



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION**

April 14, 2011

David Culver
New Castle County Land Use Department
87 Reads Way
New Castle, De 19720

RE: PLUS review – 2011-03-02; New Castle County Ordinance 11-020

Dear Mr. Culver:

Thank you for meeting with State agency planners on March 23, 2011 to discuss the proposed Ordinance No. 11-020 which is a text amendment to Chapter 40 of the UDC to clarify issues related to recorded and unbuilt gross floor area (GFA), level of service (LOS) standards, and the relative importance of certain design elements.

Please note that changes to the ordinance, 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.

Office of State Planning Coordination – Contact Herb Inden 739-3090

- The Office of State Planning Coordination supports redevelopment efforts especially in cases where properties are in a state of disrepair, are underutilized and/or are brownfield redevelopments and infrastructure is present or planned for. Such efforts are generally welcome where they can help alleviate the need to develop in greenfields and areas outside of Levels 1 and 2 of the State Spending Strategies. In that this ordinance meets these objectives, we support it.
- In the reading of this ordinance, It is not clear why the inclusion of “previously recorded plans which have unbuilt GFA” (*gross floor area*) are included as part of redevelopment legislation as this is not generally what comes to mind in discussing redevelopment issues. We do understand and support the County’s desire to bring all development into compliance with the Unified Development Code (UDC). We further understand that unbuilt properties have to meet a higher proportionality of the code to qualify under this ordinance. It is our sense that there are greater difficulties in redeveloping certain properties (as noted in the first paragraph) and that we suggest considering the development of a sliding scale of incentives so that properties with the greatest needs

receive more in the way of such incentives and those with lower needs, e.g., those with unbuilt GFA, receive the least in the way of such incentives.

State Historic Preservation Office – Contact Terrence Burns 736-7404

- The language includes a requirement to determine any historic nature of the property or building prior to redevelopment, so that its historic character can be considered, and the State Historic Preservation Office applauds the County's commitment to protection of its historic resources as well.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- DelDOT sees potential problems with Section 40.08.130.B.6.e.vii, which refers to traffic conditions:
 - The last two sentences of this paragraph provide requirements with respect to Level of Service (LOS) but the first sentence says that “An operational analysis or a traffic impact study shall only be required if requested by DelDOT.” Absent such an analysis or study, how does the County suggest that LOS be determined? Is the implication that the County only wants to know the LOS when DelDOT requests an analysis or study? LOS changes over time. If the County is content to rely on previous studies for this information, how old can those studies be, and why is there a different standard for areas that have not been studied?
 - Both of the last two sentences include the words “below D.” DelDOT suggests that the last two sentences could be more clearly written as follows:

“If an existing Level of Service (LOS) is A, B, C or D, the proposed development may not cause that LOS to become E or F. If the existing LOS is E, the proposed development may not cause that LOS to become F.”
 - Where the existing LOS is F, a standard of the sort proposed has no effect, because there is no LOS worse than F. For example, at a signalized intersection, the measure of LOS is the average delay per vehicle. If the existing LOS is the worst possible E, with an average delay of 80.0 seconds, the proposed development cannot cause it to become 80.1 seconds. However, if the average delay is already 80.1 seconds, LOS F, there is no prohibition against the average delay increasing without limit.
- Further regarding Section 40.08.130.B.6.e.vii, we suggest that Section 2.9.12.1, paragraph 4, of the Standards and Regulations for Subdivision Streets and State Highway Access provides a more practical approach than trying to specify the worst acceptable LOS. That paragraph reads as follows:

‘If a proposed development is located in an area, or on a land parcel or parcels of land, designated as a “re-development” site by either state or local government, with local

government concurrence DeIDOT may accept the existing Level of Service provided that the proposed development makes sufficient improvements, to DeIDOT's satisfaction, to retain the existing measured Level-of-Service.'

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

- DNREC generally prefers redevelopment to development on greenfields where infrastructure is limited and the impacts on water quality, habitat and air quality are greater. Redevelopment of abandoned or underutilized properties is beneficial to the environment and can also be profitable for the developer and the community. These benefits can be enhanced when properties are developed in a sustainable manner. However, we would not support the rollback of any environmental regulations or ordinances to accommodate redevelopment. To get started on a sustainable redevelopment, consider the following ideas:
 1. **“Green Buildings”-like design and certification.** A “Green Building” is a resource efficient building, meaning it minimizes the use of energy, water, and environmentally unfriendly building materials.
 2. **Energy reduction and clean energy alternatives.**
 3. **Storm water management.** Reducing stormwater runoff from new construction and remodeling protects our waterways and ecosystems.
 4. **Environmentally beneficial landscaping and native landscaping.**
 5. **Reduction of construction and demolition debris.**
 6. **Benefits to the community** (such as mixed uses, recreational areas, walking and biking paths, public transportation and reuse of existing infrastructure).

Please contact this office once a decision has been reached regarding this draft amendment, and, if approved, please forward a copy of the adopted ordinance for our records.

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

Sincerely,



Constance C. Holland, AICP
Director, Office of State Planning Coordination