



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

February 21, 2007

Ann Marie Townshend
Dept. of Planning and Inspections
P.O. Box 475
Dover, DE 19903

RE: PLUS review – PLUS 2007-01-02; City of Dover Comprehensive Plan

Dear Ms. Townshend:

Thank you for meeting with State agency planners on January 31, 2007 to discuss the proposed City of Dover comprehensive plan amendments.

According to the information received, you are seeking to amend your comprehensive plan as follows:

Amendment 1: Map change from Institutional to Commercial

This amendment is being requested by Delaware State University. The subject parcels are currently zoned IO (Institutional and Office Zone) and depicted on the Land Development Plan map as Institutional. Delaware State University would like to eventually rezone the subject parcels to construct a shopping center that would meet the needs of both the student population and the surrounding region. A rezoning is not being requested at this time, however a Comprehensive Plan Amendment is necessary before a rezoning could take place. The subject parcels are located on the U.S. Route 13 corridor, which has been identified in the Comprehensive Plan as desirable for continuation of this use.

The requested plan amendment would change the use from Institutional to Commercial.

Amendment 2: Map change from Commercial to Residential Medium Density

This amendment is being requested by Blue Hen CC, LLC and Delaware Exchange, LLC. The subject parcels are currently zoned SC-3 (Shopping Center Development Zone) and depicted on the Land Development Plan map as Commercial. The parcels are located at the rear of the Blue Hen Corporate Center, between the Corporate Center and the Schoolview community. The smaller of the two parcels currently houses a day care center, and the larger of the parcels is vacant. The applicant wishes to rezone the property to RM-2 (Medium Density Residence Zone) and develop a medium density residential community. The applicant believes that a medium density residential development is more in character with the surrounding residential uses than if the property were developed under its current zoning.

The requested plan amendment would change the use from Commercial to Residential Medium Density.

Amendment 3: Map change from Residential Medium Density to Office and Office Parks

This amendment is being requested by Halpern Family Property Investment, LP. The subject parcels are currently zoned R-8 (One Family Residence Zone), with a portion of one parcel zoned C-PO (Commercial/Professional Office Development District) and are depicted on the Land Development Plan map as Residential Medium Density. The applicant is requesting C-PO (Commercial/Professional Office Development District) zoning for the site. While there are a number of residential properties surrounding the site, there are also a number of commercial and office uses in the area. The C-PO zone is more restrictive than other commercial zones, and therefore less impactful on the adjacent residential uses.

The requested plan amendment would change the use from Residential Medium Density to Office and Office Parks.

Amendment 4: Map change from Residential Low Density to Commercial

This amendment is being requested by Robert W. Kidd, III, D.M.D. The subject parcels are currently zoned R-15 (One Family Residence Zone) and are depicted on the Land Development Plan map as Residential Low Density. The applicant is requesting C-PO (Commercial/Professional Office Development District) zoning, with the intent to construct an office building on the site.

The requested plan amendment would change the use from Residential Low Density to Commercial.

Amendment 5: Annexation Area Change from Category 3 – Lands Evaluated for Annexation to Category 2 – Lands Desirable for Annexation

This amendment is being requested by J. Richard Jones and Joan Mead Jones. The City of Dover's Category 2 Annexation Area (Lands Desirable for Annexation) currently follows Route 8 west to Artis Drive. The subject parcel is adjacent to this Category 2 Annexation Area and adjacent to lands currently being considered by the City of Dover for annexation. It is identified on Map 12-1 Growth and Annexation as Category 3 – Lands Evaluated for Annexation. The Comprehensive Plan text states, "The City does not intend to annex these parcels within the five year planning period" Therefore, in order to consider annexation of the subject parcel, the Comprehensive Plan must be amended. The subject parcel is currently zoned AC (Agricultural Conservation) in Kent County and would be designated as residential if annexed into the City of Dover.

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: David Edgell 739-3090

Amendment 1: Delaware State University (Institutional to Commercial)

This proposed comprehensive plan amendment is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy.

After consulting with the Office of Management and Budget's Division of Facilities Management, we have determined that the subject parcel is under the control of the Delaware State University. Land use changes, rezoning requests, and development proposals are at the discretion of the University. Our office has no objections to the proposed comprehensive plan amendment that would change this parcel from an institutional land use to a commercial land use. Any change to the City of Dover Comprehensive Plan is at the discretion of Dover's Planning Commission and City Council.

It is noted in the PLUS application that no rezoning application is currently pending for the site. We would like to remind the City that Delaware Code requires that local zoning must be updated to be consistent with the comprehensive plan. Should the plan amendment be adopted and certified, a zoning change will be necessary within 18 months.

Amendment 2: Blue Hen Corporate Center (Commercial to Residential)

This proposed comprehensive plan amendment is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Our office has no objections to the proposed comprehensive plan amendment that would change this parcel from commercial land use to medium density residential land use. Any change to the City of Dover Comprehensive Plan is at the discretion of Dover's Planning Commission and City Council.

Amendment 3: Halpern Properties (Residential to Commercial/Professional Office)

This proposed comprehensive plan amendment is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Our office has no objections to the proposed comprehensive plan amendment that would change this parcel from residential land use to commercial / professional office land use. Any change to the City of Dover Comprehensive Plan is at the discretion of Dover's Planning Commission and City Council.

Amendment 4: Kidd Properties (Residential to Commercial/Professional Office)

This proposed comprehensive plan amendment is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Our office has no objections to the proposed comprehensive plan amendment that would change this parcel from residential land use to commercial / professional office land use. Any change to the City of Dover Comprehensive Plan is at the discretion of Dover's Planning Commission and City Council.

Amendment 5: Jones Property Annexation Map Amendment – Artis Drive

This proposed annexation plan amendment is located in Investment Levels 3 and 4 according to the *Strategies for State Policies and Spending*. Investment Level 3 reflects

areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4.

The Investment Level 3 portions of this parcel are adjacent to the homes along Artis Drive. When the *Strategies* were developed this area was recognized in our analysis as existing development. When the *Strategies* were drafted in 2003 – 2004 the City had no plans to annex in this area. The Comprehensive Plan certified on September 22, 2003 identified this as “Category 3 – Lands to be Evaluated for Annexation.” As such, this parcel was not considered to be part of an annexation area. The parcel is also located outside of the Kent County Growth Zone, and is in the vicinity of several parcels enrolled in Agricultural Preservation Districts. These factors contributed to the designation of the majority of the parcel as Investment Level 4.

On May 17, 2005 our office certified an amendment to Dover’s comprehensive plan which reclassified a number of properties along Route 8 from “Category 3 – Lands to be Evaluated for Annexation” to “Category 2 – Lands Desirable for Annexation.” At that time we were made fully aware of the City’s plans to install utility infrastructure in this area, and to consider the annexation of a number of vacant parcels along this corridor that have been proposed for development. Our understanding is that one such parcel has been considered as the location of a new high school, and another is identified as the location of a large church. Our office supported these annexations by accepting the amendment to the City’s certified plan.

The parcel in question is adjacent to lands that were designated as annexation areas in the 2005 amendment. Our office understands that the City is continuing to evaluate potential annexations in this area. Please keep the history and background described above in mind as you consider our comments:

- Our office recommends that the City delay the consideration of this annexation plan amendment until the regularly scheduled plan update (which is due by September of 2008). We do not encourage a piecemeal approach to annexation plan amendments. The City’s certified plan identifies this entire area as under evaluation. We would prefer to see this parcel integrated in the context of a future plan for the entire area.
- Our office recommends that the City work with the Kent County Department of Planning Services to ensure that the City’s goals for the area that includes this

parcel are integrated into the 2007 Kent County Comprehensive Plan Update. We would presume that the Kent County Growth Zone Boundary will have to be amended. Delaying action on this plan amendment as recommended above will allow for this important coordination to occur.

- We encourage the City to consider this parcel (and this entire area, if further annexations are considered) as a Transfer of Development Rights (TDR) receiving area. It would be ideal to include the details of a municipal TDR program in a comprehensive plan update, and to coordinate the municipal program with Kent County's program. Our office is available to assist the City in any way regarding the implementation of Transfer of Development Rights programs.
- If the City of Dover feels that there is an extraordinary community benefit to be achieved by annexing this property before the 2008 plan update is complete, then the State does not object. There is currently a policy in place that enables the City to consider plan amendments on a bi-annual basis. We also understand that the City has utility infrastructure in the area, and has been evaluating this area for potential annexation since the 2003 plan was certified. We will only request that upon annexation the parcel be placed in the lowest density residential zone available in order to allow for the future implementation of a TDR receiving area.

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

The Division of Historical and Cultural Affairs is not in favor of Amendment 1. This is the parcel on which the Delaware Agricultural Museum sits. While the museum itself is not historic, it includes many historic buildings and uses them for educational purposes. This will introduce adverse visual and noise intrusions on the Village area, which is currently screened by the Museum building, landscaping, and the existing agricultural field from surrounding commercial and institutional uses. If this amendment is approved, the DHCA requests that the development be sited to the northwestern end of this parcel and include a wide, heavily landscaped buffer area between the two uses.

The Division of Historical and Cultural Affairs has no objection to the other amendments.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

Amendment 1

Given the abundance of shopping opportunities of present on the opposite side of US Route 13, DelDOT questions the University's reasoning in using vacant land within

walking distance of the main campus for a shopping center. Pedestrian safety for students crossing Route 13 has been a concern in the past. The proposed development could help in this regard, but would raise new safety issues for students crossing State College Road. It is recommended that the University contact Traffic Studies Engineer, Mr. Thomas Meyer, to discuss what safety measures they could take to promote pedestrian safety on both Route 13 and State College Road. Mr. Meyer may be reached at (302) 659-2005.

With the condition that the shopping center tenants would be specifically oriented toward student needs, DelDOT would encourage the proposed development. DelDOT will comment on a specific plan for this site when one is presented.

Amendment 2

While DelDOT is not necessarily opposed to this change, they recommend that the City ask the applicant about their plans for the remainder of the Blue Hen Corporate Center complex and consider this application in that context. Much of the complex appears to be ready for redevelopment and the use of these parcels should be determined with the rest of the property in mind. DelDOT will comment on a specific plan for this site when one is presented.

Amendment 3

DelDOT is not opposed to this change. They will comment on a specific plan for this site when one is presented.

Amendment 4

DelDOT is not opposed to this change.

Through the City's Development Advisory Committee process, DelDOT has seen a concept sketch for the assemblage that would place an 11,200 square foot office building on the property, with access on South Bradford Street and parking underneath the building. They would expect such a building to generate about 240 trips per day (120 vehicles arriving and departing), as compared to about 30 trips per day generated by the three single-family detached houses there now.

In terms of traffic impact, the increase in trip generation would be offset to some extent by the change in access. The shift in access, from three driveways on Wyoming Road to a single driveway on South Bradford Street would increase safety and would give patrons access, by way of cross access easements, to South State Street.

Amendment 5

DelDOT is not opposed to this amendment. They support the Office of State Planning Coordination's comments on the need to plan for the larger area east of Artis Drive, of which this parcel is a part. DelDOT will comment on a specific plan for this site when one is presented.

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

Division of Water Resources

The DNREC Water Supply Section has reviewed the City of Dover Comprehensive Plan Amendment and determined that Amendment 1, map change from Institutional to Commercial, involves parcels that fall mostly within an excellent ground-water recharge potential area (See attached maps).

The City of Dover Comprehensive Plan Amendment 2007-01-02 presents 5 (five) amendments. Amendments 2 through 5 do not impact critical areas as identified in Delaware Code, Subchapter 60, Subchapter VI, § 6082. Amendment 1 impacts an area of excellent ground-water recharge potential. The proposed change in land use from institutional to commercial with the intention of constructing a shopping center has the potential to harm the quantity and quality of the ground water beneath.

Excellent Ground-Water Recharge Areas are those areas mapped by the Delaware Geological Survey where the first 20 feet of subsurface soils and geologic materials are exceptionally sandy. These soils are able to transmit water very quickly from the land surface to the water table. This map category (excellent) is an indicator of how fast contaminants will move and how much water may become contaminated (Andres, 2004). Land use activities or impervious cover on areas of excellent ground-water recharge potential may adversely affect the quality and quantity of ground water in these areas.

Dover does not have ordinances protecting excellent ground-water recharge potential areas. The online version of the 'Dover Final Comprehensive Plan Amended 2005' found on the City of Dover website has language that conveys a vague understanding of this type of critical area:

Phase III Actions (2006-2008)

“Wellhead Protection and Well Zone Recharge Areas

The City should add the development of well-head and recharge area protection ordinances in Phase III. It will be required by December 2007 by DNREC”

Wellhead protection areas are different from excellent ground-water recharge potential areas. Well zone recharge areas are a misnomer.

The DNREC Water Supply Section recommends that the portion of the new development within the excellent ground-water recharge area not exceed 20% impervious cover. Some allowance for augmenting ground-water recharge should be considered if the impervious cover exceeds 20% but is less than 50% of that portion of the parcel within this area. However, the development should not exceed 50% regardless. A water balance calculation (environmental assessment) will be necessary to determine the quantity of clean water to be recharged via a recharge basin (Thorntwaite, 1957). The purpose of an impervious cover threshold is to minimize loss of recharge (and associated increases in storm water) and protect the quality and quantity of ground water and surface water supplies.

In addition, because the excellent ground water recharge area can so quickly affect the underlying aquifer if contaminants are spilled or discharged across the area, the storage of hazardous substances or wastes should not be allowed within the area unless specific approval is obtained from the relevant state, federal, or local program.

Language for developing ordinances can be found in the DNREC publication, *Source Water Protection Guidance Manual for the Local Governments of Delaware* at: http://www.wr.udel.edu/publications/SWAPP/swapp_manual_final/swapp_guidance_manual_final.pdf

City of Dover (PLUS 2007-01-02)

The areas of excellent ground-water recharge are shown in green. The parcels included in the Amendments are outlined in blue.





State Fire Marshal's Office – Contact: R.T. Leicht 739-4394

The State Fire Marshal's office has no comment on the comprehensive plan amendments.

Department of Agriculture - Contact: Scott Blaier 698-4500

The Department has no objections to the City's request for Amendments 1 through 4, as they are all located within the City of Dover's incorporated area and designated as Investment Level 1 according to the *Strategies for State Policies and Spending*.

Amendment number 5 proposes annexation of a parcel currently zoned Agricultural Conservation (AC) in Kent County, and designating the parcel as residential once in the city. The current Comprehensive Plan does not consider annexing this parcel within its five-year planning period.

This parcel is located in both Investment Levels 3 and 4 under the *Strategies for State Policies and Spending*. The *Strategies* do not support residential development in level 4 areas. The Department generally does not object to development within Investment Level 3; however, it is the general understanding that these areas are to be developed farther into the future than Levels 1 and 2.

There are a number of parcels currently enrolled in the Delaware Agricultural Lands Preservation Program in the vicinity of this proposed annexation area. These parcels will remain in the program until the land owners decide to withdraw their property. The Department is concerned that the landowners in the preservation program will be

discouraged from continued participation in the preservation program if Department endorses this proposal at the present time.

The Department would prefer to see this annexation request delayed and addressed when the City updates its comprehensive plan in 2008. At that time, the Department would like to see this annexation proposal presented in the larger context of the City's western annexation and land development plan for the next 5-year comprehensive plan cycle.

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.

Department of Education – Contact: John Marinucci 739-4658

The DOE supports the State Strategies for Policies and Spending, to the extent possible and practicable within the limits of the Federal and State mandates under which the Department operates.

1. In its review of Comprehensive Plans and Comprehensive Plan Amendments, the DOE considers:
 - Adequate civil infrastructure availability within the region to accommodate current and future educational facilities.
 - Transportation system connections and availability to support multimodal access within the community, to include but not limited to walk paths, bike paths, and safe pedestrian grade crossings.
 - Transportation road system adequacy to accommodate bus and delivery vehicle traffic to current, planned or potential educational facilities.
 - Recreation facilities and opportunities within the community and their respective proximity to current and planned or potential education facilities. The DOE also recognizes the potential that the educational facilities are to be considered recreational facilities by and within the community.
2. The DOE *typically* considers industrial/commercial development incompatible with educational facilities, however, residential development and educational facilities *are typically* considered to be compatible. As a result, the DOE is interested in the proximity of current and planned or potential education facilities to commercial/industrial development zones.
3. The DOE recognizes the integral role of educational facilities within communities. As such, the DOE seeks to assure that residential growth, that

generates additional demand on educational facilities, is managed with adequate educational infrastructure being made a part of sub-division plans as appropriate.

4. The DOE offers its support to assist the town and participate in coordination between the town, the affected school districts, Kent County, the Office of State Planning Coordination as well as other school districts and stakeholders as future developments and annexations may be considered.
5. The DOE has no further comments or objections to the proposed plan.

Approval Procedures:

1. Once all edits, changes and corrections have been made the plan please submit the completed document (text and maps) to our office for review. The document may be formatted as addendum to your certified plan, or as replacement pages to be inserted in your plan at your discretion. **Your PLUS response letter should accompany this submission.** Also include documentation about the public review process. In addition, please include documentation that the plan has been sent to other jurisdictions for review and comment, and include any comments received and your response to them.
2. Our office will require a maximum of 20 working days to complete this review.
3. We will provide the City of Dover with written verification that our office has accepted the plan and all changes for adoption and certification.
4. The plan may then be formally adopted by your Planning and Zoning Commission and Town Council.
5. Send our office documentation that the plan has been formally adopted by your Planning and Zoning Commission and Town Council. We will also require two (2) bound paper copies of the plan and map series and one (1) electronic copy for our records. We will accept the plan as an amendment to your certified plan. A letter to this effect will be sent within 10 working days. The amendment will not alter your original plan certification date. A full plan update will be due on or before September 22, 2008.

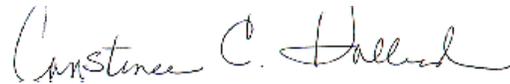
Note: The following two items must be completed by the City of Dover before our office will consider accepting the proposed plan amendments as a part of your certified plan.

- Delaware Code requires that each jurisdiction file annual reports with our office. These reports are due on the anniversary of plan certification. We do not have records of any annual reports completed by the City of Dover since certification in 2003. We apologize if our records are incomplete. If the City has prepared these reports, please send us copies for our records. If the reports have not been prepared, please send us reports covering 2003-2004, 2004-2005, and 2005-2006. A template for the annual report is included for your information and use.

- On July 26, 2006 we reviewed a package of comprehensive plan amendments as PLUS 2006-07-11. We have not received any further documentation or verification from the City of Dover regarding these amendments. The amendments from this application have not been accepted as a part of your certified plan. Please send the completed document (text and maps) for our review. It is our desire to finalize this application prior to, or concurrently with the plan amendment being reviewed under this application.

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: Mike Petit de Mange, Kent County

Attachment: Annual Report Template