



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION

September 22, 2016

Jay Goodfellow  
Town of Leipsic  
207 Main Street  
Leipsic, DE 19901

RE: PLUS review 2016-08-06; Town of Leipsic Comprehensive Plan

Dear Jay:

Thank you for meeting with State agency planners on August 24, 2016 to discuss Leipsic'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 update consistent with the requirements of Title 22, § 702 and Title 29, § 9103 of the Del. Code.

**Position on Population Growth**

- The plan must better articulate the Town's position on population growth in Section 2-2g of the plan. The current text of this section describes Leipsic as it is today. The revisions should articulate the Town's position on future population growth.

**Development of the Whedbee Property (pp. 13, 16, and 40)**

- Several sections of the Leipsic Comprehensive Plan discuss the future of the Whedbee Property, located on the east portion of town along the Leipsic River. This property was recently purchased by the DNREC Division of Fish and Wildlife for the primary purpose of providing a permanent dock for its research trawler, the R/V First State. The Division understands and appreciates the Town's interest in the Whedbee Property and will continue to coordinate with Town officials as plans for the property are developed. However, the Division of Fish and Wildlife is concerned about text within the Comprehensive Plan regarding public access to the property and constructing bulkheads along its shoreline.

- Page 13 specifically states that the Town would like to continue “free access” to the Whedbee property. The Division of Fish and Wildlife does not agree with the town’s characterization that this property has been open to the public in the past, as it was private property that was locked before its sale to the DNREC Division of Fish and Wildlife. The primary purpose for the state’s purchase of this property is to provide a permanent dock for the state research vessel. While some level of public access could, in consultation with the Town, be provided in the future, such access is not guaranteed.
- To this end, we request that the following sentence (pg 13) be deleted: “For the property to be kept as a private compound where Town of Leipsic Officials are denied free access is not acceptable to the Town of Leipsic. The Whedbee Property has always been integral to town life and it is only with the Town of Leipsic overseeing the use of this property that its possibilities can be realized.”
- We also request that the following text be removed (pg 16): “this redevelopment would include bulkheading the Whedbee Property and continuing with the adjacent properties on Lombard Street and Front Street.” The Division of Fish and Wildlife has not agreed to install bulkhead on the Whedbee Property. Further, DNREC policies require documentation of erosion issues prior to any shoreline stabilization project and DNREC policies discourage bulkheading of shorelines that are not already bulkheaded.
- Page 29 makes reference to the Whedbee Property within the “Bulkheading Study” section and calls for use of this property for a variety of uses including docking the Leipsic Volunteer Fire Company boat, training facilities, hunters, fisherman and ornithologists. This text regarding public access by hunters, fisherman etc. should be removed. The Division of Fish and Wildlife, in consultation with the Town, may provide public access in the future, but has no current plans to do so.
- Please revise the second sentence on page 40 to state: “The concept of the Town of Leipsic Compatible Development of this property is very important for the Town of Leipsic, and if this property is developed in a way that enhances the waterfront commercial viability of the Town, adds to the possibilities for ecotourism, and allows for appropriate public access to this sensitive ecological area, it will result in making Leipsic a livable, walkable, enjoyable, and beautiful small Town.”

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

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

Our office commends the Town of Leipsic for preparing a very detailed and environmentally sensitive comprehensive plan update. The Town has worked closely with our office, DNREC, DelDOT and other agencies to carefully evaluate the growth of the community and preservation of the critical natural features that surround the town. The integration of detailed strategies to

address climate change and sea level rise is commendable. In addition, the plan is noteworthy for the level of community involvement and reflection of community character and culture.

All land development is regulated by the Town through the Town's Land Development Ordinance. The future land use map does include a number of land use changes from the previously adopted plan. Our office would also like to note that Title 22, § 702 (c) requires that the Town amend its official zoning map to rezone all lands within the municipality in accordance with the uses of land provided for in the comprehensive plan.

We do have one recommendation:

- It is recommended that Leipsic develop a "Memorandum of Understanding" with Kent County regarding mutual notification of land use issues within the Intergovernmental Coordination Area if no such agreement currently exists. This will ensure that the Town is made aware of land use applications within this area and offered an opportunity to participate in the County land use process.

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

- On page 33, the text supporting Recommendation 5 mentions determining "when a Pavement and Rehabilitation Project may be warranted such that early pedestrian or bicycle measures can be included." While DelDOT tries to accommodate pedestrian and bicycle travel in all our projects, Paving and Rehabilitation projects generally are confined to the maintenance and repair of facilities that already exist.
- We recommend that the Town contact Mr. Jeff Niezgoda, the Assistant Director of Planning in charge of our Local System Improvement Section about possibly initiating Transportation Alternatives project to address sidewalks and shoulders along Delaware Routes 9 and 42. The Transportation Alternatives Program, formerly Transportation Enhancements, addresses small projects, primarily for bicycle and pedestrian improvements. Mr. Niezgoda may be reached at (302) 760-2178.

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

The Department envisions a Delaware that offers a healthy environment where people embrace a commitment to the protection, enhancement and enjoyment of the environment in their daily lives; where Delawareans' stewardship of natural resources ensures the sustainability of these resources for the appreciation and enjoyment of future generations; and where people recognize that a healthy environment and a strong economy support one another.

The Town is to be commended for their many achievements since the adoption of the 2006 Comprehensive Plan and including a list of those achievements in the Introduction to the Plan. The Department was particularly pleased to see that the Town has identified sea level rise and

climate change as a priority in the Comprehensive Plan Update (Summary of Key 2016 Findings).

DNREC's intent is to offer recommendations to improve conservation and protection of the City's resources and 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 City in a collaborative manner to discuss these recommendations and possible future ordinances.

### **Recommendations for Comprehensive Plan Revisions**

#### **Floodplains (pp. 25 and 27)**

- Recommend combining the paragraph on page 25 with the section on page 27. Further recommend that Wetlands and Recharge Areas be designated as separate sections.

#### **Soils (p. 26)**

- We suggest that the Town of Leipsic Comprehensive Plan reference the Web Soil Survey (WSS), operated by the USDA Natural Resource Conservation Service (NRCS), rather than the outdated 1971 USDA Soil Survey of Kent County, in their Comprehensive Plan Update. The updated soil survey information can be retrieved at the following web link: <http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>

For the Town's convenience, the NRCS soil survey mapping update map of soils in the immediate vicinity of the Town of Leipsic is displayed in Figure 1.

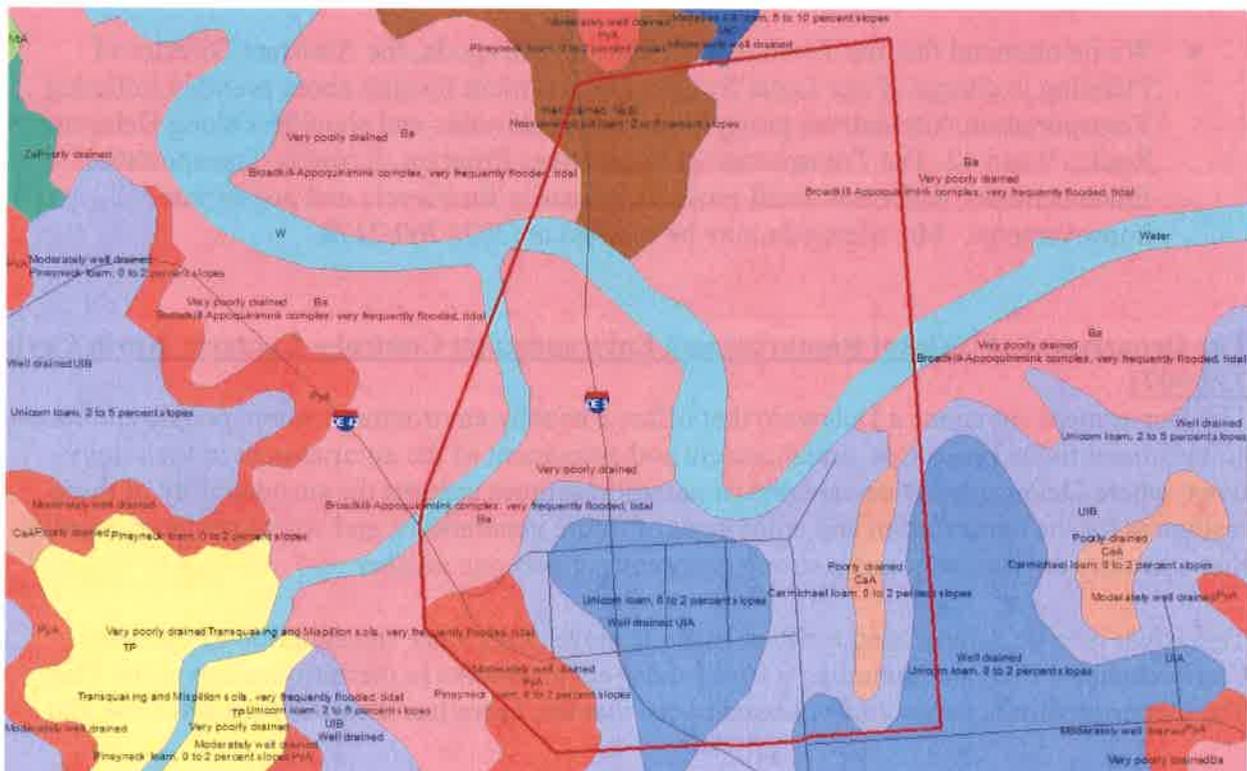


Figure 1: NRCS soil survey mapping update in the immediate vicinity of the Town of Leipsic

**Total Maximum Daily Loads (p. 26)**

- There is currently no plan to form a Tributary Action Team to develop a Pollution Control Strategy (PCS) for the Leipsic River.

**Sea Level Rise (p. 28)**

- DNREC supports and commends your efforts to plan for sea level rise and increase your town's resiliency to flooding. Leipsic recently passed a Floodplain Ordinance that requires 18 inches of freeboard. This ordinance will help ensure that new buildings can withstand the increased frequency and severity of flooding that climate change will bring. You may wish to call this out specifically in your document.
- You may wish to provide additional information about sea level rise and its potential impact to the town in section 2-3f: Sea Level Rise. Recommended information includes:
- Sea levels have risen in Delaware by about a foot over the past century. This rate of sea level rise is likely to accelerate in the coming decades as a result of global climate change and local subsidence. Accelerated sea level rise will result in permanent flooding of low-lying coastal areas, increased risk of flood damage during storms and increased frequency of nuisance flooding. Sea level rise will also result in saltwater intrusion into groundwater, which may impact the quality of well water in Leipsic.
- The State of Delaware is preparing for accelerated sea level rise and sea levels that are 0.5 – 1.5 meters higher than they are today. Inundation maps developed by the state indicate that a large number of properties west of route 9, along Front Street, Walnut Street and to the east of Main Street could become permanently flooded as a result of sea level rise.
- You may wish to note on page 29 that over time, saltwater intrusion to groundwater from sea level rise may cause well water to become salty. The Town may wish to be cognizant of this potential impact of sea level rise in coming years and understand the options available to them for public water supply systems.
- The state is currently working to develop new sea level rise inundation maps; when available, the Town should utilize these maps in their planning for flooding and resiliency projects. More information is available online: <http://www.dgs.udel.edu/projects/determination-future-sea-level-rise-planning-scenarios-delaware>

Grant and technical assistance to prepare for sea level rise is available from a variety of sources. The newly released Delaware Database for Funding Resilient Communities is a great resource for the Town to find funding opportunities:

<https://www.sppa.udel.edu/research-public-service/ddfrc>. This database includes many of the DNREC programs that can assist you, including the Delaware Coastal Programs Resilient Communities Partnership Program and the Green Project Reserve.

### **Bulkheading Study (p. 28)**

- The results of the Waterfront Redevelopment Feasibility study should prove useful in providing additional information and strategies for improving Leipsic's resiliency to flooding and storm events. However, it should be noted that DNREC discourages the construction of new bulkheads along natural shorelines. Reconstruction of existing bulkheads is permissible.

The purpose and linear path of the living shoreline described on page 42 is unclear. There is language in this section that indicates that the living shoreline would be constructed to help provide public access, but living shoreline projects are often incompatible with public access as foot traffic can trample vegetation. The Town may wish to clarify the area and purpose of living shorelines in this section, and provide more details about the desire for public access to the water

While it is not necessary to include permitting requirements in the Comprehensive Plan, the Town should fully understand the potential permitting requirements, issues and procedures before selecting a shoreline stabilization strategy. The DNREC Division of Water offers a monthly Joint Permit Process meeting the third Thursday of every month. Town officials may wish to attend this meeting to present concept ideas and learn about potential permitting issues. For more information, please contact the DNREC Division of Water, Subaqueous Lands Section at (302) 739-9943.

### **Parks and Recreation (pp. 31 and 32)**

- In August of 2011, the Delaware Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information and trends on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2013-2018 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities and needs within county and municipal comprehensive plans. For the purpose of refining data and research findings, Delaware was divided into five planning regions. The Town of Leipsic is located within SCORP Planning Region 3.
- When looking at the findings from the 2011 telephone survey, it is apparent that Delawareans place a high importance on outdoor recreation. Statewide, 93% of Delaware residents indicated that outdoor recreation had some importance in their lives, while 67% said it was very important to them personally. These findings are very close to the results of the same question asked in the 2008 public opinion telephone survey, indicating a continued demand for outdoor recreation opportunities throughout the State.
- Placing high importance on outdoor recreation resonates throughout the five SCORP regions. In Region 3 (Kent County), 63% said it was very important to them personally.

### Outdoor Recreation Needs/Priorities

Based on the public opinion survey, the most needed outdoor recreation facilities in Leipsic include:

High facility needs:

- Walking and Jogging Paths
- Public Swimming Pools
- Bicycle Paths
- Fishing Areas
- Playgrounds
- Community Gardens
- Picnic Areas
- Off-Leash Dog Areas

Moderate facility needs:

- Hiking Trails
- Camping Areas
- Ball Fields
- Basketball Courts
- Football Fields
- Public Golf Courses
- Soccer fields
- Boat Access
- Canoe/Kayak Launches
- Tennis Courts

**Stormwater Management (p. 31)**

- The Department recommends that the Town of Leipsic incorporate a requirement for a stormwater review into the Town's preliminary approval requirements for new development requests. The *Delaware Sediment and Stormwater Regulations* have been revised and became effective January 1, 2014. A three-step plan review process is now prescribed in the regulations:
  1. Submit a Stormwater Assessment Study for the project limits of disturbance and hold a project application meeting with the reviewing delegated agency,
  2. Submit stormwater calculations, and
  3. Submit construction drawings
- Following the project application meeting, a Stormwater Assessment Report will be completed by the reviewing agency and the developer and forwarded to the Town. This Stormwater Assessment Report will rate the anticipated engineering effort necessary to overcome certain stormwater assessment items such as soils, drainage outlets, and impervious cover. The Sediment and Stormwater Program recommends that the Town consider the ratings from the Stormwater Assessment Report in making a decision to issue preliminary approval for any development request. Further, the Sediment and

Stormwater Program recommends that the Town incorporate the Stormwater Assessment Report as a required element when a plan is submitted to the Town's preliminary plan approval process.

- The revised *Delaware Sediment and Stormwater Regulations*, effective January 1, 2014, have a goal of reducing stormwater runoff for the rainfall events up to the equivalent one-year storm, 2.7 inches of rainfall in 24 hours. Runoff reduction encourages runoff to infiltrate back into the soil as in the natural pre-development system and results in pollutant removal and stream protection. Best management practices (BMPs) that encourage infiltration or reuse of runoff, such as porous pavements, rain gardens, rain barrels and cisterns, green roofs, open vegetated swales, and infiltration systems should be allowed for new development sites within the Town. Furthermore, limiting land disturbance on new development projects and limiting impervious surfaces by allowing narrower street widths, reducing parking requirements, and allowing pervious sidewalk materials will be necessary to help achieve the runoff reduction goals in the revised regulations.

#### **Air Quality**

- According to 2010 U.S. Census numbers, 43.7% of Leipsic's population is comprised of senior citizens between the ages of 45-74 and approximately 13% of those aged 0-19 (page 19). Both of these demographics (the elderly and the young,) as well as those with pre-existing respiratory or cardiac conditions such as emphysema or asthma fall under the "high-risk" or "sensitive" category in terms of negative health effects of air pollution. Therefore, improving air quality in the Town of Leipsic is a matter that could be included under "Recommendations: Environmental Features" as a goal to ensure the protection of natural resources for the enjoyment and health of existing and future residents of Leipsic and the surrounding region (page 27).
- The Town of Leipsic is encouraged to implement transportation alternatives and land use measures that will substantially enhance air quality and reduce air emissions. Among these transportation alternatives are efforts to provide increased connectivity to the nearest bicycle, pedestrian and sidewalk networks as well as links to any nearby mass transport systems including parks, public and cultural facilities and residential neighborhoods. DNREC supports Leipsic's efforts to create a more walkable and bikeable town (page 32).
- DNREC also highly encourages the inclusion of public transit as a transportation opportunity in the Leipsic area as "there are no regular state-operated DART bus routes passing through the Town" (page 32). It is recommended that the Town of Leipsic be afforded and have access to public transportation that connects them to Dover, whereby they would be able to make connections to the rest of the State.
- DNREC supports efforts to beautify the Town of Leipsic through the planting of urban trees, landscaping and shrubbery that would aid in both cleaning the air of pollutants and replenishing oxygen into the air. Also, urban trees provide shade for parking areas, help

to reduce heat island impacts, and, by extension, help to minimize the potential for localized ground-level ozone formation. Such measures can also have the additional benefit of channeling or infiltrating storm water.

- There are additional measures that can be implemented to reduce the impact of growth and development on air quality in Leipsic. The Division of Air Quality point of contact is Lauren DeVore, and she can be reached at [lauren.devore@state.de.us](mailto:lauren.devore@state.de.us) or at (302)739-9437.

### **Recommendations for Ordinances and Plan Implementation**

#### **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.

#### **100 Foot Upland Buffer:**

- *Recommendation:* 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. In recognition of this research and the need to protect water quality, the Watershed Assessment Section recommends that the town maintain/establish a minimum 100-foot upland buffer (planted in native vegetation) from all water bodies (including ditches) and 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 Kent County, the 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.

**State Historic Preservation Office – Contact: Terrence Burns 302-736-7404**

- The Town of Leipsic has done an excellent job of incorporating historic preservation into its comprehensive plan. The topic permeates all parts of the plan, especially in discussing the town’s character, housing stock, maintaining a clear edge, town history, maintaining historic businesses and occupations in the town, proposed town museum, and future goals. The plan discusses ecotourism associated with the Bayshore Initiatives; although this section does not specifically mention historic or heritage tourism, that would seem to be a logical offshoot of the Town’s vision for bringing more people in to enjoy its resources. We note that the town has a mechanism for stepping in to maintain historic buildings which have been neglected by their owners, and would be happy to provide any technical information on historic rehabilitation and maintenance methods which the Town or its contractor may need. The section on climate change and sea level rise discusses the proposed installation of a living shoreline bulkhead and the section on floodplains discusses the importance of storm-water management, both of which we encourage as protections for the historic district; the Town may want to mention that specifically in those sections of the plan. We have a few minor suggestions for clarifications or additions to the plan. Regarding recommendations for future actions for the historic district, we suggest using the phrase “define and protect” instead of the term “develop,” and to note that such protection will include guidelines for compatible infill.

We also suggest the Town add a map noting the existing National Register-listed properties and the boundary of the proposed district. Finally, we ask that our agency be consistently referred to as the Division of Historical and Cultural Affairs.

**State Housing Authority – Contact: Karen Horton 739-4263**

- DSHA supports the Town of Leipsic's Comprehensive Plan and its goals and recommendations related to housing. These recommendations were developed through: an analysis of demographic and housing data; public feedback; and, a review of the existing housing stock and environmental constraints. As a result, the recommendations are thorough and appropriate for the Town.

As a resource for municipalities, 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 Other Programs.

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

**Department of Agriculture – Contact: Scott Blaier 698-4532**

- The Department of Agriculture congratulates the town on a well-written comprehensive plan update.
- The Department is pleased to see farmland preservation discussed on pages 35, 39 and 40 of the plan, and the town's appreciation of its cultural heritage regarding agriculture. We encourage the town to consider the large area of preserved farmland in any future annexation plans to expand the town's incorporated area. The department would also be glad to work with the town on any farmland preservation initiatives it explores.
- We encourage the town to periodically download the latest GIS layer showing current Farmland Preservation Districts and Easements, as they change frequently. You can contact Jimmy Kroon at the Department of Agriculture 698-4530 for the latest layers.

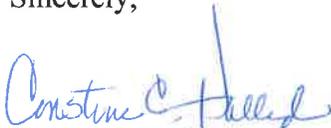
***Approval Procedures:***

- 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.

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

Sincerely,



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