

**Memorandum of Understanding
Between
The City of Lewes
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;

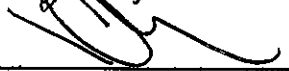
NOW, THEREFORE, IT IS HEREBY AGREED AND UNDERSTOOD by and between the City of Lewes and the Office of State Planning Coordination as follows:

- A. Nothing in this agreement shall be construed to deny the City of Lewes in its final decision-making authority over proposed land use planning actions within the corporate limits of the City of Lewes. 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 Lewes's adopted land use and building regulations.
- B. The following land use planning actions shall be subject to State review following the guidelines established under Title 29, Chapter 92, Delaware Code:
 - 1. Residential subdivisions or land developments containing twenty or more dwelling units or as requested by the Lewes Development Review Team.
 - 2. Any non-residential subdivision or site plan or mixed residential and non-residential subdivision or site plan involving new construction of structures or buildings with a total floor area equal to or exceeding 50,000 square feet.
 - 3. Any other project which is required to be referred to the State for pre-application review by the City of Lewes's regulations.
 - 4. Any amendment, modification or update to the City of Lewes's Comprehensive Plan, as required by Title 22 of the Delaware Code.

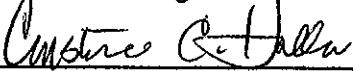
5. Any application for rezoning or annexation that is inconsistent with the City of Lewes's Comprehensive Plan certified October 19, 2005, or as amended.
 6. Any local land use regulation, ordinance or requirement referred to the Office of State Planning Coordination by the City of Lewes for the purpose of providing the City with advisory comments. These include the modifications to the City's zoning and subdivision ordinances that implement the Comprehensive Plan.
- C. The Office of State Planning Coordination shall not initiate the Preliminary Land Use Service (PLUS) review process for an applicant's project within the corporate limits of the City of Lewes or under review for annexation into the City of Lewes prior to the completion of the applicant's required pre-application meeting with the City of Lewes.
- D. City of Lewes shall, at the time of their required pre-application meeting with applicants, identify those projects meeting 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 OSPC has issued comments, as defined in Title 29, Section 9204 (c) of the Delaware Code, to the applicant and to the City of Lewes.
- E. In special circumstances, the Office of State Planning Coordination, in consultation with the City of Lewes, 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 Lewes and the Office of State Planning Coordination.


James L. Ford, III
Mayor, City of Lewes

2/14/07
Date


Kay Carnahan, Chair
Lewes Planning Commission

2-15-07
Date


Constance C. Holland, Director
Office of State Planning Coordination

2-22-07
Date