



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

October 19, 2009

Debbie Pfeil  
URS Corporation  
C/O City of Harrington  
106 Dorman Street  
Harrington, DE 19952

RE: PLUS 2009-09-01; City of Harrington Comprehensive Plan Pre-Update Review

Dear Ms. Pfeil:

Thank you for meeting with State agency planners on September 23, 2009 to discuss the upcoming comprehensive plan update for the City of Harrington. This meeting was to discuss the mandatory requirements for the comprehensive plan update. Please note that once the plan is completed it will need to be reviewed by PLUS again before certification.

This office has received the following comments from State agencies:

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

Thank you for submitting Harrington's comprehensive plan to PLUS for review and discussion before beginning the local plan update process. This review gives us the opportunity to provide the City with updated information on mandatory requirements for certification, and also for the State agencies to provide recommendations and ideas that can be helpful as the City updates its plan.

The following items must be updated or otherwise addressed for our office to consider certification of the plan:

1. The current plan references the 1999 version of the *Strategies for State Policies and Spending*. The update must utilize and reference the current 2004 version of the *Strategies*. Please be advised that the *Strategies* are due for an update, so please check with our office regularly throughout your planning process and coordinate your update with ours to the extent possible.

2. We expect that all population, economic, demographic, and mapping data will be updated to include the most current information available.
3. During the PLUS meeting there was much discussion regarding infrastructure capacity, mostly sewer issues. We discussed past limitations in capacity, I & I issues, and future plans the City has to expand sewer capacity in conjunction with Kent County. It is expected that the plan update will provide detailed information about sewer and water infrastructure capacities and capital facilities plans. It is further expected that the phasing of future growth and annexation will be aligned with reasonable assessments of infrastructure capacity.
4. DNREC has indicated that the City has water supply limitations that must be addressed in the plan update. See their comments below for more detail.
5. DNREC has also indicated that they are interested in continued dialogue regarding the Sourcewater Ordinance as discussed in their letter dated June 11, 2009 and replicated in their comments below in this letter. It is not clear how or if this will relate to the certification of any plan update, but we encourage the City to continue that dialogue throughout the plan update process none-the-less.

The following items are ideas and recommendations from our office intended to assist the City in its plan update process. Please contact David Edgell to discuss any of these items in more detail.

1. The current plan meets the minimum requirements of the Delaware Code and is certified. However, in practice it has proven to be a difficult document to use for both this office and even the City and its consultants. It is recommended that this document be reformatted and rewritten so that it is easier to read, use, and interpret.
2. It is recommended that the plan update take the time to carefully review the future land use plan and map. Future land uses should be clearly described in the plan text, and identified on the future land use map. The current plan does not have a clear description of land use categories in the plan text, which has created difficulties in a number of instances. The current future land use map contains land use categories that can be interpreted a number of ways, and with no corresponding text to rely upon this has also created difficulties for our office, applicants, and the City alike.
3. It is recommended that the City conduct a thorough public participation effort as a part of this plan update.

4. It is recommended that the City reconsider the size and configuration of the annexation area based on at least two factors:
  - a. The reasonable size of the annexation area relative to expected future utility capacities, and the timing and phasing of those improvements. Please consider the capacity needs of existing lands within the municipal boundaries as well as capacity needed to serve annexation areas.
  - b. At the PLUS meeting we discussed the fact that the State Fair has not expressed interest in annexation, at least not in the recent past. Please reconsider the inclusion of the substantial acreage identified for annexation to the south of the City in this regard. Does it make sense to consider the annexation of these lands unless and until the Fair annexes into the City?
  
5. Finally, it is recommended that the City consider opportunities for economic development when updating the plan. As previously mentioned, the State Fair has not expressed an interest in annexation. However, the Fair is a significant economic engine for the local economy and it is adjacent to the City. How can Harrington capitalize upon this? Does this provide opportunities for development of near-by lands that are in the City? The agricultural support infrastructure in Harrington is another potential opportunity to consider when updating the plan.

We look forward to working with the City throughout this plan update process. Please consider the following comments and recommendations from our State agencies as well.

**State Historic Preservation Office (SHPO) – Contact: Terrence Burns 739-5685**

In reference to the Comprehensive Plan, the State Historic Preservation Office encourages the City of Harrington to include some kind of protection or the investigation of protections for historic properties in its comprehensive plan update. More than half of the buildings in town are older than 1960, so a look at providing some incentives or other protections for their rehabilitation would help to achieve the goal of maintaining the community character and walk-able scale of the City. One of the things we would also like to see is the provision of some kind of public forum to discuss historic preservation issues.

The availability of federal and state tax incentives is mentioned, but it could be clarified. Federal tax credits can only be used on income-producing properties, while state tax credits are available to homeowners as well. The state program also requires that the property be listed in the National Register of Historic Places at the time of initial application for the credit, while the federal program allows the owner to get the property listed during the process. In addition, we will be happy to work with the City during its planning process, and if you have any questions or concerns, please contact Alice Guerrant at 302-736-7412 or by email at [Alice.Guerrant@state.de.us](mailto:Alice.Guerrant@state.de.us) .

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

- 1) On page 1, the Summary in the 2004 Plan states that “No annexation will be considered on any property that does not already receive City services...until the I & I problem is addressed...” DeIDOT is hopeful that the problem has been addressed since 2004, but if it remains an issue, they suggest that the Summary should explain it further as a groundwater infiltration and surface water inflow problem.
- 2) On pages 51 and 86 of the 2004 Plan, DeIDOT’s Transportation Enhancements (TE) program is mentioned in the context of providing neighborhood-to-school sidewalks. Presently most TE projects that are not receiving federal stimulus money are on hold for lack of other funds. However, there is another program, Safe Routes to School, which can be used to provide such sidewalks, and the City, along with the Lake Forest School District, has made applications in this regard. The Plan should reflect the City’s participation in this program. The DeIDOT Safe Routes to School Coordinator, Ms. Sarah Coakley, may be contacted at (302) 760-2236 for more information as necessary.
- 3) Managing truck traffic has been an important element of transportation planning in Harrington for many years. DeIDOT recently completed the Harrington Truck Route, to which the 2004 Plan refers on pages 52, 85 and 86. DeIDOT would expect the updated Plan to acknowledge this fact, and either comment on whether truck traffic remains a concern for the downtown area or acknowledge that this improvement has proved to be a success.
- 4) DeIDOT’s Corridor Capacity Preservation Program (CCPP) is mentioned on page 85 of the 2004 Plan. As discussed in that Plan, two separate plans were completed for Harrington as part of the program. The south plan focused on the Harrington Truck Route and on crossover and entrance changes along US Route 13 in the area of the fairgrounds. That plan has been implemented.

The north plan focused on the intersection of US Route 13, Delaware Avenue (Kent Road 81), Carpenter Bridge Road (Kent Road 35) and Jackson Ditch Road (Kent Road 430). The conceptual plan prepared for that intersection as part of the CCPP has been developed further, as part of DeIDOT’s Hazard Elimination Program (formerly the Highway Safety Improvement Program). The improvements include the closure of the median opening at US 13 at Carpenter Bridge Road/Road 35 and the construction of a cul-de-sac at the existing intersection of US 13 and Carpenter Bridge Road. A connection from Carpenter Bridge Road to US 13 was proposed to accommodate traffic destined for US 13. Therefore, a full access intersection is being proposed 800’ to the north of the existing intersection of US 13 and Carpenter Bridge Road. This plan is also moving forward; construction is scheduled to begin in the late summer of 2012

and to be complete in 2013. More information on this project is available from the project manager, Mr. Thad McIlvaine. Mr. McIlvaine may be reached at (302) 760-2349.

- 5) The Kent County Comprehensive Plan includes a Transportation Improvement District (TID) centered on Harrington, one of 11 such districts identified in their Plan. Briefly, a TID is a geographic area defined for the purpose of securing required improvements to transportation facilities in that area. Typically those improvements are identified through a planning study centered on that area. DelDOT looks forward to working with the City and the County to create the plan for this district and then implement that plan.
- 6) For some years, the Dover/Kent Metropolitan Planning Organization has asked us to study the feasibility of locating a rail/truck transfer station in the Harrington area to take advantage of the existing rail yard. Presently the development of a Freight Plan for the state is temporarily on hold, but they will consider this matter further when that effort is reactivated.

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

### **DNREC comments on the City of Harrington Comprehensive Plan**

DNREC's area of critical concern with Harrington's plan is the section on water supply. The plan overstates the Town's capacity at 900,000 gallons a day and overlooks its 700,000-gallon-per-day allocation limit. Its wells are aging, and the Town is barely able to meet its current demand; it has exceeded its permitted capacity on several occasions.

Consequently, adding new population through annexation is not feasible. DNREC recommends the Town undertake a thorough review of the existing wells, using simple techniques that can be carried out by the water treatment operations staff, and then prepare a Water Allocation permit modification to address the current water supply shortfall.

More detail on this issue is included below, but not being able to adequately serve citizens with a basic human need rises to the level of a public health and welfare – and a certification – matter.

### **Water Supply**

1. Incomplete information. The submittal does not state the current and future population based on the proposed annexations. It is not possible to calculate water demand without population projections at least 10 years into the future.

2. Current violations of the Water Allocation Permit: Well #1 is reported to have used 7.19 million gallons in November 2008 and 6.39 million gallons in September 2008. Both months exceed the well's maximum day allocation of 211,680 gallons every day.
3. Inadequate water supply: The 2008 peak month water use was reported to be 17.1 million gallons. During that month, the biggest well (Well #4) was used at an average of 90% of its maximum capacity every day (and may have exceeded its permitted capacity on several occasions), and Well #1 was used an average of 89% of its capacity. In short, the Town is barely able to meet its current demand. If the biggest well were taken out of service during a peak month, the Town would be unable to meet demand. Adding new population through annexation is out of the question at this time.

The consultant who prepared the PLUS submittal appears to be unaware of the Water Allocation Program and has rated the Town's capacity at 900,000 gallons per day, in direct contradiction of its 700,000 gallons per day allocation limit.

The existing wells are very old and have not been tested since the 1980s. The review of the existing wells only requires that the water treatment operators measure water levels in the wells monthly, at the same time the water use totals are tabulated. These water levels can be included in Column 16 of the annual water use report. The gallons per minute indicated by the flow meter at the time of the water level measurement should also be recorded in Column 15. The revised reports for 2009 can be included with the Water Allocation permit application, and DNREC's Water Allocation program staff will do the necessary calculations to determine how much the allocation of the existing wells can be increased to meet current demand.

Future increases in population must be addressed by new wells. These wells must be located in areas where they will not interfere with the withdrawals of other existing allocated wells; they must satisfy the Source Water Protection ordinance; and they must have adequate capacity to meet future demand.

At that time the consultant can prepare a new PLUS application, including all the necessary population data, and taking into consideration the Source Water Protection and Water Allocation requirements.

For further clarification or additional information, please contact Bill Cocke, Water Allocation Program, 302.739.9945 or [William.Cocke@state.de.us](mailto:William.Cocke@state.de.us).

### **Other Water Resources comments**

Page 44 & 45, Environmental Issues

The Plan should eliminate the existing narrative related to TMDLs (paragraphs 2-4 on page 44 & all of page 45, including table 12), and replace with the following updated

narrative and table – preferably as a separate “stand-alone” subsection entitled “Total Maximum Daily Loads (TMDLs)”:

Under Section 303(d) of the 1972 Federal Clean Water Act (CWA), states are required to identify all impaired waters and establish total maximum daily loads to restore their beneficial uses (e.g., swimming, fishing, and drinking water). A TMDL defines the amount of a given pollutant that may be discharged to a water body from point, nonpoint, and natural background sources and still allows attainment or maintenance of the applicable narrative and numerical water quality standards. A TMDL is the sum of the individual Waste Load Applications (WLAs) for point sources and Load Allocations (LAs) for nonpoint sources and natural background sources of pollution. A TMDL may include a reasonable margin of safety (MOS) to account for uncertainties regarding the relationship between mass loading and resulting water quality. In simplistic terms, a TMDL matches the strength, location and timing of pollution sources within a watershed with the inherent ability of the receiving water to assimilate the pollutant without adverse impact.

A Pollution Control Strategy (PCS) specifies actions necessary to systematically reduce nutrient and bacterial pollutant loading to the level(s) specified by the Total Maximum Daily Load; and must reduce pollutants to level specified by the State Water Quality Standards. A variety of site-specific best management practices (BMPs) will be the primary actions required by the PCS to reduce pollutant loading(s).

The City of Harrington is located within the greater Delaware River and Bay Drainage; specifically within the Murderkill River watershed. The pollutants targeted for reduction in the Murderkill watershed are nutrients (e.g., nitrogen and phosphorus) and bacteria (See table 1). As mentioned previously, the PCS will require specific actions that reduce nutrient and bacterial loads to levels consistent with the goals and criteria specified in the State Water Quality Standards. The Murderkill River PCS is still pending review, with an expected date of completion by early 2010.

<b>Delaware River and Bay Drainage</b>	<b>N- reduction requirements</b>	<b>P-reduction requirements</b>	<b>Bacteria-reduction requirements</b>
Murderkill watershed	30%	50%	32%

Table 1: TMDL Nutrient (Nitrogen and Phosphorus) and Bacteria reduction requirements for the Murderkill watershed.

Page 47, Wetlands and Wooded Areas subsection

The Plan should eliminate the first sentence of the first full paragraph and replace with the following:

The United State Army Corps of Engineers (USACE) regulates tidal and nontidal wetlands under Section 404 provisions of the Federal Clean Water Act. The State more stringently regulates tidal and some nontidal wetlands (i.e., perennial and intermittent

streams/ditches and ponds containing a surface water connection to other wetlands) under the Subaqueous Lands Act (7 Del.C. Chapter 72) and the Regulations Governing the Use of Subaqueous Lands.

### **Source Water Protection**

1. GPB recommends that the City's 2009 Comprehensive Plan include a section devoted to the discussion of source water protection. It should address both wellhead protection and excellent recharge potential areas. References and language can be found at the Source Water Protection web page.  
<http://www.wr.udel.edu/swaphome/index.html>

The Director of DNREC Division of Water Resources and staff met with representatives of the City of Harrington regarding their source water protection regulations adopted as Ordinance No. 08-03 on July 7, 2008. The meeting occurred on May 18, 2009, because DNREC had expressed several concerns. The major topics discussed during the meeting involved the lack of a clear upper limit on impervious cover over excellent recharge areas, gaps in prohibited land uses in source water protection areas, and inadequate grandfathering clause date limits.

Harrington's existing ordinance imposes an impervious cover limit of 35% with an opportunity to increase that level to 100%. City representatives explained that any development that proposes to exceed the 35% threshold would need to meet the recharge deficit caused by the acreage of impervious over the 35% with few exceptions.

DNREC still believes that some upper impervious ceiling is advisable to protect the resource and promote better site planning to meet the ground-water recharge objectives. However, it was agreed that the City could meet the objectives of meeting the recharge deficit without a clear upper impervious cover limit by changes in their zoning ordinance. Further it was decided that when the City's Comprehensive plan is updated this coming year, DNREC will review the implementation of the ordinance to see if the lack of a clear impervious limit ceiling has led to the ordinance not being protective of the resource.

The topic of grandfathering, Exemptions section (§ 350-8 K), was discussed but not resolved. As written, any "(s)ubdivision and land development projects that have been submitted for concept or preliminary plan approval by the Planning Commission" today would be exempt. We recommend that a specific date (the date of the adoption of the ordinance or the effective date of the ordinance) be added to item K.

2. As part of the plan's required implementation element, GPB recommends the Comprehensive Plan detail the proposed changes in the zoning ordinances and how these changes will mitigate the recharge lost to impervious cover.

Concerning the lack of specificity on the list of prohibited land uses that have a strong likelihood to contaminate ground water, it was determined that some of these issues

would be addressed in upcoming changes planned for the City of Harrington Zoning ordinances such as Chapter 440 for the underlying zoning districts.

3. GPB believes the Source Water Protection Ordinance will be improved as the City addresses the underlying zoning ordinances in Chapter 440 and that the City has agreed to allow the Department to participate when it revises its zoning ordinances. We also recommend that language be added to the Exemptions Section that specifies the date of ordinance adoption.

### **Potential Brownfield Sites**

DNREC's Site Investigation and Restoration Branch (SIRB) encourages the development of Brownfields and can provide assistance when investigating and remediating Brownfield sites. Although SIRB has no specific comments regarding the proposed comprehensive plan at this time, if any future development occurs on sites with previous manufacturing, industrial, or agricultural use, SIRB recommends that a Phase I Environmental Site Assessment be conducted prior to development, due to the potential for a release of hazardous substances. If a release or imminent threat of a release of hazardous substances is discovered during the course of future development (e.g., contaminated water or soil); construction activities should be discontinued immediately, and DNREC should be notified at the 24-hour emergency number (800-662-8802). In addition, SIRB should be contacted as soon as possible at 302-395-2600 for further instructions.

### **Stormwater/Drainage comments**

Page 42, Undeveloped and Open Space

- Explore the use of drainage ways and other open space set aside for drainage maintenance for bicycle and pedestrian interconnections in new developments.

Page 43, Waterways and Drainage

- The City should pursue drainage easements along waterways, ditches, and storm drains where currently there is none. The Drainage Program is not suggesting the City assume primary responsibility for the routine maintenance such as mowing on the conveyances. However the City should have the ability to remove blockages either natural or manmade and have the facilities should the conveyance need reconstruction in the future.
- Streams, tax ditches, private ditches, and swales will require periodic reconstruction at intervals dependent upon the sedimentation load from upstream. Periodic reconstruction involves the removal of sediment from the ditch bottom to establish or reestablish a design grade. The removed sediment, referred to as spoil, is typically disposed of by spreading or piling alongside the ditch. On a Tax Ditch this is done within the tax ditch right-of-way which is why Tax Ditch

- rights-of-way need to be unobstructed. A drainage maintenance plan should be developed for private ditches and swales in new development that would include points of access for maintenance equipment, and designate spoil disposal areas.
- The Drainage Program recommends each parcel have a tax ditch right-of-way review conducted on the parcel prior to annexation by the City. Please contact our Georgetown office at (302) 855-1930 to request a review tax ditch rights-of-way on a parcel.
  - When a project involves a tax ditch, or tax ditch right-of-way, include the Drainage Program in the pre-application meeting with the Kent Conservation District to discuss drainage, stormwater management, tax ditch maintenance, and the release of stormwater into the tax ditch.
  - The City should develop a Master Drainage Plan to identify existing open channels and stormwater pipes within the City boundary, and future annexation areas, as these may require maintenance in the future. The riparian buffers along the channels provide a multitude of benefits to water quality and wildlife along with recreational opportunities. A Master Drainage Plan could also serve as a guide to link future development open space as greenways.
  - The Drainage and Stormwater Section recommends sub-watershed planning for future annexation areas. By utilizing the drainage pattern, the City may be able to combine habitat protection, recreation, and storm water management. The City would need to partner with Kent County as the watersheds extend out of the potential expansion area identified by the City.

#### Page 46, Wetlands and Wooded Areas

- As the City expands into areas containing wetlands, the Drainage Program recommends including wetlands setbacks as part of the ordinances to protect environmental resources. Wetlands should be protected and setbacks, of unsubdivided open space, surround them. No portion of any building lot should be within the setback. During prolonged wet periods, the area within the wetland setback may become too wet for normal residential use. Designation as open space will aid in the prevention of decks, sheds, fences, kennels, and backyards being placed within the setback thereby reducing nuisance drainage complaints.
- The Drainage Program promotes the buffering of streams and private ditches from development. However, before planting riparian buffers please consider how future drainage maintenance will be performed. When applied in conjunction with a drainage maintenance plan, existing buffers should be enhanced or new buffers planted to obtain riparian buffers on each side of the existing water conveyance. A tree and shrub planting on buffers with the tallest trees planted on the south and west side of the water conveyance will maximize shading of water. Trees and shrubs should be native species, spaced to allow for mechanized

drainage maintenance at maturity. Tree and shrub planting in this manner will provide a shading effect promoting water quality while allowing future drainage maintenance. Do not plant trees closer than 5 feet of the top of the bank to avoid future blockages from tree roots. Remove invasive vegetation prior to the planting of native species.

- Existing woodland provides valuable wildlife habitat as well as soil erosion protection and water quality filtering. Preserve existing woodland within proposed annexation areas. Do not allow the clearing of woodland to create stormwater management areas. Develop a tree planting guideline, a tree mitigation planting guideline and woodland preservation language to protect the existing woodland from harvest prior to and after annexation.

#### Page 47, Surface Water Resources

- Be advised the Sediment and Stormwater Program is currently undergoing revisions to the sediment and stormwater regulations. It is unclear at this time when the new regulations will be promulgated.
- The Division of Soil and Water Conservation is requesting that the City incorporate a requirement for a stormwater and drainage review into the City's preapproval requirements for new development requests. Proposed development projects should hold a pre-application meeting with the delegated agency, the Kent Conservation District, to discuss stormwater and drainage prior to the concept plan submittal. These meetings are structured to assist developers in the design process and for early notification of approval requirements. In order to schedule a pre-application meeting, the applicant must forward a completed Stormwater Assessment Study (SAS) to the appropriate Delegated Agency. Please note that this process does not replace the State's PLUS process. The SAS Findings report will also be provided through that process. A pre-application meeting with the Kent Conservation District would enhance the City of Harrington's Site Investigation Report of which stormwater is a component.
- Lines and grades: If the City does not have a lines and grades requirement for new construction, the Division recommends this be considered to help resolve drainage issues arising from new construction during and post construction. County/municipal building inspectors would be able to use approved lines and grades requirement to field verify prior to issuance of Certificate of Occupancy or building permit, as appropriate.
- Upgrades to the stormwater system may reduce pollutant loads and help reach the established total maximum daily load for nitrogen, phosphorus, and bacteria. Explore the feasibility of stormwater utility to fund upgrades to existing stormwater infrastructure. Reach out to the Kent Conservation District, Kent

County and the Delaware Clean Water Advisory Council as partners in funding stormwater retrofits.

- As the City of Harrington updates any land use or subdivision codes, the Sediment and Stormwater Program requests the town make a note of the Sediment and Stormwater requirements on any construction - related project application checklists, etc.
- Evaluate the existing drainage patterns within any future annexation areas to ensure adequate drainage for the cumulative stormwater impact upon full build out of the annexation area. The City should be mindful of potential stormwater impacts from the City onto county residents.

## **Fish and Wildlife**

### Page 42, Undeveloped Land and Open Space

The plan outlines the probable future development of land that is currently either agricultural or wooded. The City outlines a plan for future growth which includes dedicated open space within residential developments. Open space within a residential development is typically small, disconnected, and consists of mowed grass and storm water management facilities. Residential developments within forested areas are often designed such that the only remaining forest is around the perimeter or in small, disconnected areas scattered throughout the development. Residents will likely clear portions of their lots for desired amenities such as swimming pools, sheds, dog kennels, play areas etc. This type of site plan design does not result in open space with a high habitat value for wildlife. Wildlife that is displaced by development will have to either co-exist with residents (often leading to human/animal conflicts), or disperse into the surrounding areas putting greater pressure on a finite amount of resources in those areas.

*Recommendation:* The City should include open space that is not part of a residential development in their land-use plans.

### Page 46, Wetlands & Wooded Areas

#### *Wetlands*

The plan mentions the overall importance of wetlands however, there are no action items pertaining to how those wetlands are going to be protected. Upland buffers around wetlands are essential for protecting the function and integrity of those wetlands. Scientific research indicates that in most cases, vegetative buffers need to be at least 100 feet in width to adequately protect water quality. In addition to water quality, these upland buffer areas are critical to some wetland dependent species that utilize uplands during a portion of their life cycle.

*Recommendation:* For projects that entail a land-use change, the City should require wetland buffer widths that are at least 100 feet in width. These buffer areas should not be comprised of mowed lawn and not contain lot lines or infrastructure.

Wetlands within current City limits (specifically those along Browns Branch and its tributary) are identified as non-tidal and regulated by the U.S. Army Corps of Engineers (USACE, or “the Corps”). According to our GIS database and State Wetland Maps, there are also isolated wetlands that are not regulated by the Corps or by the State within current City boundaries as well as parcels identified for future development. It is possible that these wetlands are Coastal Plain ponds, or Delmarva bays. This wetland type provides breeding habitat for a variety of animals, including amphibians and invertebrates. Although small in size, they typically support a high diversity of species, many of which are considered rare. Upland forest buffers around these ponds are also critical, protecting the wetland from excess nutrients and invasion by non-native species. From an ecological standpoint, protection of these wetlands are important; however, current regulatory protection is minimal.

*Recommendation:* The City should consider providing a higher level of protection to isolated wetlands which includes avoiding direct impacts and adequate upland buffers.

### *Woodlands*

The plan acknowledges the presence of forested wetlands and some “woodlots” within current City boundaries. It should be noted that a number of the parcels being considered for future growth are either partially forested or entirely forested, and some contain wetlands. Forested areas and forested wetlands in particular, can support an array of plant and animal species. Forested riparian areas are critical to many species of wildlife, providing travel corridors, foraging and nesting areas. According to the Delaware Wildlife Action Plan<sup>1</sup> (DEWAP), residential and commercial development pressure is probably the most significant issue facing wildlife habitats in Delaware.

Cumulative forest loss throughout the State is of utmost concern to the Division of Fish and Wildlife which is responsible for conserving and managing the State’s wildlife (see [www.fw.delaware.gov](http://www.fw.delaware.gov) and the Delaware Code, Title 7). Current State, County and local ordinances and regulations do not adequately protect forested areas. Even with the City’s ordinance prohibiting the removal of trees with a diameter of over 12” (without approval from the City), entire forest blocks could be fragmented.

*Recommendation:* The City should consider a more protective ordinance that would allow larger, connected areas of forested open space.

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<sup>1</sup> DEWAP is a comprehensive strategy for conserving the full array of native wildlife and habitats-common and uncommon- as vital components of the state’s natural resources. This document can be viewed via our program website at <http://www.dnrec.state.de.us/nhp>. This document also contains a list of species of greatest conservation need as well as species-habitat associations.

Page 67-68, Future Wastewater Treatment Capacity

The use of the Blessing Farm for disposal of wastewater through spray irrigation is mentioned in the plan. At that time, there were plans to spray in the forested area of the parcel and the Division of Fish and Wildlife had concerns regarding potential long-term impacts to forest dwelling wildlife and water quality of Browns Branch. According to a May 2009 Environmental Assessment (EA) prepared by Remington, Vernick and Beach Engineers (Newark, DE) for the City of Harrington, the use of the Blessing Spray Farm for disposal of wastewater was not considered the best long-term solution for the City. Included in the EA was a proposal by the City to decommission the existing wastewater treatment plant and convert a portion of the plant to a sanitary sewage pump station. A force main will be installed that will convey untreated sanitary sewage from the City to a system in Frederica and ultimately to the Kent County Wastewater treatment plant.

*Recommendation:* The City should update the plan to reflect this change in future wastewater treatment options.

Page 79, Planning Coordination

We have not surveyed all of the parcels within the annexation area (figure 9D), but some of the parcels have been surveyed and rare plant and animal species have been documented. These species could be impacted if development of the parcels do not include preservation of forested and wetlands areas.

*Recommendation:* We highly recommend that the City require developers, or applicants of development projects, to contact the Natural Heritage and Endangered Species Program to determine if their project activities will impact a state-rare or federally listed species. In some cases a site visit may be requested in order to provide the necessary information. The City should then consider requiring implementation of recommendations provided by the NHESP before approving site plans.

Contact information:

Edna Stetzar  
Environmental Review Coordinator  
Natural Heritage and Endangered Species Program  
DNREC-Division of Fish and Wildlife  
4876 Hay Point Landing Rd  
Smyrna, DE 19977

**Other implementation recommendations**

- *Wetlands.* Require all applicants to submit to the City a copy of the development site plan showing the extent of State-regulated wetlands (as depicted by the State Wetland Regulatory Maps), and a United States Army Corps of Engineers (USACE) approved wetlands delineation as conditional approval for any new commercial

and/or residential development. Additionally, the site plan should depict all streams and ditches which are jurisdictional pursuant to the Subaqueous Act (7 Del. C., Chapter 72) as determined by DNREC.

- *Impervious cover.* Require an impervious surface mitigation plan for all residential and commercial developments exceeding 20% imperviousness. In commercial developments, it is strongly recommended that pervious paving materials be required on at least 50% of the total paved surface area(s).

Require the calculation for surface imperviousness (for both commercial and residential development) take in to account all constructed forms of surface imperviousness - including all paved surfaces (roads, parking lots, and sidewalks), rooftops, and open-water stormwater management structures.

- *TMDL protocol.* Require the assessment of a project's TMDL nutrient loading rate through use of the Department's nutrient budget protocol. The applicant should be further required to use any combination of approved Best Management Practices (BMPs) to meet the required TMDLs for the affected watershed(s) in question.
- *Open space.* Exclude structural Best Management Practices (BMPs) such as community wastewater treatment areas, open-water stormwater treatment structures and natural areas containing regulated wetlands from consideration as open space.
- Prohibit development on hydric soil mapping units. Proof or evidence of hydric soil mapping units should be provided through the submission of the most recent NRCS soil survey mapping of the parcel, or through the submission of a field soil survey of the parcel by a licensed soil scientist.
- Require the applicant to use "green-technology" stormwater management in lieu of "open-water" stormwater management ponds whenever practicable.

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

No comments received.

**Department of Agriculture - Contact: Scott Blaier 739-4811**

The Delaware Department of Agriculture would like to commend the City of Harrington for participating in a Pre PLUS review for your comprehensive plan update. After reviewing current the plan, we offer the following comments and suggestions.

Reference page 81 of the plan, the Agricultural Lands Preservation statute has been changed to allow treated wastewater to be applied to cropland enrolled in the program.

The Delaware Forest Service encourages the town to develop a formal urban forestry management plan that addresses a tree canopy goal. Trees are a vital part of any

community and the Delaware Forest Service recommends that trees be preserved during the development process. A tree ordinance protecting existing woodlands in future development as well as existing street trees can be developed and implemented to address this issue. The Delaware Urban & Community Forestry Program would be glad to offer assistance. Please contact the Delaware Forest Service for more information at (302) 659-6705 or 698-4547.

The Department encourages the town to develop and promote agricultural businesses whenever possible, specifically farm markets. The Department has a fully staffed marketing section, and we encourage the town to contact them at (302) 698-4535 to see how they can help. Please contact Kelli Steele of the Department's marketing section to explore agricultural economic development activities. Food safety, nutrition, and wholesomeness are consumer priorities these days, and many people are turning to local sources of food supply. As a result, there are a number of agricultural development opportunities.

### **Annexation Plan**

The Department recognizes the city's need to grow and expand through annexation. However, while planning for expansion, we ask the city to be mindful of the large amount of land that has been preserved through the State's Agricultural Lands Preservation program. The area of Kent County west of the city is the largest concentration of preserved crop land in the program, and state. The location of all the land enrolled in the program can be downloaded at the location below:

<http://66.173.241.168/dda/downloads.html>

The Department would be glad to meet with the city to discuss its plan for growth while at the same time promoting and preserving agriculture.

### **Public Service Commission - Contact: Andrea Maucher 739-4247**

No comments received.

### **Delaware Economic Development Office – Contact: Jeff Stone 672-6849**

No comments received.

### **Delaware Division of Public Health- Health Promotion Bureau- Contact: Michelle Eichinger (302) 744-1011**

No comments received.

### **Delaware State Housing Authority – Contact Valerie Miller 739-4263**

DSHA has reviewed the existing Certified Comprehensive Plan to advise the City of Harrington of new regulations passed since its certification in 2005 that should be included in their scheduled update. Since 2005, there have not been new regulations passed for housing. However, Delaware and throughout the Country, have experienced a housing boom and resulting escalation in housing prices. Rising home prices may have left behind many working individuals and families. As a result, they encourage the City of Harrington to continue to pursue a balanced housing stock in the development of their Comprehensive Plan that will allow residents a choice in where they want to live without putting a strain on their purse strings.

The Delaware State Housing Authority would recommend the incorporation of more current data in regard to projected housing units and population. Although the Plan addresses these issues, the current economic situation has put a strain on housing within the state and much of this data has changed and therefore needs revision. This information can be obtained through the Delaware Population Consortium or by contacting DSHA. Additionally, further information might be provided on how the City wishes to address the relatively old age of the current housing stock. A possible option to maintain and ensure the small-city charm of Harrington may be a Rehabilitation Subcode, modeled after New Jersey, which would keep down rehabilitation costs of older structures.

DSHA has provided a guide to help assist in writing any city's housing element: *Creating a Balanced Housing Stock: A Guide to Writing Your Town's Housing Element*, which outlines the steps in preparing a housing element for any Comprehensive Plan. Additionally, DSHA has developed a website, **Affordable Housing Resource Center**, to learn about resources and tools to help create housing for households earning 100% of median income or below. Our website can be found at: [www.destatehousing.com](http://www.destatehousing.com) "Affordable Housing Resource Center" under our new initiatives.

If you have any questions or would like to explore any of the housing tools in more depth, please feel free to call me at (302) 739-4263 ext. 260 or via e-mail at [valerie@destatehousing.com](mailto:valerie@destatehousing.com). Thank you.

**Department of Education – Contact: John Marinucci 735-4055**

1. 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.
2. In its review of Comprehensive Plans, Comprehensive Plan Updates 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.
3. 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.
  4. 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.
  5. The DOE offers its support to assist and participate by coordinating with this municipality, the local school districts, the County, the Office of State Planning Coordination as well as other school districts and stakeholders as this Comprehensive Plan Update progresses.
  6. DOE has no comments regarding the Comprehensive Plan Update under consideration.

Please contact this office once you have completed the update of the plan for the next step in the certification process. If you have any questions, please contact me at 302-739-3090.

Sincerely,



Constance C. Holland, AICP  
Director

Cc: John Schatzschneider, Harrington City Manager