



**STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION**

September 23, 2015

Mr. Morris Deputy  
Town of Middletown  
19 West Green St.  
Middletown, DE 19709

RE: PLUS review 2015-08-08; Town of Middletown Comprehensive Plan Amendment

Dear Morris:

Thank you for meeting with State agency planners on August 26, 2015 to discuss the proposed comprehensive Plan Amendment for the Town of Middletown. The amendment will update the town's Current Comprehensive Plan by including 7 parcels as Mixed Use on the Future Annexation Areas map.

***Recommendations:*** Our office strongly recommends that the Town consider these recommendations from the various State agencies as you review your plan for final approval.

This office has received the following comments from State agencies:

**Office of State Planning Coordination – Contact: Herb Inden 739-3090**

- Our office has no objections to the changes as long as the eventual land use, once annexed, is compatible to the areas in question.

**Department of Transportation – Contact Bill Brockenbrough 760-2109**

- DelDOT has no objection to the proposed map change. With regard to the provision of Town services and having readily identifiable Town limits, it would be rational to have the Town boundary either at Armstrong Corner Road and Marl Pit Road as proposed, or farther north where US Route 301 will cross Delaware Route 71.

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

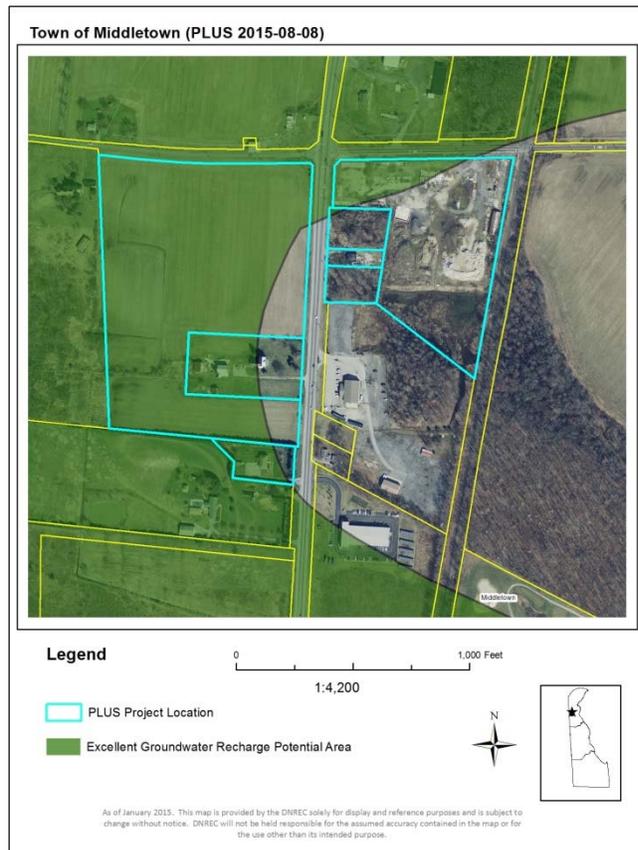
**Source Water Protection Areas.**

- A significant portion of the seven parcels identified in the comprehensive plan amendment falls within an area of excellent groundwater recharge potential (see map). The Town is proposing to amend its 2012 Comprehensive Plan by designating the zoning of Tax Parcel Nos. 13-017.00-091, 137, 141, 016, 017, 018 and 076 on Map 7, Future Land Use and Annexation Areas, as “Mixed Use.”
- This zoning designation puts attention on the Town of Middletown’s Source Water Protection Ordinance that meets the minimum standards of protection by requiring the volume and quality of post development groundwater recharge be maintained at predevelopment levels. However, it does not limit impervious cover in excellent groundwater recharge potential areas. Impervious cover prevents precipitation from infiltrating through the soil to the water table aquifer. Impervious cover refers to structures including but not limited to roads, sidewalks, parking lots, and buildings. Any impervious cover within an area of excellent groundwater recharge potential area has the potential to have a negative effect the quality and quantity of drinking water available. Additionally, impervious cover in areas of excellent groundwater recharge potential may contribute to flooding.
- Excellent groundwater 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.

DNREC Source Water Protection Program staff is available to work with the Town to improve upon the protection afforded by the Town’s source water protection ordinance.

*References*

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#investigations>



### Air Quality.

- The Comprehensive Plan mentions many times (p. 4, 10, 11, 31, 32, 33, 36, 37, 50) the need for pedestrian and bicycle interconnections. We note that there appears to be an opportunity to connect the identified annexation parcels to nearby commercial areas and residential subdivisions along US 301. For every vehicle trip that is replaced by the use of a sidewalk or bike path, 7 pounds of VOC and 11.5 pounds of NOx are reduced each year, thereby improving air quality.
- We also encourage the Town to consider, as mixed uses are eventually proposed for these annexed parcels, that new homes and businesses may emit, or cause to be emitted, additional air contaminants into Delaware's air, which will negatively impact public health, safety and welfare. These negative impacts are attributable to:
  - Emissions that form ozone and fine particulate matter. Delaware currently violates federal health-based air quality standards for ozone. New Castle County, Delaware is classified as non-attainment for not meeting federal and state 8-hour ozone standards. Compared to Kent and Sussex Counties, short term 1-hour average peak ozone levels are usually highest in New Castle County, as well.

- The emission of greenhouse gases which are associated with climate change, and
- The emission of air toxics.

Should the Town have any questions, the Division of Air Quality point of contact is Rachel Yocum, and she may be reached at (302) 739-9402 or [Rachel.yocum@state.de.us](mailto:Rachel.yocum@state.de.us).

### **State Historic Preservation Office – Contact Terrence Burns 736-7404**

- The town should be aware of the following: on tax parcel 13-017.00-137 the Armstrong-Walker house, which is part of the Rebuilding St. Georges Hundred Thematic Resources National Register Nomination is listed on the National Register of Historic Place. Furthermore, there is a known archaeological site (N14614, 7NC-F-172) on tax parcel 13-017.00-017, and another archaeological site (N-4348, 7NC-F-158) on tax parcel 13-017.00-141 as well. With this in mind, the town must be aware of the Unmarked Human Burials and Human Skeletal Remains Law, which is in Title 7, of Chapter 54, of the Delaware Code. However, if a development project proceeds on these parcels, the town should be aware of the Unmarked Human Burials and Human Skeletal Remains Law, which is in Title 7, of Chapter 54, of the Delaware Code.
- Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural or open space areas, and sometimes near or within the boundary of an historic farm site. Even a marked cemetery can frequently have unmarked graves or burials outside of the known boundary line or limit. Disturbing unmarked graves or burials triggers the Delaware's Unmarked Human Burials and Human Skeletal Remains Law (7 Del. C. Ch. 54), and such remains or discoveries can result in substantial delays while the procedures required under this law are carried out. If there is a discovery of any unmarked graves, burials or a cemetery, it is very costly to have them archaeologically excavated and the burials moved. The Division of Historical & Cultural Affairs recommends that owners and/or developers have a qualified archaeological consultant investigate their project area, to the full extent, to see if there is any unmarked cemetery, graves, or burial sites. In the event of such a discovery, the Division of Historical & Cultural Affairs also recommends that the plans be re-drawn to leave the full extent of the cemeteries or any burials on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with the landowner association or development. If you would like to know more information pertaining to unmarked human remains or cemeteries, please check the following websites for additional information: [www.history.delaware.gov/preservation/umhr.shtml](http://www.history.delaware.gov/preservation/umhr.shtml) and [www.history.delaware.gov/preservation/cemeteries.shtml](http://www.history.delaware.gov/preservation/cemeteries.shtml).
- Prior to any demolition or ground-disturbing activities, the developer may want to hire an archaeological consultant to examine the parcel for any potential archaeological site or archaeological resources, such as cemetery, burial site, or unmarked human remains.
- If there is any federal involvement with the project, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with

Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. Owners and developers who may plan to apply for an Army Corps of Engineers permit or for federal funding, such as HUD or USDA grants, should be aware of the National Historic Preservation Act of 1966 (as amended). Regulations promulgated for Section 106 of this Act stipulate that no ground-disturbing or demolition activities should take place before the Corps or other involved federal agency determines the area of potential effect of the project undertaking. These stipulations are in place to allow for comment from the public, the Delaware State Historic Preservation Office, and the Advisory Council for Historic Preservation about the project's effects on historic properties. Furthermore, any preconstruction activities without adherence to these stipulations may jeopardize the issuance of any permit or funds. If you need further information or additional details pertaining to the Section 106 process and the Advisory Council's role, please review the Advisory Council's website at [www.achp.gov](http://www.achp.gov).

Please note that additional changes to the plan could result in from the State agencies.

Once a decision has been reached on this proposed comprehensive plan amendment, please forward the adopting ordinance or other documentation and 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.

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 that reads "Constance C. Holland".

Constance C. Holland, AICP  
Director, Office of State Planning Coordination