



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

June 20, 2012

Kathleen Harvey, Mayor
Town of Odessa
P.O. Box 111
Odessa, De 19730

RE: PLUS 2012 -05-01; Town of Odessa

Dear Mayor Harvey:

Thank you for meeting with State agency planners on March 25, 2009 to discuss the proposed Town of Odessa draft comprehensive plan update.

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.

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.

No certification issues were noted at this time.

Recommendations: Our office strongly recommends that the Town consider these recommendations from the various State agencies as you review your plan for final approval.

This office has received the following comments from State agencies:

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

The Office of State Planning Coordination would like to congratulate the Town of Odessa for a thorough and very well done comprehensive plan update. The plan document and map series are very extensive, and represent a detailed vision for the future growth and development for the Town. We understand the challenges of dealing with the land surrounding Odessa and appreciate the thought that went into expanding the area of concern especially as to how such development might impact the Town and the Town's desire to stay informed on such

development activity. Again, we congratulate the Town in its efforts and offer our assistance in implementing the plan.

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

The State Historic Preservation Office has reviewed the Town of Odessa's comprehensive plan draft update. This plan recognizes throughout the historic character and significance of the town, with an excellent appendix discussing the history, architecture, and significance of the major historic buildings in town, as well as including a brief history and chart of historic properties in the main text. The recommendations of the plan throughout include consideration for maintaining and enhancing the historic character and heritage tourism so important to the town, even when the section of the plan is dealing with seemingly separate issues, such as transportation and development. The consideration for maintaining an identifiable edge of town while incorporating new development linked in appropriate ways to the existing streets is excellent.

The recommendation to establish a non-profit estate zoning is an interesting and innovative way to provide an additional way for historic museums and organizations to develop an income stream, while not compromising the historic nature of the town.

The plan demonstrates a strong awareness of the historic preservation programs administered by the Division, and we will be happy to assist the town as a partner in these efforts, particularly in pursuing Certified Local Government status and in assisting its citizens with information about and advice on applying for the Delaware Historic Preservation Tax Credit. One recommendation is for the town to institute design guidelines for new development both inside and outside of the historic district. The Division would be happy to provide technical assistance with this effort.

There was no mention of archaeology in the discussion of the town's historic properties. There have been some small archaeological excavations in the town in the past, associated with the Corbit-Sharp House property and the DNREC property along the river. There are undoubtedly archaeological resources associated with the historic properties in the town, and the town may want to explore ways to identify site areas in the future and incorporate consideration for those resources into development activities.

Overall, this plan makes a very strong contribution to historic preservation in Delaware.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- On page ii there is a reference to the “Middletown Comprehensive Plan Team.” Was “Odessa” intended?
- On page 4, the order in which the buildings are listed in Table 1 is not clear. Original Construction Date almost works but if that is the intended order, the last four buildings are out of order.

- On page 7, there appears to be some confusion in Table 3 and the paragraph following it. Table 3 has two columns headed 2020 and the paragraph following the table refers to population projections of 408 and 744 persons by 2030, which is consistent with the table but inconsistent with the two paragraphs preceding the table.
- Table 7 on page 9 shows that the number of housing units in Odessa rose 24 percent from 1960 to 1970 and then fell 30 percent from 1970 to 1980, i.e. from 170 units up to 210 units and then down to 147 units. If this change was real, the explanation for it is worth mentioning. If it was not, that too is worth mentioning and the validity of the table may be questionable.
- On page 14, the third sentence under Town Government mentions a “five-member Town Council, comprising a mayor and four councilpersons, and a treasurer.” That is six people. Is the treasurer not a councilperson, is the mayor not a councilperson, or what is the explanation?
- The Healthcare section on page 17 does not mention the 34-bed rehab hospital proposed by Healthsouth Corporation for Middletown.
- DelDOT has three comments regarding Section 2-5, Transportation:
 - On page 31, the sources cited for Table 13 are more properly titled the “2004 and 2011 Traffic Summaries.”
 - The list of Park-and-Ride facilities at the bottom of page 33 and the top of page 34 should be reviewed with DART First State. DelDOT is aware of two errors in it. First, the Old Boyd’s Corner lot is now closed. Second, the Pine Tree Corner lot is a Park-and-Pool facility, with no active bus service.
 - DelDOT questions the recommendation on page 35 that the County owned property at 307 North Sixth Street could serve as a municipal parking lot for visitors to the downtown area. Briefly, it presents challenges in terms of routing pedestrians from the lot to Main Street. To reach the intersection of Fifth and Main, effectively the west end of the downtown area, visitors would have to walk about a quarter of a mile. Assuming that they are directed south to Main Street, so that they can cross at signalized intersections, they would have to walk most of the way with relatively heavy traffic beside them. One could, at greater expense, perhaps install pedestrian-activated signals on Fifth and Sixth Streets at Osbourne Street and bring pedestrians from Osbourne Street to Main Street by way of Fourth Street. Both routes are relatively long and difficult if affordable parking is available closer to the downtown area.

- DelDOT has four suggestions regarding the Future Land Use Map:
 - Where the north corner of the Town crosses Delaware Route 1, there is no use shown for the Route 1 right-of-way or the area north thereof. Some use should be shown. If the Town intends to de-annex it, which seems reasonable, that should be indicated.
 - Inclusion of Area of Concern (AOC) Buildable Land draws attention to the fact that only part of that area is shown. The reader is left to wonder how far beyond the border of the map this area extends. This could be addressed by zooming out to include the whole AOC doing so makes the area within the Town boundaries, which should be the focus of this map, too small. Because the AOC is shown on another map, we recommend that it be deleted from this one.
 - If the AOC is to remain on this map, “Area of Concern” should be spelled out in the legend.
 - Areas 1 through 5, which are discussed on pages 44 through 46, should be numbered on the map, as the text says that they are.

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

DNREC offers several comments and suggestions to improve conservation and protection of the Town’s resources. While the cumulative impact of various program suggestions and concerns may sound negative, the intent is to improve the plan elements related to environmental protection, open space, recreation and water quality and supply. DNREC would welcome the opportunity to meet with the Town in a collaborative manner to discuss these recommendations and possible future ordinances.

Recommendations for Comprehensive Plan Revisions

Page 20, 2-3. Water and Wastewater

- The Plan discusses water-recharge areas in Section 2.4, Natural Resources. The Town expressed a need to develop measures aimed at protecting these areas. However, in the first paragraph the Town states “there are no regions designated as excellent-recharge areas within the Odessa’s existing boundaries” and goes on to say that these areas do exist in the recently annexed area.

Recommendation: The Town should reword this entire section to accurately reflect the inventory of excellent groundwater recharge potential areas within the current municipal boundaries.

- In addition, the Town states that “though Odessa has a population of less than 2,000, the protection of those sources (source of public drinking water) is recommended (Section 2-4, Natural Resources). The discussion cites the 2001 Senate Bill, 119. The 2001 Senate Bill, 119 was codified as 7 Del. C., Sections 6081 – 6084.

Recommendation: The information needs updating to cite 7 Del. C., Section 6082 and include a discussion of source water requirements. The inclusion of this information would satisfy the spirit and standards agreed upon in the Memorandum of Understanding (MOU) between Office of State Planning Coordination and Division of Water dated July 2011.

Recommendation: The Town should include a description of source water requirements in 7 Del. C., Section 6082(c), and include goals and objectives related to the protection of the resource. This text shall be placed within the water and sewer element of the local government’s comprehensive plan, as prescribed by Title 22 of the Delaware Code.

- The Plan does not acknowledge that Town adopted a source water ordinance, Zoning Ordinance, Article XII 120 Water Resource Protection Areas. As adopted the Ordinance is not protective of the resource. DNREC Source Water Protection Program staff is available for assistance to develop an ordinance that is protective (7 Del. C., Section 6082 (c)).

Recommendation: The map and plan text must clearly include the note that the regulatory provisions of any source water ordinance will refer to the most current source water protection datasets*.

*datasets: <http://www.nav.dnrec.delaware.gov/DEN3/DataDownload.aspx>

Page 25, Floodplains

- On April 27, 2012, Odessa became a participating community in the National Flood Insurance Program. They have adopted and are required to enforce a floodplain ordinance which regulates new construction and substantial improvements of existing structures located in the floodplain.

Recommendation: Add a statement that floodplains are determined by FEMA and depicted on Flood Insurance Rate Maps. Further, add a map just like the sea level rise map in the adjoining section, depicting the floodplain boundary.

Air Quality:

- The Town of Odessa is encouraged to implement transportation alternatives and land use measures that will substantially enhance air quality and reduce air emissions. For instance, DNREC fully support efforts that improve traffic flow and reduce vehicle emissions. DNREC also supports efforts to provide tie-ins to the nearest bike paths and

links to any nearby mass transport systems including parks, public and cultural facilities and residential neighborhoods.

There are additional measures that can be implemented to reduce the impact of growth and development on air quality in Odessa. Should the Town have any questions, the Division of Air Quality points of contact are Phil Wheeler and Deanna Cuccinello, and they may be reached at (302) 739-9402.

Recommendation: The Town should address air quality as a quality of life issue for its residents in the Comprehensive Plan, detailing specific emission mitigation measures.

Brownfields

- Brownfields are real property that may be vacant, abandoned or underutilized as a result of a reasonably-held belief that they may be environmentally contaminated (7 Del.C. § 9103(3)). Productive use of these idle properties provides “new” areas for economic development, primarily in former industrial/urban areas with existing utilities, roads and other infrastructure. DNREC encourages the development of Brownfields and can provide grant funding and other assistance when investigating and remediating Brownfield sites.

The Delaware Brownfields Marketplace is an interactive database that contains a list of market-ready Brownfield sites throughout Delaware. The inventory is designed to make it easier for potential buyers and developers to locate available Brownfield properties. Cleaning up and reinvesting in these properties protects the environment, reduces blight, and helps to create jobs for Delaware citizens, while preserving Delaware’s precious green space and natural resources.

To add sites in your municipality to the Marketplace (with owner approval) or to determine if any sites in your municipality are Brownfields, please contact Melissa Leckie at DNREC’s Site Investigation and Restoration Section at (302) 395-2600 or by e-mail at Melissa.Leckie@state.de.us . For more information online, please visit: <http://apps.dnrec.state.de.us/BFExt/BFExtMain.aspx>

Source Water Protection

- The Town is to be commended for voluntarily adopting a source water protection ordinance. However, the ordinance, as written, is not protective of the resource. DNREC will provide language for improving the ordinance in a separate letter.

Page 50, Natural Resources Implementation, Partners for Coordination:

Recommendation: For information regarding species of conservation concern or identification of important wildlife habitat, the Town should coordinate with the Delaware Department of Natural Resources and Environmental Control, Division of Fish

and Wildlife (DFW). The Natural Heritage and Endangered Species Program (NHESP) within DFW can provide technical assistance regarding the presence of species of concern, habitat present considered valuable to fish and wildlife and how to avoid or minimize impacts to those species and habitat.

Contact information:

c/o Environmental Review Coordinator
Natural Heritage and Endangered Species Program
DNREC-Division of Fish and Wildlife
4876 Hay Point Landing Rd
Smyrna, DE 19977
(302) 735-8654
Edna.Stetzar@state.de.us

Wetlands Delineations

Recommendation: Require all applicants to submit to the Town 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.

Freshwater Wetlands Protections:

Recommendation: Implement regulations to protect freshwater wetlands where regulatory gaps exist (i.e., isolated wetlands and headwater wetlands).

100 Foot Upland Buffer

- Based on a review of existing buffer research by Castelle et al. (Castelle, A. J., A. W. Johnson and C. Conolly. 1994. *Wetland and Stream Buffer Requirements – A Review*. J. Environ. Qual. 23: 878-882.), an adequately-sized buffer that effectively protects water quality in wetlands and streams, in most circumstances, is about 100 feet in width.

Recommendation: DNREC recommends buffers of at least 100 feet in width from all delineated wetlands (approved by the USACE and DNREC) or water bodies (including ditches), especially along the Appoquinimink River and its tributaries. This recommendation is based on peer reviewed research that suggests that the value of buffers in protecting water quality increase noticeably with widths of 100 or more feet (buffers to protect sensitive species of wildlife or plants may need to be wider). This buffer should *not* be a maintained lawn area, and should *not* contain lot lines or infrastructure. We recommend the buffer area be comprised of the existing vegetation or

planted with Delaware native species of trees, shrubs, grasses or wildflowers as appropriate to the site.

Open Space

- DNREC notes that it might be helpful to have a consistent definition of “open space” in your comprehensive plan and/or Town ordinances. In a guidance document that DNREC is developing for the PLUS and other local technical review processes, we have defined open space as those areas with public value in a predominantly natural state and undeveloped condition. Such areas may contain, but are not limited to, wildlife and native plant habitat, forest, farmland, meadows, wetlands, floodplains, shorelines, stream corridors, steep slopes, and other areas that have species or habitats of conservation concern.
- Open Space may be preserved, enhanced and restored in order to maintain or improve the natural, ecological, hydrological, or geological values. An important design element to consider when incorporating Open Space in a development is to take maximum advantage of adjoining Open Space areas. This will advance the goal of an interconnected network of habitat corridors for wildlife and provide for future potential linkages.

Open Space is not:

- impervious surfaces (e.g., roads, parking lots, sidewalks, buildings)
- swimming pools or ponds that are lined or contain an impervious substrate
- stormwater management structures
- wastewater treatment systems
- **Types of Recreational Open Space:**
 - *Passive*-Passive recreation areas include only low-impact activities having little or no disturbance on natural features.
 - *Active*-Active recreation areas (e.g., ball fields, playgrounds) should be placed only in Open Space areas that do not already contain natural habitat.

Total Maximum Daily Loads (TMDLs)

- All open space land uses should be designed and managed in a manner that mitigates or reduces nutrient pollutant loading and its damaging impacts to water quality. Since changes in land use often increase runoff of nutrient pollutants into nearby waterways (including wetlands) draining to a common watershed, these nutrient pollutant loading impacts should be assessed at the preliminary project design phase. To this end, the Watershed Assessment Section has developed a methodology known as the “Nutrient Load Assessment Protocol” to assess such impacts. The protocol is a tool used to assess changes in nutrient loading that result from the conversion of individual or combined land parcels to a different land use(s), and serves as a “benchmark indicator” of that

project's likely impacts to water quality. It is the intention of this protocol to inform those relevant governmental entities (i.e., State, county, and municipal) how a given project will affect water quality in their jurisdictions, while informing/encouraging developers of the need to incorporate better conservation practices (i.e., BMPs) in their project designs to help improve water quality.

Recommendation: Require completion of a Nutrient Budget protocol before granting preliminary approval for any proposed projects/developments.

Impervious Surface Mitigation Plan:

Recommendation: 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 storm water management structures.

Recommendation: To encourage compact development and redevelopment in the Town's central business area, require an impervious surface mitigation plan for all residential and commercial developments exceeding 20% imperviousness outside that area, or at least in excellent recharge areas outside that area. The impervious surface mitigation plan should demonstrate that the impervious cover in excess of 20% will not impact ground water recharge, surface water hydrology, and/or water quality of the site and/or adjacent properties. If impacts to groundwater recharge, surface water hydrology will occur, the plan should then demonstrate how these impacts will be mitigated. If the impacts cannot be mitigated, the site plan should then be modified to reduce the impacts from impervious cover.

Forest Preservation

- The plan mentions a recommendation to amend the Town's development code to require a certain percentage of the open space be forested. There are currently very few forested areas remaining within Town or within areas proposed for annexation. Most of the remaining forested areas occur along wetlands or other water bodies and form an upland buffer that protects water quality and provides wildlife habitat. Often, site plans are designed such that open space occurs as small, fragmented sections located throughout a development rather than larger, connected areas of open space. In general, larger, connected areas of open space are more valuable and beneficial to wildlife and may be more useful to the residential community as well. Habitat connections or 'corridors' support the survival of many species as they move across the landscape by providing sources of food and water, providing protective cover from predators, shelter from harsh weather, and reconnecting isolated populations. Research studies show a great number of songbirds, game birds, small mammals, reptiles and amphibians, and other wildlife use corridors as a regular part of their life cycles.

Recommendation: There should be a provision that requires a larger, connected area of forested open space rather than a loop-hole that allows open space percentage requirements to be met by fragmenting the forest into smaller, disconnected areas.

Poorly Drained (Hydric) Soils:

Recommendation: Prohibit development in poorly or very poorly-drained (hydric) soil mapping units. Building in such areas predictably leads to flooding and drainage concerns from homeowners, as well as significant expense for them and, often, taxpayers. 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.

Green Technology Stormwater Management:

Recommendation: Require the applicant to use “green-technology” storm water management in lieu of “open-water” storm water management ponds whenever practicable.

Stormwater Utility:

Recommendation: Explore the feasibility of a stormwater utility to fund upgrades to existing stormwater infrastructure. Upgrades to the stormwater system may reduce pollutant loads and help reach the established total maximum daily load for nitrogen, phosphorus, and bacteria. Reach out to the New Castle Conservation District, New Castle County, Kent County, Kent Conservation District and the Delaware Clean Water Advisory Council as partners in funding stormwater retrofits.

- **Drainage Easements:**

Recommendation: The Town should pursue drainage easements along waterways and storm drains where currently there is none.

Delaware State Housing Authority – Contact Karen Horton 739-4263

- While the Housing Authority understands the importance of conserving and encouraging the Town of Odessa’s historic character, they are concerned that Odessa permits only the construction of single-family homes in its residential districts for the following reasons:
 - Encouraging only one type of housing type limits housing choice and in this case, permitting only single-family homes can have an exclusionary effect for low- and moderate-income families. Design guidelines can be adopted in a manner to ensure new development, regardless of housing type, is consistent with the historic character of Odessa.

- There is a growing body of research indicating a market shift away from the suburban homes, typically single-family, that dominated development in Delaware for many years. The Delaware Population Consortium (DPC) projections for the next ten years indicate that not only will there be a large amount of suburban homes placed on the market by baby boomers, but that there will be a *decline* in households in age ranges that typically seek single-family homes. These same DPC projections show growth in the younger age ranges most likely at stages in their life and income to support entry-level homes, such as townhomes and duplexes.
- DSHA encourages municipalities receiving federal funds for housing to be aware of their Civil Rights obligations at the U.S. Department of Housing and Urban Development (HUD). Specifically, federal fund recipients are obligated to Affirmatively Further Fair Housing (AFFH) by taking proactive steps to promote racially, ethnically, and socioeconomically diverse communities.
- DSHA offers technical assistance to the Town in reviewing tools and strategies to increase affordable housing opportunities within the Town.
- 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 "Affordable Housing Resource Center" under Other Programs.

If you have questions or would like more information on the above recommendations, please feel free to call me at (302) 739-4263 ext. 251 or via e-mail at karenh@destatehousing.com.

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. Once you receive our final review letter, the Planning Commission and Council should adopt the plan pending State certification. We strongly recommend that your Council adopt the plan by ordinance.
3. Send our office a copy of the adopted plan along with the ordinance (or other documentation) that formally adopts your plan. We will forward these materials to the Governor for his consideration.
4. At his discretion, the Governor will issue a certification letter to your town.

5. Once you receive your certification letter, please forward two (2) bound paper copies and one electronic copy of your plan to our office 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,

A handwritten signature in cursive script that reads "Constance C. Holland".

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

CC: New Castle County
Town of Middletown