

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

WHEREAS, the Delaware Office of State Planning Coordination (OSPC) 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 the City of Newark, Delaware (City) and other local land use planning agencies are subject to pre-application review processes by the OSPC; and

WHEREAS, it has been determined that in the City, many of these local land use planning actions requiring this pre-application review will have only a local impact affecting local resources, as opposed to the regional or statewide impacts addressed in Chapter 92; and

WHEREAS, the City has well established procedures in place for the comprehensive review of local land use planning activities, which are performed by qualified and experienced personnel for the purpose of evaluating the impact of such planning actions on the City, County and State and which provide opportunities for input from the public and other affected or interested parties during the planning, design and development phases; and

WHEREAS, these review procedures are further coordinated by staff with the various boards and commissions, which are comprised of members of the public and private sectors with a variety of backgrounds and professional expertise, engaging in such fields as architecture, engineering, finance, and management, and who are well equipped to evaluate development proposals in accordance with the set policies and procedures of the City; and

WHEREAS, these City review procedures have been determined to be sufficient and adequate in the review and approval of local land use activities within the City of Newark without the further involvement of the 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 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, under this Memorandum of Understanding, the City is entitled to bear the sole responsibility in carrying out the review of local land use planning actions and in evaluating their impact on other levels of government, and to that end, the OSPC agrees that the City shall assume the OSPC's responsibility as outlined in Title 29, Chapter 92, Delaware Code;

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WHEREAS, however, nothing in this Memorandum of Understanding shall preclude the City from requesting DelDOT, DNREC, SHPO or other State agency assistance, review and comments regarding local land use decisions; and,

WHEREAS, it is also agreed that certain development activities are of the scope which can affect land use decision making on a regional and/or state level, and that these activities shall be subject to the multi-level governmental monitoring and evaluation process as outlined in Chapter 92, and further, that this process shall be limited to those activities which are outlined in the Stipulations noted below and made part of the record.

NOW, THEREFORE, IT IS HEREBY AGREED AND UNDERSTOOD by and between the City and OSPC as follows:

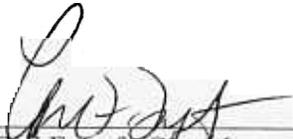
- A. Local Land Use Planning Actions Entirely Within City. Except as provided below, review procedures for local land use planning actions to occur entirely within the boundaries of the City shall not be subject to the requirements of state review pursuant to Title 29, Chapter 92, Delaware Code.
- B. State Review Required. Notwithstanding the foregoing, State review pursuant to Title 29, Chapter 92, Delaware Code, shall be required for the following land use planning actions:
 - Any major development project that involves direct state funding in excess of 50 percent of the total cost of the project.
 2. Major subdivisions / projects on parcels totaling 50 acres or more, which require an allocation of resources from the Delaware Department of Transportation for the development of roads or related infrastructure.
 3. Annexations which the City determines are inconsistent with the annexation policies outlined in the Newark Adjacent Areas Land Use Plan II, adopted May 12, 2003.
 4. The development of known brownfield sites or environmentally sensitive wetlands in excess of twenty (20) acres, where state and federal funding are involved.
 5. The ongoing five year updates of the City's comprehensive development plan, as it relates to current State mandates under Title 9 and Title 22.
 6. Any project in which the City voluntarily requests the review and coordination with the Office of State Planning Coordination, for the purpose of providing advisory comments.
- C. Local Land Use Actions Without Further Review. The following local land use actions are currently, and will continue to be, coordinated with the relevant state agencies without further review as defined under Title 29, Chapter 92, Delaware Code:

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Projects involving State Historic Preservation Office/federal Section 106 review/historic preservation activities;

2. Planning and implementation of state transportation resources
 3. Public works projects as they relate to Department of Natural Resources and Environmental Control and federal air- and water- permitting activities;
 4. State curb-cut review activities involving state-owned and/or maintained streets and roadways;
- D. Revisions. This Memorandum of Understanding may be revised from time to time as circumstances warrant, only with the concurrence of both the City and the OSPC.
- E. Implementation Date. The terms of this Memorandum of Understanding shall be fully in force by February 2004, the implementation date as set forth by the enacting State legislation.

By:

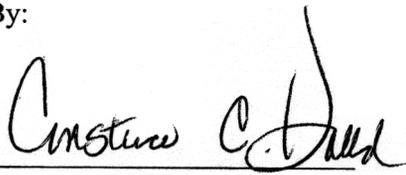


Carl F. Luft, City Manager
City of Newark, Delaware

2/20/04

Date

By:



Constance C. Holland
Office of State Planning Coordination

02/13/04

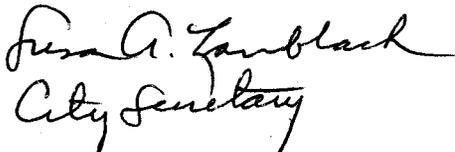
Date

Approved as to Form
this 19th day of February, 2004



Roger A. Akin, City Solicitor

Attest:



Susan A. Lambach
City Secretary