



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

May 20, 2015

Mandy Slody
Town of Frederica
P.O. Box 294
Milton, DE 19946

RE: PLUS review 2015-04-03; Town of Frederica Comprehensive Plan

Dear Mandy:

Thank you for meeting with State agency planners on April 22, 2015 to discuss the update of Frederica's comprehensive plan. State agencies have reviewed the documents submitted and offer the following comments. 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.

Certification Issue: the Town must demonstrate coordination with the County during plan preparation. Has the Town communicated with Kent County regarding their desire to be informed of development areas within the "Area of Concern?" If not, it is suggest that they do. Perhaps a formal MOU can be developed between the Town and the Levy Court. This discussion and interaction should be documented in "Intergovernmental Coordination."

Certification Issue: The plan must clarify the Town's position on population and housing growth. The plan reports growth figures and projections, but does not provide the Town's policy position regarding that growth.

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

Our office is pleased to have the opportunity to work with the Town of Frederica as the Town prepares the required 10 year update of the comprehensive plan. The Town and their consultant have done an excellent job on the plan. It is very well done, especially for a small town of 700 people. Frederica continues to be very proactive in planning for their future. The town is to be

commending for integrating sea level rise and climate change into the plan. The Town's collaborative, cooperative spirit in working with State agencies (DNREC in particular, but also DelDOT) is also commendable.

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

- It is recommended that the land use categories be clearly defined. This will assist in the future when there are questions about whether a certain use fits within a particular land use category.
- The implementation chapter is very thorough. However, there are many projects and plans that are listed and it is hard to sort out where to begin. It may be helpful for the town to pick the first three things that they should work on and summarize a work plan for the next year or two.
- Attached to this letter is a list of other minor text edits and comments by page number.

Our office is looking forward to assisting the Town with the plan update process, so do not hesitate to contact David Edgell if you have any questions or need information about who to contact in the various State agencies.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- The plan refers to Route 113 a number of times, starting on page 15. This is incorrect. This divided highway is designated as Route 1 through Frederica.
- In Section 2-5.1, on page 31, the last paragraph includes a sentence listing major State-maintained streets running through the town. Some of the limits of the roads in that list are incorrect. We recommend that the list be revised to read “Route 1, Frederica Road from end to end, David Street from Front Street to Frederica Road, Front Street from Frederica Road to the western town limits, and Market Street from end to end.”
- In Section 2-5.5, on page 36, in the paragraph on Flood Mitigation and Sea Level Rise, the next-to-last sentence mentions “these two roadways” but no roadways are named or described in the paragraph. Which roads are of concern?
- In Section 2-5.5, on page 37, in the paragraph on Transportation Improvement Districts, we suggest rewording the last two sentences to read as follows: “Other items addressed in the agreement would include the boundaries of the TID area, criteria for transportation adequacy and who would be responsible for collecting and administering fees paid by developers in the TID. The town would necessarily be responsible for preparing a detailed land use plan for the area in the TID and for advocating the inclusion of projects in DelDOT’s six-year Capital Transportation Program.”

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

The Town is to be commended for applying for a Delaware Coastal Programs Coastal Management Assistance Grant, facilitating an update process that was inclusive and collegial, and achieving the desired outcome: a thorough treatment in the Comprehensive Plan of the potential impacts from climate change and how the Town can both mitigate and adapt to those potential impacts. The Town is also to be commended for the adoption of the Riparian Buffer Area (RBA) ordinance. The ordinance is, and will continue to be, an important mechanism for water quality, habitat, and adaptation to a changing climate.

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.

Chapter 2-4 Utilities, Services, and Facilities

Water system:

- The drinking water system is operated by the Town. Are existing wells, pumps, or pipe structures in flood-risk areas? The potential vulnerabilities are addressed in Chapter 2-9, but could be briefly mentioned here, with a reference to the later chapter.
- Drinking water source (wells 3 and 4) are located in the Frederica Aquifer (page 22). The drinking water quality is described as excellent. However, in the Natural Resources section, the Frederica aquifer is described (page 39): *“Because the aquifer is located near the ground surface, it is vulnerable to contamination and is not generally used as a drinking-water source.”*
Is the groundwater drinking source the Frederica aquifer or a deeper, confined aquifer? And if the latter, what is the vulnerability to surface contamination which could increase with flooding?
- One of the wells/wellhead protection areas is close to the tidal floodplain. What is the vulnerability to saltwater intrusion (which could increase with sea level rise affecting the salinity of the tidal river)? In addition, one of the wells is located near an underground storage tank – which may be vulnerable to corrosion if exposed to rising water table and/or increasing erosion.

Wastewater system:

- The wastewater treatment plant is located outside of Town and is operated by County – however, parts of the wastewater system (pumps, pipes) are within Town limits. Chapter 2-9 identifies a wastewater pumping station in an area vulnerable to sea level rise (page 67 and also shown on Map 16). The recommendations in Chapter 2-9 (page 72) address this concern and should perhaps be noted in Chapter 2-4.

- There is not much discussion about the vulnerability of the WWTP to flood or sea level rise impacts. While the plant is outside the Town's jurisdiction there does not seem to be a backup plan for the Town's wastewater should that plant be impaired. Chapter 2-6 Natural Resources includes a recommendation that the Town should "carefully monitor Kent County Wastewater Treatment Plant..." Is there a recommended strategy for evaluating this facility even though it is outside the Town's jurisdiction?

Stormwater:

- The Plan acknowledges that the Town does not own or manage any stormwater facilities. However, there are several good recommendations to address stormwater management in new development. It does leave open the question of how best to deal with existing stormwater management – however, the recommendation for a Comprehensive Flood Vulnerability/Drainage Study will help identify needs.

Chapter 2-5 Transportation

Flood Mitigation and Sea Level Rise:

- A brief description of current flood issues is included on page 34. Specific roads that are vulnerable to flooding are identified in Chapter 2-9; recommendations for addressing transportation vulnerabilities are described on page 71. However, only one of the recommendations is within the Town's ability to implement: to "guide growth to safe locations and limit access to natural hazard areas."
- Also mentioned in the Recommendations section (page 36) is the recommendation for a Comprehensive Flood Vulnerability/Drainage Study and suggests: 1) DNREC-funded hydraulic analysis, and 2) DNREC technical assistance to develop flood mitigation strategies and solutions on two roads with identified flood problems.

Maintenance:

- Recommendations for maintenance (page 35) describe coordination with DeIDOT on maintenance for town-maintained streets. Who is responsible for maintenance? (Town does not seem to have any public works staff or engineers.) Maintenance and operation needs may increase over time with climate impacts. (e.g., detours during flood events, clearing storm debris, etc.)

Chapter 2-6 Natural Resources

Frederica aquifer:

- See comment above – the Frederica aquifer is described on page 39 as "vulnerable to contamination".
- The Plan notes (page 39) that the Town has:
"...adopted regulations governing the use of land within designed to protect environmental sensitive areas from activities and substances that may harm water quality and subtract from overall water quantity. These features include source water assessment, wellhead protection, and excellent ground-water recharge potential areas."

- Is there a written plan or summary of measures related to protect source water, wellhead, and recharge areas? (Map 9 shows the recharge areas covering much of the developed town.)
- The concern here is whether the existing protections for drinking water are adequate, and whether any evaluation has been done to consider increased risk of contamination due to flood events, which may increase with heavy precipitation events and/or sea level rise.
- Section 2-6.7.2 describes the recharge area and notes, as an “issue”, that the LDO does not provide limited to impervious cover in the groundwater recharge area.

Floodplains:

- Discussion on pages 41-42 is somewhat confusing; there are a few places where the text does not seem to be consistent with what is covered in Chapter 2-9. It describes the Flood damage Reduction Ordinance as consistent with NFIP requirements and does not include “higher standards” that exceed NFIP minimum requirements. However, it also states that “certain provisions of the Ordinance exceed the standards of the building code.” And, importantly, it requires existing buildings to have 18 inches of freeboard (if damaged or improved), though it does not indicate what requirements apply to new buildings. In addition, the discussion states that “...it [the Ordinance] does include some provisions that were recommended by the Floodplain and Drainage Committee” but does not state what provisions were adopted (this might be included in an appendix to clarify what additional measures have been adopted to mitigate flood risk).

Hazard Mitigation:

- The proposed coordination with Kent County on the Multi-Jurisdictional All Hazard Mitigation Plan is very important. It would be helpful to note what the status of the current plan is, and the projected timeline for an update plan.

Recommendations:

- These are generally excellent. The Floodplain Management recommendations include consideration of several actions that could improve flood resiliency. One option that is not noted, however, is participation in FEMA’s Community Rating System. Property owners in the 1% floodplain could benefit from discounted flood insurance premiums under the CRS program, if the Town adopts some of the measures proposed in the recommendations section.
- Hazard Mitigation recommendations are good, but very general. In Chapter 2-9 there are specific properties identified as potentially vulnerable to flooding (page 67). Would these be evaluated for specific hazard mitigation projects to be included in the Updated county HMP? The Plan mentions potential elevation or buy-out of damaged or abandoned homes – is this a current concern, or a potential strategy in the future?
- Water Resource recommendations are also good and address some of the concerns mentioned above. It would be helpful to cross-reference the issues and recommended strategies in this section with Chapter 2-4 Utilities, Services, and Facilities as the “resource” value of water is also critical to drinking water supply as a service.

Chapter 2-9 Sea Level Rise Vulnerabilities and Adaptation

Overall, this chapter is good and addresses some of the issues mentioned in other chapters. There are a few places where there seem to be inconsistencies, or where the recommendations included in this chapter could be more clearly referenced in other chapters.

- For example, the Wastewater Pump Station is not identified as a vulnerable facility in Chapter 2-4, but is described in Chapter 2-9 as being located within the 110-yr floodplain and the low inundation scenario (for sea level rise).

Recommendations are not prioritized, however it could be assumed that recommendations that begin with “consider” are perhaps a lower priority or not essential. Conversely, recommendations that begin with “ensure” are presumably actionable.

- For example, the recommendations for Public Facilities (page 72) includes:
“Ensure existing facilities are hazard resistant. Address flood proofing of utilities to ensure structural integrity.”

SUMMARY:

Chapter 2-9 is a good add-on to the Comprehensive Plan, though some of its recommendations and identified issues could be referenced more clearly in other chapters. (This provides linkage, but does add redundancy.)

The most significant recommendations are to develop additional studies – in particular, the proposed “Comprehensive Flood Vulnerability/Drainage Study”. If this study is completed in the short term (2-3 yrs.) it could be useful in specific amendments and actions under this Comprehensive Plan. However, if that flood study is not done, the implementation of several other recommendations would be severely compromised or negated.

There is potential conflict between the proposed redevelopment and the goals to mitigate flood risk and increase resiliency, although the Plan clearly intends to balance those two objectives.

Air Quality:

- According to the Comprehensive Plan, the Town of Frederica desires economic development and growth as new homes and businesses are built. New homes and businesses may emit, or cause to be emitted, air contaminants into Delaware’s air, which negatively impact public health, safety and welfare. These negative impacts are attributable to:
 - Emissions that form ozone and fine particulate matter; two pollutants relative to which Delaware currently violates federal health-based air quality standards,
 - The emission of greenhouse gases which are associated with climate change, and
 - The emission of air toxics.

The Town of Frederica is encouraged to implement transportation alternatives and land use measures that will substantially enhance air quality and reduce air emissions. For instance, DNREC is in full support of efforts that improve traffic flow and reduce vehicle emissions. The

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.

DNREC offers the following recommendations for ordinances to implement the plan:

Source Water Protection Areas:

- The Town adopted Article 12, Environmental Protection Standards (EPS), to address source water protection. Though the Town was not required under Title 7 Chap. 60 VI § 6082 (c) to adopt source water protection ordinances. We applaud the Town’s adoption of Article 12, Environmental Standards. However, the ordinance was not prepared with the assistance of the Department as required Title 7 Chap. 60 VI § 6082 (c) and is not protective of the resource.

The Town has acknowledged that the ordinance offers wellhead protection by requiring open space within a 300-foot radius of their public wells. However, neither of the Town’s two wells conforms to this standard. There are no provisions in the ordinance that would protect the wellhead area of an unconfined well.

The Town has also acknowledged that Section 12-1 B (5) of the ordinance uses nomenclature that is outdated. Section 12-1, B (6) allows for hazardous waste treatment and storage within the wellhead protection area. This practice poses a threat to the Town’s sources drinking water and is in contradiction with the 2004 Comprehensive plan (page 40) and 2006 amendment (page 29) expressing the Town’s intent to prohibit such land use.

In addition, the Town has acknowledged that the ordinance does not provide limits to impervious cover in areas of excellent ground-water recharge potential. Impervious cover prevents precipitation from infiltrating through the soil to the water table aquifer. Impervious cover refers to structures including but not limited to roads, sidewalks, parking lots, and buildings. Any impervious cover within a wellhead protection area or an area of excellent ground-water recharge has the potential to have a negative effect the quality and quantity of drinking water available to the Town. Additionally, impervious cover in areas of excellent ground-water recharge may contribute to flooding.

The Plan recommends revisions to their ordinance to provide protection to the resource. It intends to seek consultation from the Department and reference the *Draft Model Ordinance for Smaller Municipalities of Kent and Sussex Counties*. We look forward to assisting the Town in their new ordinances.

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).

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.

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 County, the 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.

State Housing Authority – Contact: Karen Horton 739-4263

Delaware State Housing Authority (DSHA) has reviewed the Town of Frederica Comprehensive Plan Update and strongly supports the Plan Update and its goals, objectives and strategies as they relate to housing. The Town critically examined the breadth of issues facing their community and developed a meaningful response that will prepare the Town, and its residents, to be resilient and safely housed as they move into the future. Their list of goals and recommendations are substantial and while we support them all, we highlight the following:

- The goal that new residential development meet traditional neighborhood development principles by providing a mix of housing options, integrated open space and environmental features, connected streets and sidewalks, and neighborhood scale via the town's R-2 PUD and R-5 TND zoning districts.
- The recommendation to coordinate with the Delaware Transit Corporation (DTC) to expand DART First State services into the community.
- The recommendation to rehabilitate or replace substandard housing and preserve historic buildings.
- The recommendation to accommodate growth by providing for and encouraging the development of a mix of housing types and densities.
- The recommendation to reduce and/or waive community impact and/or water connection fees for developers and non-profit organizations seeking to build affordable housing units.
- The recommendation that Planning Commission and Town Council members attend fair housing training.

As a recipient of federal funds for housing, the Town has a Civil Right obligation to the U.S. Department of Housing and Urban Development to Affirmatively Further Fair Housing by taking proactive steps to promote racially, ethnically, and socioeconomically diverse communities. The Town's recommendations and their implementation will demonstrate the Town of Frederica's commitment to this obligation.

DSHA notes a technical correction on page 55, Section 2 – 7.6., 'Potential Funding Sources for Housing & Historic Resources'. The referenced program, Housing-Rehabilitation Loan Program, is no longer in existence. We recommend replacing it with:

- Community Development Block Grant (CDBG) program: The Delaware State Housing Authority administers the CDBG program, which offers assistance to low- and moderate-income homeowners in Kent County who need home repairs or handicapped-accessible features. Homeowners interested in applying should contact Kent County.

If you have any questions, please feel free to call me at (302) 739-4263 or via e-mail at karenh@destatehousing.com. Thank you.

Department of Agriculture – Contact: Scott Blaier 698-4532

The Department of Agriculture has reviewed Frederica’s comprehensive plan update, and would like to compliment the Town on a well-written plan update.

Page 19 of the text and table 13 of the plan mention farmland preservation, and coordination with the Department of Agriculture. The department would be glad to work with the Town to meet its farmland and forestland preservation goals.

We encourage the Town to work with the Department’s Urban Forestry Program to meet its green infrastructure, aesthetics, and tree canopy goals (page 52). The program has competitive grant funding available in addition to expertise in urban forestry and tree maintenance (302) 698-4500.

Approval Procedures:

- 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.
- Our office will require a maximum of 20 working days to complete this review.
 - If our review determines that the revisions have adequately addressed all certification items (if applicable), we will forward you a letter to this effect.
 - If there are outstanding items we will document them in a letter, and ask the town to resubmit the plan once the items are addressed. Once all items are addressed, we will send you the letter as described above.
- Once you receive our letter stating that all certification items (if applicable) have been addressed, the Planning Commission and Council should adopt the plan pending State certification. We strongly recommend that your Council adopt the plan by ordinance. The ordinance should be written so that the plan will go into effect upon receipt of the certification letter from the Governor.
- 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.
- At his discretion, the Governor will issue a certification letter to your Town.
- 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.

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

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in black ink and is positioned above the printed name and title.

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

Attachment

cc: Ryan Mahwinney, URS Corporation