



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

February 21, 2007

Mr. David Nutter
Nutter & Associates
507 C. South Boulevard
Salisbury, MD 21801-5753

RE: PLUS review – PLUS 2007-01-10; Town of Houston Comprehensive Plan

Dear Mr. Nutter:

Thank you for meeting with State agency planners on January 24, 2007 to discuss the proposed Town of Houston 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.

Below is a list of comments received from State agencies:

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

The Office of State Planning Coordination commends the Town of Houston for preparing a well crafted comprehensive plan that defines a clear vision for the Town's future. It is obvious that Houston values its small town heritage and rural setting. Our office supports the dual goals of preserving agricultural lands as a "greenbelt" around the town and encouraging redevelopment and economic development in the town center.

It will be important for the town to partner with Kent County and the Delaware Department of Agriculture to achieve the plan's laudable land preservation objectives. There are certainly many opportunities to utilize Kent County's Transfer of Development

Rights ordinance and the State Agricultural Preservation Program to reach these objectives. Our office stands ready to work with the Town and these agencies to facilitate the implementation of the plan.

The Town's desire to revitalize the underutilized properties in the town center and its support of the ongoing efforts to redevelop the vacant cannery operation are evidence that Houston sees itself as a complete community. Drawing from the Town's heritage as a center of residence and commerce centered along the railway, the draft plan envisions a future where it is possible that economic growth and activity can coexist in a small town situated in a rural setting. This goal will be a challenge to achieve, so careful implementation of the plan will be critical. Working with the Delaware Economic Development Office there may be some opportunities to encourage or enable the economic development objectives. However, the Town must take care that the infrastructure improvements needed to support economic growth are compatible with the overriding objective of maintaining the small town character and rural setting that define Houston.

Our office is available as a resource to assist the Town through the plan certification as well as through the implementation phase. Please do not hesitate to contact David Edgell, the Circuit Rider Planner for Kent County for information and assistance. We look forward to working with you.

Certification Comments: These comments must be addressed in order for our office to consider the plan amendment consistent with the terms of your certification and the requirements of Title 22, § 702 of the Del. Code.

1. Future Land Use Map – Where is the parcel the town is considering for a new park and town hall? What is the future land use? The future land use map should designate this land in a future land use category that is consistent with the intended use. (I assume it is the mixed use parcel W of Broad Street. If so, this is probably appropriate).
2. The maps must have proper titles and reference letters (i.e. Map A, B etc) that match the references in the text and the map appendix table of contents. The maps in the electronic file were not properly labeled and presented out of order, which did cause some confusion with the reviewers.
3. The plan references “Map K” as the Potential Annexation Area map starting on page 47. The map appendix notes that Map K is Current Town Zoning. Please clarify.

4. The map appendix identified “Map L” as “Future Land Use and Potential Annexation”. It is difficult to determine exactly which map is Map L because there are no letters on these maps. However, it is assumed that that this refers to the map labeled “Future Land Use,” which does include an overlay for Potential Annexation as a dashed, green line. The following comments refer to this map:
 - a. The title should be changed to “Future Land Use and Potential Annexation”.
 - b. The dashed green line that is intended to indicate areas for potential annexation runs off of the page in the northeast and southeast corners. The map area must be expanded to show all lands intended for annexation. This may necessitate a separate map.
 - c. This map will govern future land use in any annexation areas. The future land use category “Agriculture / Natural Resource / Open Space” may be problematic. It appears that the town has an unused zoning district (P-Preservation) that can be used for this purpose. It is understood that the town desires a greenbelt and land preservation. The policies of the Kent County Comprehensive Plan and any future County ordinances will be critical to making this portion of the Town’s plan a reality.
5. The Transportation Plan section on p. 30 and Map E. focus on regional transportation. Are there any local transportation issues that should be considered? Local street improvements, sidewalks, and intersection enhancements are all things that could be addressed in the transportation plan. If there are no such issues, please state this in the plan. Please see the DeIDOT comments below for more detail, and some suggestions. We consider DeIDOT comments 2 and 3 in this letter to be certification issues. The other DeIDOT comments are recommendations.
6. The implementation plan should have some mention of the requirement to do a comprehensive rezoning within 18 months of plan adoption. It appears that at a minimum there will be some changes needed to ensure that the zoning map and the future land use map match. It is possible that this could be accomplished using the existing ordinance. It is recommended that this be completed concurrently with plan adoption or very soon thereafter, if possible.
7. Page 46, Future Land Use refers to “Map K” when the appendix labels the Future Land Use Map as “Map L”. Please clarify.
8. Page 47, Potential Annexation. Refers to Map K, when the appendix labels the Future Land Use Map as “Map L”. Please clarify.

Recommendations: Our office strongly recommends that the Town consider these recommendations as you revise your plan. These recommendations are intended to enhance or improve the plan, and assist in plan implementation.

1. The groundwater recharge map is difficult to read. We recommend a different color ramp, perhaps using same color scheme used by DNREC.
2. In the discussion of State Strategies on page 27 it may be worthwhile to note that the Strategies anticipates investing in conservation and preservation in Level 4.
3. The “Redevelopment of Blighted Properties” section on p. 30 underscores the fact that there may be very viable economic development potential in Houston. The challenge will be to ensure that this is accomplished in a way that is consistent with the character of the town. The Comprehensive Economic Development Strategy (CEDS) that has been recently published by the Delaware Economic Development Office (DEDO) is a program that should be of some assistance in this effort. At this time it is unclear how the program will be administered. Please contact the Jeff Stone with the Delaware Economic Development Office at (302) 739-4271 for more information regarding this process.
4. The concept of a TDR sending area greenbelt around the town will require coordination with Kent County through the upcoming Kent County Comprehensive Plan Update. It is recommended that representatives of the town work directly with Kent County Department of Planning Services and also participate in issue forums, public workshops and public hearings to pursue this joint planning strategy.
5. Page 47, Future Land Use. The discussion of “Commercial” land use does not mention the possibility of second floor residential uses. The previous chapter indicates that this is a permitted use according to the existing zoning ordinance. Please consider second floor apartments as a possible land use in commercial and town center areas.
6. The Water and Wastewater Plan does not have the detail that it should. The impression is that the town does not wish to consider public water or wastewater service at this time. A feasibility study at a future time is suggested on Page 29, but not referenced in the implementation chapter which starts on page 50. The provision of public water and/or sewer services in the town could have both positive and negative ramifications. This is complicated by the fact that the town seems to want to intensify some land uses (the town center, industrial uses, redevelopment areas) while encouraging preservation of agricultural uses and a

greenbelt. The plan should evaluate these options and give some clear policy guidance to help shape the future feasibility study. If not, the study is likely to focus only on the engineering aspects (how can it be done and at what monetary cost) and not consider the potential positive and negative impacts on the town or the implementation of town goals.

7. Delaware Code requires that all lands annexed into the town be placed in a zoning category consistent with the Future Land Use Plan. The language in the town's zoning ordinance requiring that all lands be zoned "P" upon annexation will be problematic, and should be changed. Specifically, lands annexed containing existing subdivisions or single family homes should be given an appropriate residential zone. According to the Future Land Use Map there are some of these properties in the annexation area. Although Delaware Code provides 18 months for the Town to make these changes, it is recommended that this be revised concurrently or very soon after certification.

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

The Division of Historical and Cultural Affairs applauds Houston's town officials and consultant for the detailed town history and the attention paid to preserving the historic fabric and viewshed of the town. Historic preservation is a major part of the vision for the town's future, and is intertwined throughout this document. The approach to preservation of the farming area around the town will assist in the preservation of historic farm complexes and archaeological sites that are probably found in this area.

The DHCA will be happy to continue working with Houston and to provide technical assistance for any preservation issues or questions that come up in the future, particularly on ways to rehabilitate buildings in their historic zone.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) The Plan's treatment of transportation issues occurs in several places in the plan and the Transportation section on page 30 in Part II (Planning and Strategy) is short and relatively uninformative. Because transportation does not appear to be a major concern for the Town, this approach may be acceptable, but it does little to address opportunities that might exist for coordination and actions involving DelDOT. DelDOT recommends that the Transportation Section in Part II be expanded and strengthened. Specific transportation items that should be added to the Transportation Section are identified below.

- 2) On page 8 (and again on page 30), the Plan cites the Dover/Kent County Metropolitan Planning Organization's (MPO's) Long Range Transportation Plan for 2025, adopted on July 5, 2001 as stressing "the need for a cooperative process of transportation planning with local governments." The Plan then mentions three specific concerns in Houston that relate to transportation. They have three comments about this paragraph:
 - a) DelDOT recommends citation of the MPO's current Plan, which is for 2030 and was adopted on May 4, 2005.
 - b) In their experience, the cooperative process to which the MPO's Plan refers is primarily a matter of matching changes in land use, which is to say growth and development, with the transportation facilities needed to serve it. This process may not be a major factor in the Town's planning as they appear to be focused on maintaining and improving the small town environment that they have, but it could be confusing to place the concerns cited in the same paragraph as the MPO's Long Range Plan.
 - c) The two concerns just mentioned should be included in the Transportation section in Part II and addressed through recommended actions in Section III.A.
- 3) Also on page 8 (and again on page 30), the Plan cites the Delaware Freight Rail Plan, dated December 2000, and mentions "Houston's desire to be more involved in working with DelDOT and Norfolk Southern on railroad issues affecting the Town." A more current document would be the Delaware Freight and Goods Movement Plan, dated June 2004. As to the "railroad issues," they should be specified in the Transportation section and addressed through recommended actions in Section III.A.
- 4) The list of goals on pages 16 through 18 has only one transportation-related goal. That is acceptable, but the goal as written does not mention the "railroad issues" identified on page 8, it is not really developed in the Transportation section, and it is not fully addressed by the actions recommended in Section IIIA. Further, to have a goal of working with DelDOT, without an indication of how the Town intends to do that, is of little value.
- 5) On page 24, it is mentioned that "While some streets have sidewalks, others do not." Is that a concern for the Town? If so, the Plan should address it.

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

- Houston has highlighted several areas in the comprehensive plan that have historical drainage problems, in addition the town has expressed the desire to redevelop blighted properties and wish to protect and enhance existing natural areas. The Drainage and Stormwater Program strongly recommends and encourages the Town of Houston to consider adding drainage and stormwater infrastructure and management options to Section F: Public Infrastructure. Municipalities need to emphasize drainage as a necessary infrastructure element in areas targeted for growth and development, and in areas of redevelopment. State stormwater regulations do not provide specific guidance for development in areas of poor drainage or historic flooding problems except for requiring a downstream study. Site-specific engineering solutions often end at the property line of the parcel being developed. A more comprehensive approach to providing solutions for drainage issues in areas designated for growth will require coordination between the town, DNREC, and DeLDOT.

Houston has designated areas of concern in their comprehensive plan that fall within the boundaries of two tax ditch systems – the Goose Pond Tax Ditch, and Marvels Crossroads Tax Ditch.

As identified in the draft plan, Houston also falls in the Murderkill and Mispillion watersheds, both of which are impaired for nutrients and bacteria in surface waters. Houston can do its part to help improve water quality by encouraging the implementation of best management practices for surface water quality and drainage. Generally, the preferred option for surface water quality protection for stormwater treatment, as stated in the Delaware Sediment and Stormwater Regulations, are those practices collectively known as Green Technology best management practices which achieve stormwater management objectives through filtration, infiltration, and storage. These practices are typically associated with natural vegetation and undisturbed soils while minimizing reliance on structural components (such as wet ponds) and promoting the natural hydrologic process. Examples include, but are not limited to low impact development and conservation design practices, vegetative filtration, riparian buffer plantings, bio-retention areas, vegetative flow conveyance, as well as recharge and surface storage in undisturbed natural areas. Requiring maintenance access ways along drainage ditches helps to provide a buffer along ditches and waterways that act as a conveyance for pollutants while providing unencumbered access to remove blockages.

The town plans to develop a new Town of Houston Zoning and Subdivision Ordinance to reflect the recommendations of the comprehensive plan, regulate permitted uses and densities, etc. The Drainage and Stormwater Section encourages the town to model their ordinance after Kent County's subdivision ordinance and requests that you consider stormwater management as a component of your ordinances and codes. It is also strongly recommended that you consider developing your own drainage code as well to address private drainage issues as land develops. Representatives from the Division of Soil and Water Conservation's Drainage and Stormwater Section will be happy to meet with the Town to provide assistance and/or draft language for consideration as you develop any ordinances. Please contact Jennifer Campagnini at 302.739.9921 or at Jennifer.campagnini@state.de.us to set up a meeting or to provide additional assistance.

The current Sediment and Stormwater Law and Regulations are available online at <http://www.dnrec.state.de.us/DNREC2000/Divisions/Soil/Stormwater/StormWater.htm>. The regulations are due to be revised in the coming year.

- The following are the Watershed Assessment Section's suggestions/comments on the Town of Houston's Comp Plan Update, and pertain mainly to the Environmental Features Section (pages 25-26).

Recommendation #1

Studies have consistently shown that a 100-foot upland buffer between wetlands/waterbodies and residential/commercial development is, in most cases, the minimum buffer width necessary to maintain water and habitat quality. We strongly encourage the Town to adopt said buffer width as a recommendation for future ordinance in their Comp Plan.

Recommendation #2

Since the creation of impervious cover through development is well-known environmental problem in all watersheds under intense development pressures – including the Mispillion and Murderkill watersheds of which this town is part – inclusion of proactive BMP strategies to mitigate its impacts should be included in the Comp Plan and considered for ordinance. Suggested BMP strategies the Town could adopt include the following: reducing the amount of allowable forest

cover removal; requiring the use of alternative paving surfaces (especially in commercial developments) where practicable; allowing only green stormwater technologies; and, as mentioned previously, adopting a minimum buffering requirement from all wetlands and streams.

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

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 Delaware State Fire Marshal's Office has the responsibility to review all commercial and residential subdivisions for compliance with the Delaware State Fire Prevention Regulations. This Agency asks that a MOU be established between the Delaware State Fire Marshal's Office and the Town of Houston. 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 Delaware State Fire Prevention Regulations only.

The Delaware State Fire Marshal's Office has no objection to the annexation growth and boundaries.

As a suggestion you may want to look at a section about public water. Specifically the infrastructure as it may become necessary, by building and/or fire code, for the re-development of in Town areas into residential apartment housing units. You may also want to look at the public water infrastructures that will abut the Town limits.

Department of Agriculture - Contact: Scott Blaier 698-4500

The Delaware Department of Agriculture would like to commend the Town of Houston on a well written and ambitious Comprehensive Plan. The Department especially supports the Town's commitment to retain the rural agricultural land use that surrounds the town, and its goal to permanently preserve those lands through Kent County's transfer of development rights (TDRs) ordinance. The DDA also appreciates the discussion on page 26 using the Land Evaluation Site Assessment (LESA) system to demonstrate the lands surrounding Houston are considered prime agricultural lands.

The Department supports the Town's goal to preserve the agricultural areas surrounding the town (specifically the "Greenbelt" concept mentioned on page 14). The Department is also encouraged by the Town's view of annexation as a "vehicle for preservation not development to retain the existing character of farmlands that surround Houston" (page 38).

However, despite the Town's stated intention of annexing agricultural land with the intent to preserve it, the Department is generally not in favor of properties enrolled in the Delaware Agricultural Lands Preservation program being annexed into cities or towns. The primary reason for this preference stems from the potential for condemnation by a town or city once annexed, in order to use the property for other than agricultural purposes.

The Department also supports the County's TDR ordinance, and more specifically, the Town's aspirations to work with the County create a "Greenbelt" around the Town through the program. The Department would be glad to assist the Town in its efforts to preserve additional agricultural land. Please feel free to contact the Planning and Land Preservation Section toll free (within Delaware) at 1-800-282-8685.

The Department is encouraged by the proposed expansion of the Paris Foods facility. Agribusiness and industries that support agriculture are critical to making agriculture a viable and competitive industry within the State. The Department of Agriculture has a fully staffed marketing section that would be glad to assist the Town in further exploring and developing its economic potential with regard to agriculture. Please contact the Marketing Section toll free (within Delaware) at 1-800-282-8685 to learn more about how they may be able to help the Town.

Page 32 of the plan suggests planting new street trees along Broad Street. The Department's Forest Service has Urban Foresters on staff to help communities with such projects, and may even be able to help defray the Town's costs through grants. Please contact the Forest Service toll free (within Delaware) at 1-800-282-8685 to learn more about how they may be able to help the Town accomplish this goal.

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 Vicki Walsh 739-4263

The Delaware State Housing Authority has reviewed the 2007 Town of Houston Comprehensive Plan to determine how the State's goals, policies, and strategies, as they relate to affordable housing, have been incorporated. Since Houston's population is less than 2,000, the Comprehensive Plan is required to include goals and recommendations for providing sound and affordable housing for its residents, which the Plan states.

Specifically, The DSHA supports the Plan's goals for providing sound affordable housing by permitting a new Zoning Ordinance that allows "townhouses" and "apartment units" as specially permitted uses within the residential and Town center zones. . . We encourage the Town to continue exploring zoning techniques to provide additional affordable housing opportunities. An example would be to permit accessory dwelling units in residential areas as a matter of right, to encourage social- and economic-integration, and life-cycle housing. Overall, this is a well thought out plan that addresses housing issues pertinent to the Town of Houston.

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 Milford School District, 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. Facility and enrollment information can be found at:
<http://facilitynet.doe.k12.de.us/portal/index.html>
6. The DOE has no further comments or objections to the proposed plan.

Approval Procedures:

1. Once all edits, changes and corrections have been made to the plan please submit the completed document (text and maps) to our office for review. **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 Town of Houston 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. A certification letter will be sent once these materials have been received. The plan will be certified effective on the date of adoption.

Thank you for the opportunity to review this project. Again, we commend the Town on a well crafted plan which clearly articulates an achievable vision for Houston's future. 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: Town of Houston