

**Memorandum of Understanding  
between  
The City of Dover, Delaware  
and the  
Delaware Office of State Planning Coordination**

**WHEREAS**, the State of Delaware has determined that certain local land use decisions have far reaching and complex effects on the region, resulting in development which often requires the commitment of finite resources by the various levels of government as well as private investors; and

**WHEREAS**, coordinated review of certain development activities would result in a more efficient, effective and timely use of resources and would also achieve consistency and coordination between the various levels of government and other interested parties; and

**WHEREAS**, under Title 29, Chapter 92 of the Delaware Code, local land use planning actions by local governments are subject to pre-application review processes by the Office of State Planning Coordination (OSPC); and

**WHEREAS**, under Title 29, Section 9205 (c) of the Delaware Code, the OSPC shall, through a Memorandum of Understanding, exempt a local jurisdiction from the provisions of the Land Use Planning Act or modify the pre-application process when the local jurisdiction has a Certified Comprehensive Plan and imposes a more stringent review of projects;

**NOW, THEREFORE, IT IS HEREBY AGREED AND UNDERSTOOD** by and between The City of Dover, Delaware and the Office of State Planning Coordination as follows:

Nothing in this agreement shall be construed to deny The City of Dover its final decision-making authority over proposed land use planning actions in the corporate limits of The City of Dover. Additionally, any comments received from state agencies, pursuant to Title 29, Chapter 92 of the Delaware Code, shall not exempt applicants from the responsibility of meeting all requirements set forth in The City of Dover's adopted land use regulations.

- B. The Development Advisory Committee (DAC) of The City of Dover will continue to review development proposals on a monthly basis, and will continue to include representation from various state agencies as is currently the practice.
- C. The following land use planning actions are and shall remain subject to State review under Title 29, Chapter 92, Delaware Code:

All residential projects containing 125 or more dwelling units.

- 2. Any non-residential subdivision or site plan involving new construction of structures or buildings with a total floor area equal to or exceeding 75,000 square feet.

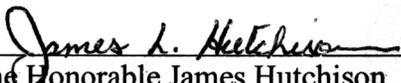
3. Any application for rezoning or annexation that is inconsistent with The City of Dover's Comprehensive Plan Update certified September 22, 2003, or as amended, except where the non-conformity is of a minor, relatively insignificant nature. A rezoning shall be considered minor variation from the Comprehensive Plan when the following conditions are met:
  - a. The rezoning is of a unique circumstance and can not set precedence for other lands in the vicinity of the rezoning.
  - b. The relative size of the rezoning or the variation from the land use recommended by the Comprehensive Plan is so minor that it would have no impact on the goals and objectives of the Comprehensive Plan.
  - c. The proposed zoning is adjacent to or in the immediate vicinity of other similarly zoned lands and would not alter the pattern of development in the area.

Upon notification of a rezoning in the City of Dover that meets these criteria, the State will concur in writing to the City thereby waiving the PLUS review process in that instance.

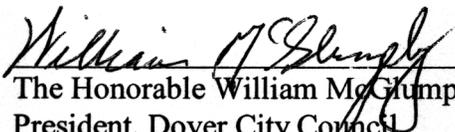
4. Any project of any size proposed to the east of Delaware Route and north of South Little Creek Road.
  5. Any local land use regulation, ordinance or requirement referred to the Office of State Planning Coordination by The City of Dover for the purpose of providing the City with advisory comments. These include the modifications to the City's zoning and subdivision ordinances that implement the Comprehensive Plan.
  6. Any development projects voluntarily submitted by the developer to the Office of State Planning Coordination for review.
  7. Any other project which is required to be referred to the State for pre-application review by City of Dover regulations.
  8. Any amendment, modification or update to The City of Dover's Comprehensive Plan, as required by Title 22 of the Delaware Code.
  9. All projects in the Downtown Dover Redevelopment Target Area, defined by The City of Dover Code shall be exempt from State review unless voluntarily submitted by the developer or The City of Dover.
- D. The City of Dover shall, at the time of the required pre-application meeting identify those projects meeting the criteria defined in this agreement for State review, direct applicants whose projects meet State review criteria to submit necessary documents to the Office of State Planning Coordination (OSPC) in order to initiate the PLUS review process, and

not accept applications for those projects requiring PLUS review until such time as the OSPC has issued comments, as defined in Title 29, Section 9204 (c) of the Delaware code, to the applicant and The City of Dover.

- E. In special circumstances, the Office of State Planning Coordination may waive the pre-application requirements of Title 29, Chapter 92 of the Delaware Code. Where such waiver is granted, the Office of State Planning Coordination shall provide a written explanation of the causes for the waiver to the relevant local jurisdiction and the applicant. These circumstances may include, but are not limited to, a local government's imposition of a more stringent review of projects enumerated in §9203(a) than required by Title 29, Chapter 92 of the Delaware Code, and/or projects expected to provide an extraordinary benefit to the State and the local jurisdiction through economic development, job creation, educational opportunities, public services or facilities, agricultural preservation, or protection and enhancement of the natural environment.
- F. This Memorandum of Understanding may be revised from time to time as circumstances warrant, only with the concurrence of both The City of Dover and the Office of State Planning Coordination.

  
The Honorable James Hutchison  
Mayor, City of Dover  
Dover, Delaware

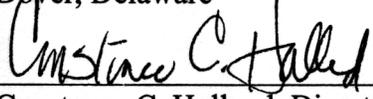
03/04/04  
Date

  
The Honorable William McGlumphy  
President, Dover City Council  
Dover, Delaware

3/16/04  
Date

  
John Friedman  
Chair, Dover Planning Commission  
Dover, Delaware

3/16/04  
Date

  
Constance C. Holland, Director  
Office of State Planning Coordination

3/24/04  
Date