



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION

June 21, 2018

Mr. Winn Abbott  
Town of Smyrna  
27 S. Market Street Plaza  
P.O. Box 307  
Smyrna, DE 19977

RE: PLUS review 2018-05-08; Smyrna Comprehensive Plan Amendment

Dear Win,

Thank you for meeting with State agency planners on May 23, 2018 to discuss the proposed comprehensive Plan Amendment for the Town of Smyrna. This amendment will change the Future Land Use map for a parcel on Glenwood Ave. from Residential to Employment Center.

Please note that changes to the plan could result in additional comments from the State. Additionally, the comments below reflect only issues that are the responsibility of the agencies that were represented at the meeting.

This office has received the following comments from State agencies:

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

This plan amendment is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. In this case, the plan amendment from Residential to Employment Center future land use will allow for the consolidation of two parcels to enable a unified redevelopment of a vacant industrial facility. Infill and redevelopment are encouraged by the State Strategies, especially in Investment Level 1, and as such our office has no objections to this plan amendment. We encourage the Town of Smyrna and the property owner to contact DNREC to address the sourcewater and brownfield issues mentioned below as this property is redeveloped.

**Department of Natural Resources and Environmental Control – Contact Michael Tholstrup 735-3352**

DNREC has identified several environmental concerns affecting the proposed future land use of these sites, as described in your PLUS application. Of primary concern is the protection of source water resources that exist on site, including wellhead protection and an excellent groundwater recharge potential area. In addition, the parcels comprise a designated brownfield site, under the Site Investigation and Restoration Section ID#-0043 (Metal Masters). Smyrna's municipal code supports open space and passive recreational use in sourcewater protection areas. However, a Certification of Completion of Remedy has recently been issued for the site, along with a Final Plan of Remediation. These plans require intense land use designations (commercial, manufacturing, or industrial districts) that are contradictory to the source water protection goals of the Town's ordinance.

The following comments offer informational background of these two concerns in the context of rezoning and future annexation. As you move forward with developing these parcels, DNREC recommends that you meet with the DNREC programs mentioned below to work toward a solution that addresses these concerns. DNREC asks that you consider solutions that will protect water quality and quantity in this designated source water resource area, while balancing the brownfield remediation regulations (see below) in pursuit of your economic development goals.

**Source Water Protection.**

- This parcel falls entirely within a wellhead protection area for the Town of Smyrna. Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where land use activities or impervious cover may adversely affect the quantity and quality of ground water moving toward such wells.

In addition, the project falls entirely within an excellent groundwater recharge potential area (see map). Excellent Ground-Water Recharge Areas are those areas mapped by the Delaware Geological Survey where the first 20 feet of subsurface soils and geologic materials are exceptionally sandy. These soils are able to transmit water very quickly from the land surface to the water table. This map category (excellent) is an indicator of how fast contaminants will move and how much water may become contaminated (Andres, 2004). Land use activities or impervious cover on areas of excellent ground-water recharge potential may adversely affect ground water in these areas.

- Anticipated uses of both parcels include commercial, office, warehousing and light industrial. However, classification of these parcels as Employment Center appears to be in direct contrast with the Town's Zoning Code, which regulates source water protection areas. The Code has specific land use regulation on vacant or abandoned properties within source water protection areas.

- *Reference:*

Andres, A. Scott, 2004, Ground-Water Recharge Potential Mapping in Kent and Sussex Counties, Delaware: Delaware Geological Survey Report of Investigations No.

66, p. 14.

<http://www.udel.edu/dgs/Publications/pubform.html#nvestigations>

### **Waste and Hazardous Substances.**

- The parcels referenced in the PLUS application are associated with the DNREC, Site Investigation and Restoration Section (SIRS) ID# DE-0043, a designated brownfield site previously known as the Metal Masters Site – Tax parcel IDs#
  - 1-00-00920-01-2100-0001; 1-00-00920-01-2100-00002 (655 West Glenwood Avenue)
  - 1-17-00920-02-3600-00001 (664 West Glenwood Avenue)

Groundwater was impacted by industrial activities and underground storage tanks, which have since been removed. Contaminants of concern remain above screening levels and a Plan of Remedial Action was issued in 2017. A land use restriction expressed in the Plan lists solely those non-residential type uses permitted within commercial, manufacturing, or industrial districts. A Certification of Completion of Remedy (COCR) was issued by DNREC in 2018.

- Background information and SIRS actions are detailed below, for further reference:

The site's background history with the EPA and DNREC is detailed below:

- 1986 - EPA proposed adding the Site to the National Priorities List (NPL)
- 1993 - Remedial investigation completed pursuant to an Administrative Order on Consent entered into with the EPA in March 1991. Results determined that the Site did not pose an unacceptable risk to human health or the environment.
- 1995 - 6 underground storage tanks removed. DNREC, Tank Management Section issued a No Further Action letter on September 26, 1995.
- 1995 - Groundwater Technology performed a remedial investigation and issued a report. Groundwater detections were reported for TCA, DCE, TCE, PCE and DCA.
- 2002 - EPA and Metal Masters entered an Administrative Order on Consent for the performance of groundwater monitoring, sampling and analysis.
- 2004 – Site was delisted from the NPL.
- 2017 – DNREC certified the Site as a Brownfield. A Brownfield investigation was performed in April 2017 and found contaminants of concern that were above the DNREC-SIRS screening levels.

August 2017- Final Plan of Remedial Action was adopted.

- The Final Action Plan:
  1. An Environmental Covenant, consistent with Delaware's Uniform Environmental Covenants Act (7 Del. C. Chapter 79, Subchapter II) must be recorded in the Office of the Kent County Recorder of Deeds within 60 days of its approval by DNREC.

The Environmental Covenant must include the following activity and/or use restrictions:

- a. Use Restriction. Use of the Property shall be restricted solely to those non-residential type uses permitted within commercial, manufacturing, or industrial districts as such district types and uses are permitted pursuant to the corresponding zoning district classification of the Town of Smyrna, Delaware;
- b. Limitation of Groundwater Withdrawal. No groundwater wells shall be installed and no groundwater shall be withdrawn from any well on the Property without the prior written approval of DNREC-SIRS and DNREC Division of Water; and
- c. Compliance with Contaminated Materials Management Plan. All work required by the Contaminated Materials Management Plan must be performed to DNREC's satisfaction in accordance with the Plan.

The Environmental Covenant, as described above, was filed in the Office of the Recorder of Deeds for Kent County on January 11, 2018 at Instrument number 333680, and in Book 8962, Page 327.

2. The Contaminated Materials Management Plan (CMMP) must be submitted to DNREC within 60 days of the issuance of the Final Plan of Remedial Action. The CMMP will provide guidance to enable construction workers to safely handle any potential contaminated soil and groundwater at the Site.

DNREC approved the CMMP on December 5, 2017.

- 2018 – DNREC issued a Certification of Completion of Remedy (COCR)

This COCR is contingent upon continued compliance with the Environmental Covenant, CMMP, HSCA, the Regulations and the requirements of the Final Plan. This Certification of Completion of Remedy also certifies that any remedial obligations that may have existed pursuant the Regulations governing Underground Storage Tank Systems of the Tanks Management Section of DNREC also have been completed at the Site.

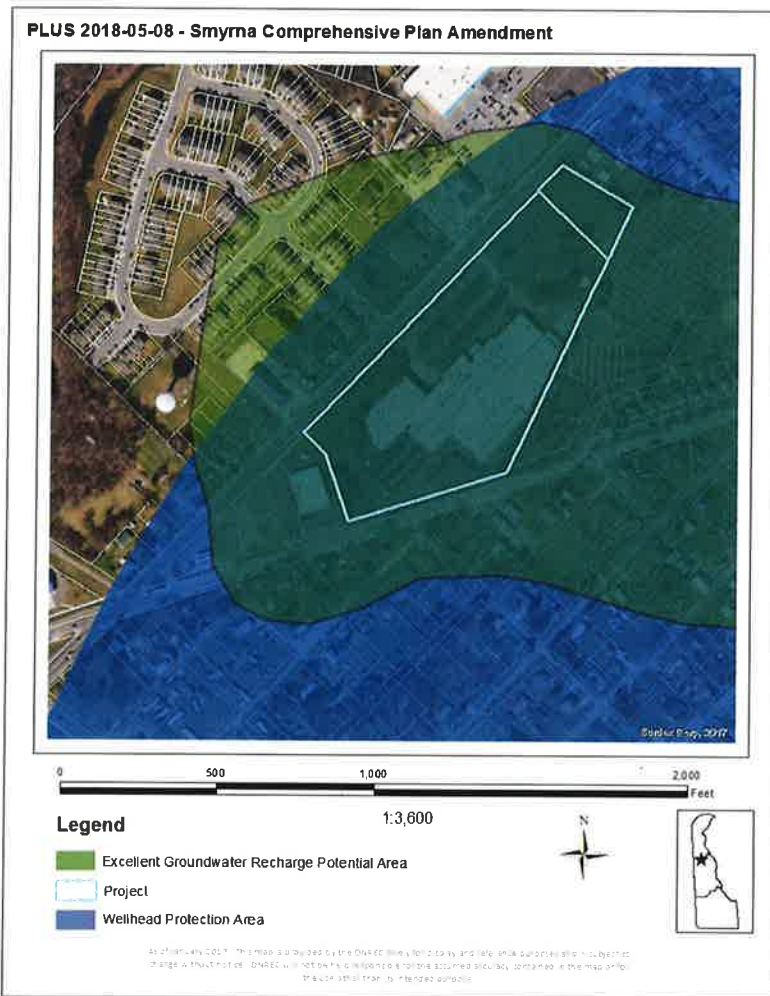
The COCR states:

“If circumstances change or any new information becomes available relating to the release of a hazardous substance at the Site in excess of applicable risk levels, DNREC reserves the right to require additional measures to be taken in order to ensure that a remedy is conducted that is protective of both human health and the environment.

Pursuant to 7 Del. C. § 9105(e), any person who owns, operates or otherwise controls activities at the Site after the date of issuance of this Certification shall not, by virtue of that later ownership, operation or control, be liable for any release or imminent threat of

release addressed in this Certification, or for any future release or imminent threat of release attributable to conditions existing prior to the issuance of this Certification provided such person does not interfere with, or permit any interference with, any aspect of the remedy addressed by this Certification of Completion of Remedy.”

### Source Water Protection Map.



Once a decision has been reached on this proposed comprehensive plan amendment, please forward a copy of the plan amendment to the Office of State Planning Coordination for our records. The plan amendment must include a revised version of any maps that were updated as well as any text that was approved in amending the comprehensive plan.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Constance C. Holland".

Constance C. Holland, AICP

Director, Office of State Planning Coordination