

**Memorandum of Understanding  
between  
The City of New Castle, 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 proposals is expected to result in a more efficient, effective and timely use of resources and improved 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, referred to as the Preliminary Land Use Service (PLUS) and administered 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; and

**WHEREAS**, The City of New Castle is a compact geographic area that includes significant historic and environmental resources, and faces considerable flooding and transportation challenges that require frequent cooperation and assistance from the state agencies participating in the PLUS program;

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

- A. Nothing in this agreement shall be construed to deny The City of New Castle its final decision-making authority over proposed land use planning actions in the corporate limits of The City of New Castle. 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 New Castle's adopted land use regulations.
- B. The following land use planning actions are and shall remain subject to State review under Title 29, Chapter 92, Delaware Code:

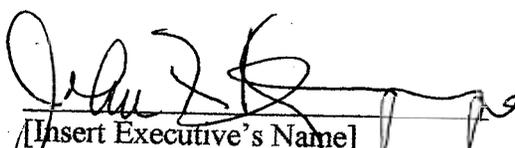
Residential subdivisions or land developments containing 12 or more dwelling units. 50

- 2 Any non-residential subdivision or site plan involving new construction of structures or buildings with a total floor area equal to or exceeding 25,000 square feet.
- 3 Any application for rezoning or annexation that is inconsistent with the land use recommendations set forth in the current certified The City of New Castle Comprehensive Plan, except where the non-conformity is of a de minimis nature. A rezoning shall be considered de minimis variance from the Comprehensive Plan when the following conditions are met:
  - i. The rezoning is a unique circumstance and can not set a precedent for other lands in the vicinity of the rezoning;
  - ii. The relative size of the rezoning or the variation from the land used recommended by the Comprehensive Plan is so minor that it would have no impact on the goals and objectives of the Comprehensive Plan; and
  - iii. 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.

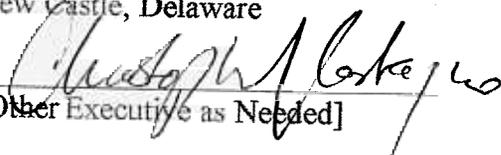
When a de minimis rezoning is approved, it shall constitute a revision of the comprehensive plan.

4. Any local land use regulation, ordinance, or requirement referred to the Office of State Planning Coordination by The City of New Castle 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.
  - 5 Any development project voluntarily submitted by the developer to the Office of State Planning Coordination for review.
  6. Any other project which is required to be referred to the State for pre-application review by The City of New Castle regulations.
  7. Any amendment, modification or update to The City of New Castle's Comprehensive Plan, as required by Title 22 of the Delaware Code.
- C. The City of New Castle shall, at the time of the required pre-application review, 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 in order to initiate the Preliminary Land Use Service (PLUS) review process, and not accept applications for those projects requiring PLUS review until such time as the Office of State Planning Coordination has issued comments, as defined in Title 29, Section 9204 (c) of the Delaware code, to the applicant and The City of New Castle.

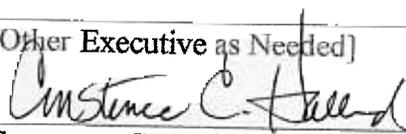
- D. In special circumstances, the Office of State Planning Coordination may waive the pre-application requirements of Title 29, Chapter 92 of the Delaware Code. Where such waiver is granted, the Office of State Planning Coordination shall provide a written explanation of the causes for the waiver to 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.
- E. This Memorandum of Understanding may be revised from time to time as circumstances warrant, only with the concurrence of both The City of New Castle and the Office of State Planning Coordination.

  
[Insert Executive's Name]  
[Executive Title], The City of New Castle  
New Castle, Delaware

6/17/04  
Date

  
[Other Executive as Needed]

6/17/04  
Date

[Other Executive as Needed]  
  
Constance C. Holland, Director  
Office of State Planning Coordination

7/27/04  
Date