

Frank Maderich
Chairperson
Tavistock and Edenridge III Working Group
611 Mt. Lebanon Rd.
Wilmington, DE 19803

11 January 2010

Mr. David M. Culver
General Manager
New Castle County
Department of Land Use
87 Reads Way
New Castle, DE 19720
dmculver@co.new-castle.de.us

**Re: Request for Written Interpretation Regarding Redevelopment Status of
Columbia Place under UDC § 40.08.130(B)(6)**

Dear Mr. Culver:

This request for written interpretation (“RFI”) is made pursuant to Sections 40.31.520 and Section 40.31.522 of the New Castle County Uniform Development Code (“UDC”) on behalf of the residents of the Tavistock and Edenridge III communities. This RFI relates to the Major Land Development Plan with Rezoning Application No. 2009-0201-S for the existing Pilot School site (“Site”) at 100 Garden of Eden Road that the developer has been named “Columbia Place at Garden of Eden Road” (“Columbia Place”).

I. FACTUAL BACKGROUND

A. The Columbia Place Plan

Columbia Place is presently defined by a Preliminary Plan recently amended and submitted to the New Castle County Land Use Department (“Land Use Department”) on December 8, 2009. The Columbia Place plan contains 149 dwelling units (“du”) on 14.9 acres of developable land with a density of about 10 du/acre.¹ Columbia Place comprises 17 single-family homes, 50 duplex townhomes, and 82 condominiums (“condos”) located in two 4-story towers. On, November 5, 2009, the New Castle County Board of Adjustment voted to approve a variance allowing the developer a maximum height of 56.5 feet for the towers, however, to date, the Board of Adjustment has not issued a final written decision approving the variance. Columbia Place has 6.574 acres of open space (only 2.74 acres of which is designated as useable open space). Columbia Place has been claimed to be an age-restricted open space community. It

¹ The October 2, 2009 preliminary plan originally called for 150 units, but it is our understanding that on October 22, the Land Use Department determined that pursuant to UDC § 40.07.600, Columbia Place is not permitted to combine multiple density bonuses and has limited the plan to 149 units. The developer has stated that the missing unit will be subtracted from one of the 4-story condo towers.

our understanding, however, that New Castle County is treating Columbia Place as an apartment complex. Integral to the Columbia Place plan is the rezoning of the Site from Suburban to Suburban Transition. Further, the developer and landowner seek “redevelopment” status pursuant to UDC § 40.08.130(B)(6).

B. The Surrounding Neighborhoods

The surrounding area includes the existing traditional suburban neighborhoods of Tavistock and Edenridge III. Tavistock directly borders the Columbia Place parcel along the entire western side and about half of the southern side. The average density of Tavistock is about 2.4 du/acre. Edenridge III has a density of about 1.5 du/acre. Tavistock is zoned NC10 and Edenridge is zoned NC15. On the eastern border of the Columbia Place parcel is a single-family home in a NC15 zoning district. To the east of that home is another single family home, also zoned NC15. Beyond that home is a small apartment building zoned NC5. Further east is Concord Pike (US 202).

Across Garden of Eden Road from the Columbia Place parcel is the Jewish Community Center (“JCC”), an institutional use in a medium-density residential ST zoning district. This district is subject to certain development restrictions agreed between the JCC and Tavistock. North of the JCC is the Village of Rocky Run, an age-restricted community that has a density of about 3.7 du/acre in an ST zoning district. Another relatively nearby age-restricted community is Springer Woods, also about 3.7 du/acre. There are no high-density residential uses anywhere nearby.

Brandywine Creek State Park lies immediately to the north and west of the Village of Rocky Run, the JCC, Tavistock and Edenridge III. One of the entrances to the park lies about a tenth of a mile west of the proposed entrance to Columbia Place.

II. QUESTIONS PRESENTED

A. Is Columbia Place Entitled to Redevelopment under the UDC?

New Castle County has stated that the legislative intent of the redevelopment ordinance, 40.08.130(B)(6), is “to promote the revitalization of vacant, abandoned, or underutilized properties while preserving open spaces.” *See Acierno v. New Castle County*, CA 09A-02-005 MMJ, [“Acierno”], slip op. at 7 and 15 (Del Super. Sept. 17, 2009). Columbia Place seeks a 25 percent density bonus by “redeveloping” the existing Pilot School facility on the site. Pilot School is unquestionably a fully-functioning, fully-utilized property. As such, the Columbia Place plan is not entitled to redevelopment status under the UDC.

As residents of the communities directly adjacent to the Site, we respectfully request that New Castle County provide us with a detailed written statement of the legal and factual basis for the Land Use Department's determination that Columbia Place is entitled to redevelopment status pursuant to UDC § 40.08.130(B)(6). Without limiting the generality of the foregoing request, we also request interpretation as to whether the redevelopment provisions of the UDC were intended

by New Castle County Council to apply to fully utilized and functioning facilities such as the Pilot School.

B. Is Redevelopment Permitted for a Plan that Creates New Nonconformities?

UDC § 40.08.130(B)(6)(b) clearly prohibits “the creation of any new nonconformity or the expansion of an existing nonconformity.” Presently, Columbia Place requests variances (*i.e.*, creation of new nonconformities) due to the size of the two 4-story condo towers. *See* Notes 29 and 30 on the Preliminary Plan. At over 56 feet, each tower is too tall (only 50 feet permitted), thus a variance was requested to allow the nonconforming height. This is contrary to the clear language of the UDC forbidding the creation of new nonconformities in a redevelopment project. It is also contrary to the legislative intent of the of the UDC, which is to bring old properties up to code, not to give incentives to make new, permanent, nonconformities.

In view of the apparent inconsistency with the UDC redevelopment provisions, we request that you provide us with a detailed written statement of the legal and factual basis for applying UDC § 40.08.130(B)(6)(b) to Columbia Place, given that the plan requires the creation of prohibited new nonconformities.

C. Should Columbia Place be Allocated Design Element Improvements (DEIs) for Stormwater Management?

Here, it is important to recognize that Columbia Place is one of only a very few redevelopment applications for residential property. *See* New Castle County Redevelopment Summary <<http://www2.nccde.org/redevelopment/documents/RedevelopmentSummary.pdf>>. In another residential redevelopment project, New Castle County rejected the application on the grounds that there were minimal nonconformities such that the proposed improvements did not “satisfy the redevelopment standards.” *Acierno*, slip op. at 4.² In the case of Columbia Place, the majority of the DEIs have been attributed to the proposed installation of stormwater management practices. These practices, however, do not appear to create any tangible improvement to the property because there has been no factual showing that the current stormwater practices are nonconforming and/or incapable of adequately handling the existing stormwater on the site.

Accordingly, we request that you provide us with a detailed written statement of the legal and factual basis for the amount of DEIs that the Land Use Department has awarded to Columbia Place for the installation of stormwater management practices when there is no factual showing in the record that the existing Pilot School site has non-conforming stormwater management problems that would warrant the award of DEIs.

² In *Acierno*, the County also contested the propriety of the applicant’s combination of parcels as a single redevelopment “site”. Ultimately, the Superior Court agreed with the County that the combination was inappropriate. However, during the planning phase, the County nonetheless did consider the alleged nonconformities and proposed improvements and found them insufficient to warrant redevelopment status. Thus, *Acierno* is precedent for Land Use review of residential redevelopment projects.

D. How Should the Redevelopment Density Bonus be Allocated to Columbia Place?

Land Use has determined that Columbia Place is eligible for the 25 percent density bonus pursuant to UDC § 40.08.130(B)(6)(g), and has applied this bonus to the UDC Table 40.04.110A Maximum Gross Density value of 8.00 (Apartments). However, it appears that Columbia Place is an age-restricted open space planned development under UDC § 40.07.700 that should have a Table 40.04.110A Maximum Gross Density value of 6.48. In our view, the value 6.48 should be the starting point for the 25 percent bonus, not the value 8.00. Accordingly, we request a detailed written statement of the legal and factual basis for the application of the 25 percent density bonus pursuant to UDC § 40.08.130(B)(6)(g) to the UDC Table 40.04.110A Maximum Gross Density value of 8.00 (Apartments).

E. Does Land Use Have Discretion to Reduce the Size of the Redevelopment Bonus under the UDC?

Finally, we request interpretation as to whether Land Use has discretion in adjusting the size of the permitted density bonus under § 40.130.(B)(6)(g) or whether Land Use must permit an applicant to claim the full 25 percent density bonus.

If you have any questions regarding this RFI, please contact us.

Very truly yours,

Frank Maderich

cc: Councilman Robert S. Weiner

Frank Maderich
Chairperson
Tavistock and Edenridge III Working Group
611 Mt. Lebanon Rd.
Wilmington, DE 19803

20 January 2010

Mr. David M. Culver
General Manager
New Castle County
Department of Land Use
87 Reads Way
New Castle, DE 19720
dmculver@co.new-castle.de.us

**Re: Request for Written Interpretation Regarding Delaware Office of State
Planning Coordination Review of Columbia Place**

Dear Mr. Culver:

This request for written interpretation (“RFI”) is made pursuant to Sections 40.31.520 and Section 40.31.522 of the New Castle County Uniform Development Code (“UDC”) on behalf of the residents of the Tavistock and Edenridge III communities. This RFI relates to the failure of the New Castle County Land Use Department (“Land Use”) and the Delaware Office of State Planning Coordination (“OSPC”) to conduct the legally required OSPC review of the Major Land Development Plan with Rezoning Application No. 2009-0201-S for the existing Pilot School site (“Site”) at 100 Garden of Eden Road that the developer has been named “Columbia Place at Garden of Eden Road” (“Columbia Place”).

I. FACTUAL BACKGROUND

Columbia Place is presently defined by a Preliminary Plan recently amended and submitted to Land Use Department on December 8, 2009. The Columbia Place plan contains 149 dwelling units (“du”) on 14.9 acres of developable land with a density of about 10 du/acre.¹ Columbia Place comprises 17 single-family homes, 50 duplex townhomes, and 82 condominiums (“condos”) located in two 4-story towers. On, November 5, 2009, the New Castle County Board of Adjustment voted to approve a variance allowing the developer a maximum height of 56.5 feet for the towers. However, to date, the Board of Adjustment has not issued a final written decision approving the variance. Columbia Place has 6.574 acres of open space (only 2.74 acres of which is designated as useable open space). Columbia Place has been claimed

¹ The October 2, 2009 preliminary plan originally called for 150 units, but it is our understanding that on October 22, the Land Use Department determined that pursuant to UDC § 40.07.600, Columbia Place is not permitted to combine multiple density bonuses and has limited the plan to 149 units. The developer has stated that the missing unit will be subtracted from one of the 4-story condo towers.

to be an age-restricted open space community. It our understanding, however, that New Castle County is treating Columbia Place as an apartment complex.

Integral to the Columbia Place plan is the rezoning of the Site from Suburban to Suburban Transition. The Proposed Rezoning Ordinance for Columbia Place, No. 09-090, consequently seeks to revise the New Castle County Zoning Map and to amend the New Castle County Comprehensive Development Plan for that purpose. *See* Land Use's September 22, 2009 letter to the New Castle County Clerk of Council (copy enclosed as Exhibit 1) stating that the Comprehensive Development Plan is to be amended in connection with the Columbia Place plan.

II. QUESTIONS PRESENTED

Section 9103(b) of Title 29, Chapter 91, of the Delaware Code, captioned "Comprehensive Plan Review and Certification Process" provides in pertinent part that the OSPC "*shall...conduct a review and comparison of the proposed county ... comprehensive plan or amendment or revision with state goals, policies and strategies.*" (emphasis added).

Section 9203(a) of Title 29, Chapter 92, of the Delaware Code, captioned "Local land use planning actions subject to review process", states that "[*a*]ll projects meeting any 1 of the following criteria *shall* undergo a pre-application meeting and review process as set forth in this chapter..." (Emphasis added). Among the projects listed as requiring this review are "[*m*]ajor residential subdivisions with internal road networks and more than 50 units" (Sec. 9203(a)(i)), and "[*a*]pplications for rezoning if not in compliance with the local jurisdiction's comprehensive plan..." (Sec. 9203(a)(5)).

Acting pursuant to Section 9205(c) of Title 29, Chapter 92, of the Delaware Code, New Castle County and the State of Delaware entered into a Memorandum of Understanding ("MOU") dated April 22, 2004 (copy enclosed as Exhibit 2). Among other things, Section B. of the MOU provides that "[*t*]he following land use planning actions *are and shall be* subject to a State administrative review under Title 29, Chapter 92, Delaware Code". Among the projects listed as requiring this review are the following:

"2. Any amendment, modification or update to the New Castle County Comprehensive Development Plan..."; and

"4. Any application for rezoning that is inconsistent with ... the current certified New Castle County Comprehensive Plan except where the non-conformity is a minor variation." The provision then defines "minor variations" and is considered more fully below.

As stated in the Factual Background section above, the Columbia Place plan requires an amendment and/or modification to the New Castle County Comprehensive Development Plan. Due to this amendment, the MOU by its terms mandates OSPC review of the Columbia Place plan.

Turning to section B.4. of the MOU, a rezoning “shall be considered a minor variation from the Comprehensive Plan” only when the four enumerated conditions are met. We note that the MOU by its terms requires that all four of the following conditions must be satisfied in order for a rezoning to be considered a “minor variation”.

- (a) The rezoning is of “a unique circumstance and can not set precedent for other lands in the vicinity of the rezoning”. To the contrary, the high density development contemplated by the Columbia Place rezoning will have a major precedential impact not only in the vicinity but throughout New Castle County. The potential consequences for the State of Delaware in terms of future infrastructure investment and the like cannot be overstated.
- (b) The relative size of the rezoning “is minor and would have no impact on the goals or objectives of the Comprehensive Plan.” The MOU does not define what “minor” means, but there is no way that a rezoning that will result in placing 149 residential units on a 15 acre parcel in a suburban area immediately adjacent to Brandywine Creek State Park and imposing additional demands on already saturated roads and other infrastructure can be reasonably described as “minor” and having *no* impact at all on the many goals and objectives set forth in the New Castle County Comprehensive Plan.
- (c) The proposed zoning “is adjacent to or in the immediate vicinity of other similarly zoned land and would not alter the pattern of development in the area.” The only similarly-zoned land in the vicinity is the Jewish Community Center (“JCC”) on Garden of Eden Road. The JCC was rezoned to Suburban Transition several years ago, but is subject to substantial development restrictions enforceable by the Tavistock Civic Association. The predominant character of the area near Columbia is Suburban (*i.e.*, single family homes) and heavily influenced by Brandywine Creek State Park. Columbia Place will clearly “alter the pattern of development in the area”.
- (d) The proposed rezoning is “a corrective or proactive zoning by New Castle County.” No one has claimed that Columbia Place is a “corrective or proactive rezoning” (whatever those terms may be deemed to mean), so this condition is inapplicable.

Despite these compelling considerations, it is our understanding that OSPC contacted Land Use about Columbia Place and then Land Use identified Columbia Place as a “minor” variation of the New Castle County Comprehensive Development plan. This is reflected in the OSPC’s January 15, 2010 letter to Mr. Frank Maderich (enclosed as Exhibit 3).

In view of the above, we request Land Use provide the full legal and factual basis for the following three questions:

Mr. David M. Culver

January 20, 2010

Page 4 of 4

- (1) What is Land Use's basis for determining that Columbia Place, a major land development plan for the County's purposes, to advise the Delaware OSPC that the project is a "minor variation" of the Comprehensive Development Plan?
- (2) Why is Columbia Place, a plan that requires an amendment to the Comprehensive Development Plan, not subject to OSPC review pursuant to Paragraph B.2 of the MOU which mandates OSPC review of: "Any amendment, modification or update to the New Castle County Comprehensive Development Plan, as required by Title 9 of the Delaware Code"?
- (3) What is Land Use's basis for its apparent decision that Paragraph B.2 of the MOU shall not apply to "minor variations" to the Comprehensive Development Plan when that exclusion does not appear to be not present in the text of the MOU?
- (4) On what grounds can Columbia Place be characterized as a "minor variation from the Comprehensive Plan" meeting the four criteria set forth in Paragraph B.4. of the MOU?

If you have any questions regarding this RFI, please contact us.

Very truly yours,

Frank Maderich

Enclosures: Exhibit 1 (Exhibits for Proposed Rezoning Ordinance No. 09-090)
Exhibit 2 (April 22, 2004 Memorandum of Understanding)
Exhibit 3 (January 15, 2010 Letter from Delaware Office of State Planning)

cc: New Castle County Councilman Robert S. Weiner
State Representative Dennis E Williams
State Senator Michael Katz



Department of Land Use

September 22, 2009

In reply, refer to:
2009-0201-S/Z
Columbia Place at Garden of Eden Road

Betsy Gardner, Clerk of Council
County Council of New Castle County
800 French Street, City/County Building
Wilmington, DE 19801

Dear Ms. Gardner:

In accordance with the request of Councilman Robert S. Weiner, the Department of Land Use hereby transmits copies of Exhibits "A", "L", and "E" to be the subject matter of a proposed rezoning ordinance to be introduced to the County Council. It is suggested that the title of the ordinance read as follows:

REVISE ZONING MAP: Brandywine Hundred, south side of Garden of Eden Road, west of Concord Pike and east of Taunton Drive; 15.39 acres from S (Suburban) to ST (Suburban Transition); and to amend the Comprehensive Plan consistent therewith.

(Preliminary plan for Columbia Place at Garden of Eden Road proposes to redevelop the property with 150 age restricted dwelling units on 15.39 acres with 6.43 acres of open space. 2009-0201-S/Z.)

SUGGESTED FISCAL NOTE: This rezoning Ordinance will have no immediate discernible fiscal impact on the County, but if the parcel rezoned is developed in accordance with the new rezoning, there may be one or more indirect fiscal effects on New Castle County Government, including but not limited to an increase in the assessed value of the property with a resultant increase in taxes collectible thereon, and an increased demand for County services.

Synopsis: Same as title.

Introduced by: Councilman Robert S. Weiner

Sincerely,

A handwritten signature in black ink that reads "Kenneth R. Bieri".

Kenneth R. Bieri

Enclosures

cc: Councilman Robert S. Weiner
Nicole Majeski
George Haggerty
David Culver
Mike Bennett
Antoni Sekowski

Introduced by:
Date of introduction:

ORDINANCE NO. 09 -

REVISE ZONING MAP: BRANDYWINE HUNDRED, SOUTH SIDE OF GARDEN OF EDEN ROAD, WEST OF CONCORD PIKE AND EAST OF TAUNTON DRIVE; 15.39 ACRES FROM S (SUBURBAN) TO ST (SUBURBAN TRANSITION); AND TO AMEND THE COMPREHENSIVE PLAN CONSISTENT THEREWITH

(Preliminary plan for Columbia Place at Garden of Eden Road proposes to redevelop the property with 150 age restricted dwelling units on 15.39 acres with 6.43 acres of open space. 2009-0201-S/Z.)

THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. The Zoning Map of Brandywine Hundred, as amended, is hereby further amended by changing the zoning classification of the land shown on attached Exhibits "A" and "L" dated September 18, 2009, as set forth therein.

Section 2. The 2007 Comprehensive Development Plan Update for New Castle County, as shown amended, is hereby further amended, by changing the land use designation shown on Exhibit "E" dated September 18, 2009, as set forth herein, so as to make such land consistent with the amendment of the zoning map, as per Section 1 above.

Section 3. This Ordinance shall become effective immediately upon its adoption.

Adopted by County Council
of New Castle County on:

President of County Council
of New Castle County

Approved on:

County Executive
New Castle County

SYNOPSIS: Same as Title.

FISCAL IMPACT: This rezoning ordinance will have no immediate discernable fiscal impact on the County, but if the parcel(s) rezoned is (are) developed in accordance with the new rezoning, there may be one or more indirect fiscal effects on New Castle County government, including, but not limited to, an increase in the assessed value of the property with a resultant increase in taxes collectible thereon, and an increased demand for county services.

PROPERTY MAP

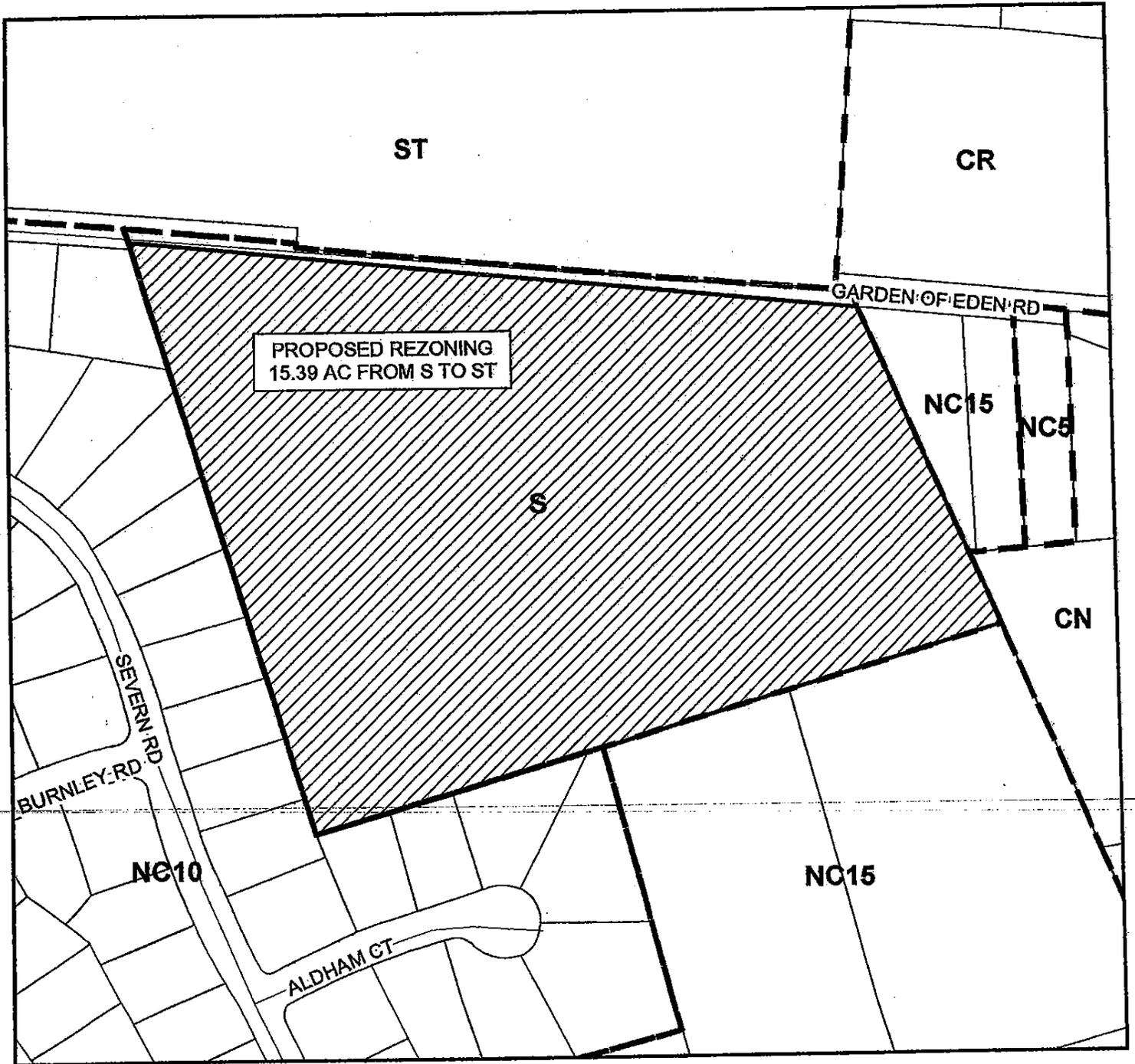
EXHIBIT "A"
ZONING ORDINANCE AS INTRODUCED

APPLICANT: REYBOLD VENTURE GROUP XXXII, LLC

APPLICATION NO. 2009-0201-S/Z

PROPOSED REZONING: FROM S TO ST

TAX PARCEL NO. 06-051.00-014



HUNDRED: BRANDYWINE
NEW CASTLE COUNTY, DELAWARE

Scale: 1"= 200'
Prepared by: SFJ
Date: 9/18/2009

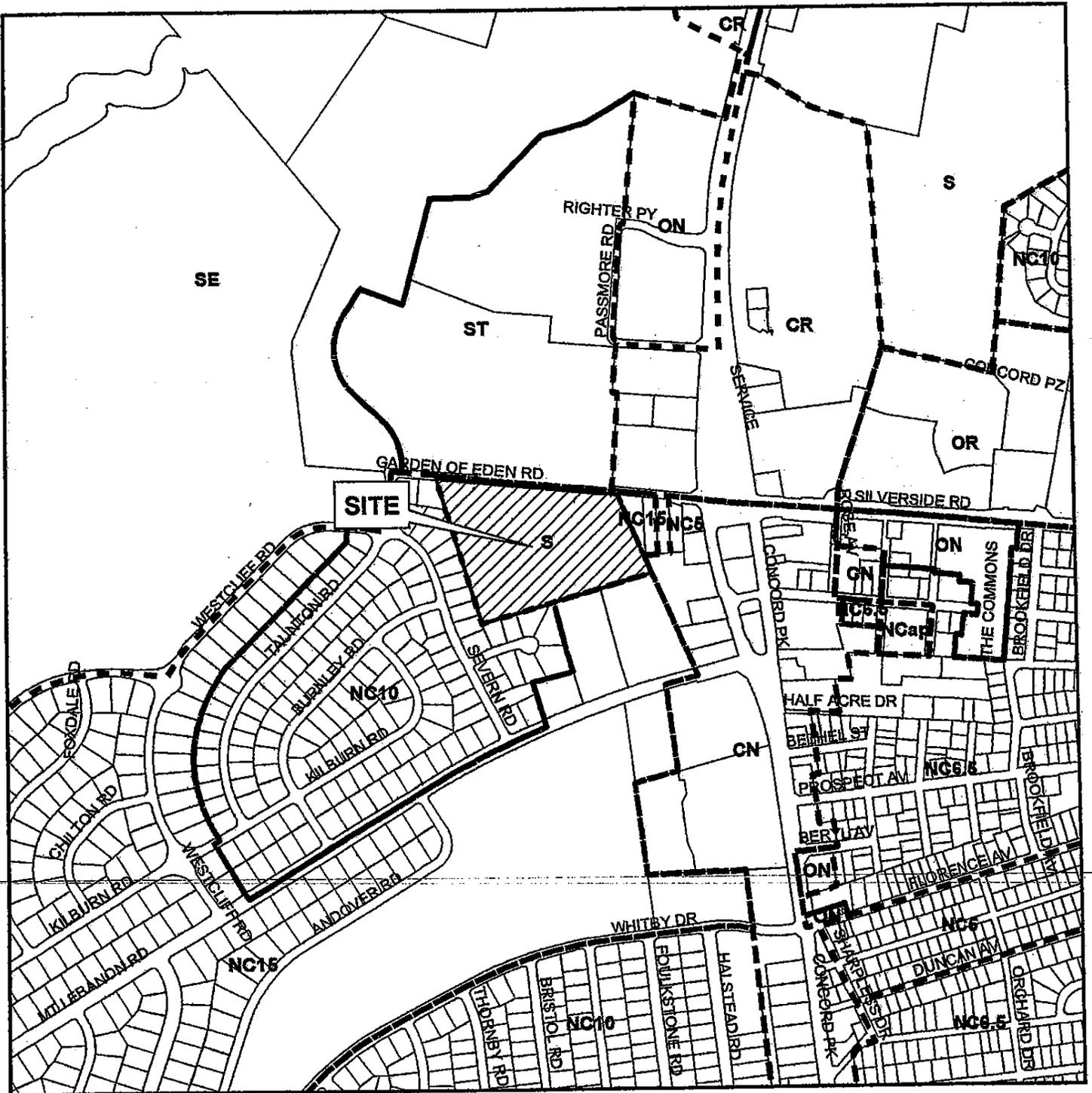


PERMANENT ORDINANCE NO. _____
Date Adopted by County Council _____
Date Approved by County Executive _____

LOCATION MAP

EXHIBIT "L"

APPLICANT: REYBOLD VENTURE GROUP XXXII, LLC

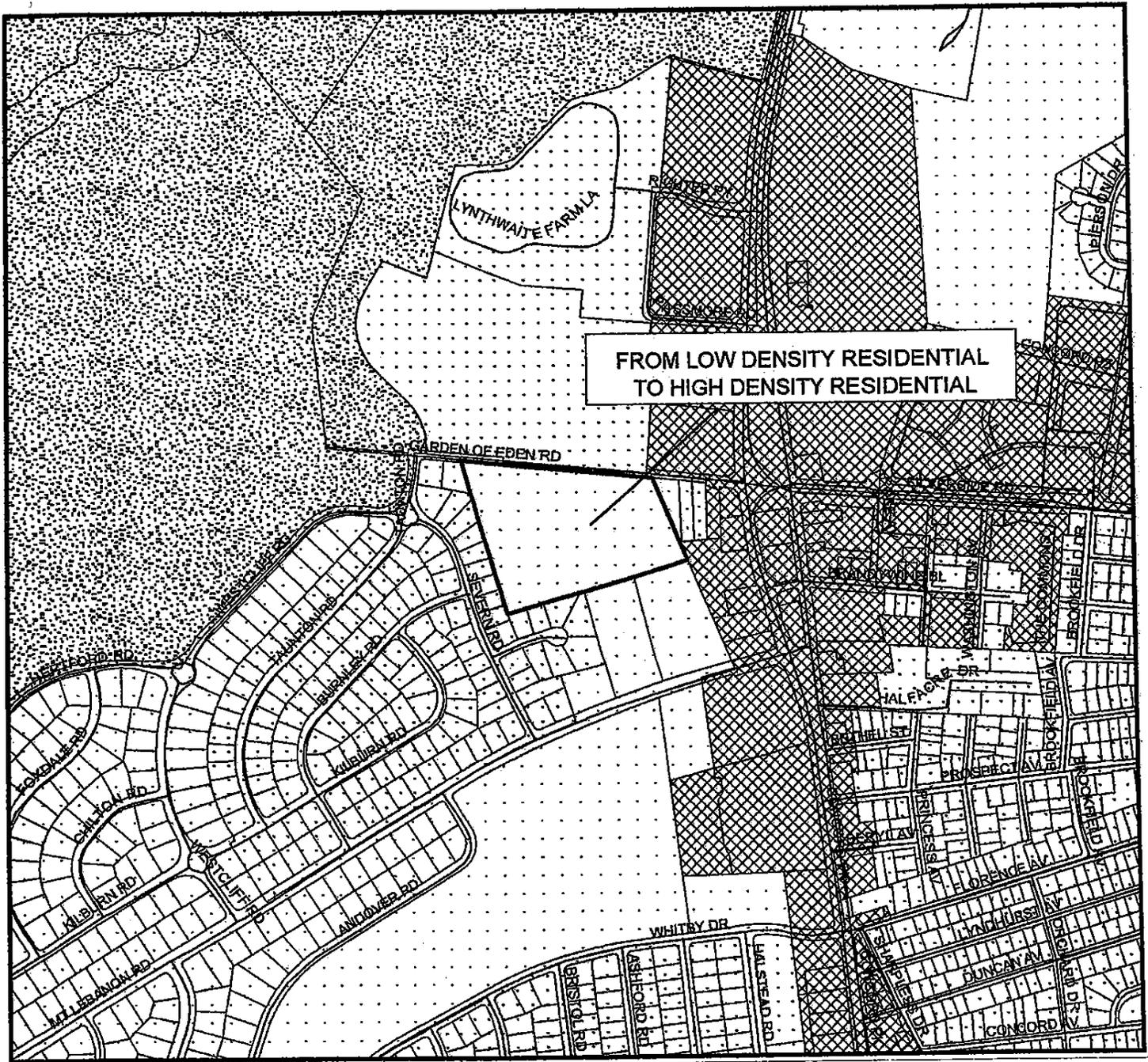


Block Map No. 9
Scale: 1"= 800'
Prepared by: SFJ
Date: 9/18/2009

APPLICATION NO. 2009-0201-S/Z
PERMANENT ORDINANCE NO.

HUNDRED: BRANDYWINE
NEW CASTLE COUNTY, DELAWARE





AMENDMENT TO THE 2007 COMPREHENSIVE DEVELOPMENT PLAN
 NEW CASTLE COUNTY, DELAWARE



Ordinance No.

Exhibit E

App. No. 2009-0201-S/Z

Date: 9/18/2009

Scale: 1" = 800'

Residential			
	Very Low Density		Community Redevelopment
	Low Density		New Community Development
	Medium Density		HI Zoned Land
	High Density		Municipal Land
			Resource & Rural Preservation
			Hometown (HT) Overlay

**Memorandum of Understanding
between
New Castle County, 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 New Castle County, Delaware and the Office of State Planning Coordination as follows:

- A. Nothing in this agreement shall be construed to deny New Castle County its final decision-making authority over proposed land use planning actions. 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 and adopted in New Castle County Code. Unless otherwise stated in this agreement, the Office of State Planning Coordination agrees to waive the pre-application requirements of Title 29, Chapter 92 of the Delaware Code because New Castle County has imposed a more stringent review of projects enumerated in §9203(a) than required by Title 29, Chapter 92 of the Delaware Code. New Castle County or the developer of any site may request a pre-application review in accordance with Title 29, Chapter 92.
- B. The following land use planning actions are and shall be subject to a State administrative review under Title 29, Chapter 92, Delaware Code:

Any local land use ordinance referred to the Office of State Planning Coordination by New Castle County for the purpose of providing the County with advisory comments. These include the modifications to the County's zoning and

subdivision ordinances that implement the Comprehensive Plan. The submission of ordinances for review under this provision is voluntary.

2. Any amendment, modification or update to the New Castle County Comprehensive Development Plan, as required by Title 9 of the Delaware Code
 3. Any other project which is required to be referred to the State for review by New Castle County regulations. For any residential application that exceeds 1.3 dwelling units per acre the Department and the State may, upon mutual consent, have the application reviewed in accordance with the provisions of Title 29, Chapter 92 of the Delaware Code at the exploratory stage of the plan as defined by the County.
 4. Any application for rezoning that is inconsistent with the land use recommendations set forth in the current certified New Castle County Comprehensive Plan except where the non-conformity is a minor variation. A rezoning shall be considered a minor variation from the Comprehensive Plan when the following conditions are met:
 - a. The rezoning is of a unique circumstance and can not set precedent 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 minor and 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 land and would not alter the pattern of development in the area;
 - d. The proposed zoning is a corrective or proactive zoning by New Castle County.
- C. New Castle County shall 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 approving 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

Memorandum of Understanding between
New Castle County and Delaware Office of
State Planning Coordination
April 22, 2004
Page 3 of 3

Delaware code, to the applicant and New Castle County.

- D. This Memorandum of Understanding may be revised from time to time as circumstances warrant, only with the concurrence of both New Castle County and the Office of State Planning Coordination.



Thomas P. Gordon, County Executive
New Castle County, Delaware
4-15-04
Date



Constance C. Holland, Director
Office of State Planning Coordination
6-24-04
Date



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
January 15, 2010

Mr. Frank Maderick
Tavistock Civic Association
611 Mt. Lebanon Road
Wilmington, DE 19803

RE: Columbia Place Redevelopment Plan Rezoning

Dear Mr. Maderick:

The Office of State Planning Coordination has contacted New Castle County hereinafter "County" in reference to the questions you raised, regarding the Columbia Place Redevelopment Plan rezoning.

Pursuant to the terms of our current Memorandum of Understanding with the County, the County has identified that this project is a minor variation of the New Castle County Comprehensive Plan.

This interpretation of the MOU is consistent with the requirements of the MOU; and the policies and procedures that have governed the MOU's implementation for the five (5) plus years the MOU has been in effect. In accordance, the rezoning application, and the public process associated with it, will be administered by the local jurisdiction. I encourage you to continue to work with New Castle County on this matter through their rezoning process.

Sincerely,

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

CC: The Honorable Dennis Williams, Representative
Cleon Cauley, Governor's Office
Dave Culver, New Castle County
Herb Inden, Office of State Planning Coordination

