground and surface water supplies in WRPAs.

New development in WRPAs may exceed the 20% impervious cover threshold, but be no more than 50% impervious, provided the applicant submits an environmental assessment report recommending a climatic water budget and facilities to augment recharge. The environmental assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis.

Commonly, the applicant offsets the loss of recharge due to impervious cover by constructing recharge basins that convey relatively pure rooftop runoff for infiltration to ground water.

The Department recommends the following (ranked in order of preference):

- 1) Preserve WRPAs as open space and parks by acquisition or conservation easement.
- 2) Limit impervious cover of new development to 20% by right within WRPAs.
- 3) Allow impervious cover of new development to exceed 20% within WRPAs (but no more than 50% impervious) provided the applicant develops recharge facilities that directly infiltrate rooftop runoff.
- 4) Allow impervious cover of new development to exceed 20% within WRPAs (but no more than 50% impervious) provided the applicant develops recharge facilities that infiltrate stormwater runoff from forested and/or grassed surfaces with pretreatment.

For more information, refer to:

[Source Water Protection Guidance Manual for the Local Governments of Delaware at http://www.wr.udel.edu/swaphome/phase2/SWPguidancemanual.html](http://www.wr.udel.edu/swaphome/phase2/SWPguidancemanual.html)

and

Ground-Water Recharge Design Methodology at
http://www.wr.udel.edu/swaphome/phase2/Publications/swapp_manual_final/swapp_guidance_manual_supp_1_2005_05_02.pdf

Other water resource protection resources like flood-prone areas, wetlands, steep slopes (if applicable), and stream corridors could be added as elements of a water resources protection section of the comprehensive plan. The Town's interests in protecting its water resources, such as public health and economic welfare, would then be well-served.

Regarding the protection of water resources in the development of the two parcels identified in the comprehensive Plan Amendment, Ellendale needs to control pollutants in consideration of the Total Maximum Daily Loads (TMDLs) for the Delaware and Chesapeake Bay watersheds, provide for source water protection, control impervious areas, ensure that new development occurs with central sewer service, protect wetlands by requiring field delineations with Jurisdictional Determinations from the State and US Army Corps of Engineers, and provide for riparian buffers.

State Fire Marshal's Office – Contact: Duane Fox 856-5298

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

The DE State Fire Marshal's Office has the responsibility to review all commercial and residential subdivisions for compliance with the DE State Fire Prevention Regulations. This Agency asks that a MOU be established between the DE State Fire Marshal's Office and the Town of Ellendale. The State Fire Marshal's Office would be issuing approvals much like DelDOT, Kent Conservation, and DNREC. This Agency's approvals are based on the DE State Fire Prevention Regulations only.

The DE State Fire Marshal's Office has no objection to the future land use plan.

Department of Agriculture - Contact: Milton Melendez 698-4500

Neither the Delaware Department of Agriculture nor the Delaware Forest Service has any objections to the Town of Ellendale Comp. Plan Amendment. The amendment is consistent with current policies and regulations that govern Agricultural Preservation Districts and Easements in the surrounding areas. Finally, we encourage the community to continue to work with the Delaware Forest Service Redden State Forest to address and meet future land-use activities within and surrounding the community.

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.

Sussex County – Contact: Richard Kautz 855-7878

The Sussex County Engineering Department has no objection to the proposed amendment to the Town of Ellendale's Comprehensive Plan.

Tax Map reference 2-30-27.13 Parcel 37, located along Route 16 within the town boundary, was included in design assumptions for commercial use and is allocated 6.67 equivalent dwelling units (EDUs) per acre.

Tax Map Reference 2-30-27.00 Parcel 2 was included in design assumptions that allocated 4.0 EDUs per acre for Agricultural/Residential (AR) zoned land.

So long as the proposed changes do not result in higher densities than design assumptions, sewer capacity will be adequate. The Sussex County Engineering Department is currently evaluating options for additional treatment capacity. Until the evaluation is complete and additional treatment capacity is available, it may be necessary to place schedule or phasing limits on development.

Following receipt of this letter 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,



Constance C. Holland, AICP
Director

CC: Sussex County