



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

July 21, 2004

Ms. Julie Kirkpatrick  
Morris & Ritchie  
18 Boulden Circle, Ste. 36  
Wilmington, DE 19720

RE: PLUS review – PLUS 2004-06-08; Chapel Farm

Dear Ms. Kirkpatrick:

Thank you for meeting with State agency planners on June 30, 2004 to discuss the proposed plans for the Chapel Farm project to be located on Barratts Chapel Road near 113.

According to the information received, you are seeking PUD approval for a mixed use subdivision consisting of 535 residential units with approximately 11.6 acres of commercial which is intended for the convenience of the residents.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Kent County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

This office has received the following comments from State agencies:

**Office of State Planning Coordination – Contact: David Edgell 739-3090**

This project is located in mostly in Investment Level 3 according to the June 3 version of the 2004 State Strategies for Policies and Spending, which has been approved by the Cabinet Committee for State Planning Issues. Portions of this site,

mostly along Spring Creek, are identified as Investment Level 4 and “Out of Play”, indicating potential environmental constraints associated with Spring Creek. We note that this site is also located inside the Kent County Growth Zone. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future. State investments will support growth in these areas, but may not be available in the near term future.

With this being noted, we would like to indicate that our office does not object to this project being developed under the relevant County codes and ordinances. However, our office does have some serious concerns regarding the design of the project. As we discussed at length during the PLUS meeting, this property is across the highway from Barrett’s Chapel, a site with considerable historic and cultural significance. It is very important to be sensitive to this context when designing the project. **In short, we feel that a highway commercial center directly across the highway from this important historical and cultural site will be inappropriate, no matter how innovative the architecture is.**

Some of the options we discussed at our PLUS meeting include redesigning the project with a more centrally located commercial component that could serve the development and the surrounding area as a small “downtown” area. Such a commercial component will certainly be a different scale and type than the highway commercial center proposed, but may be very successful if designed properly. It was demonstrated that this project is actually larger in both land area and in the number of residences than the currently developed portions of Frederica. The Town of Frederica contains a vibrant mixture of land uses in its commercial core, and it only reasonable to assume that a well designed commercial or mixed use area in this development would also be successful. Due to the project’s location inside the Kent County growth zone it can also be assumed that in the future there may be many additional residences in this general vicinity. Thus it may not be necessary to rely solely upon the highway to support larger scale commercial operations. This development could be the “town center” for a growing area, rather than just another strip center along the highway. Open space and / or a central community gathering place such as a plaza, park, or square could be located across from the church to soften the visual impact of the development from the highway, preserve the context of the church property somewhat, and possibly serve as an organizing feature for the street pattern of the community.

As you will note from the DelDOT comments below, there are currently plans to construct interchanges on Route 1 at 113A and Route 12 and restrict access at Barratt’s Chapel Road. DelDOT has suggested that a service road connecting Barratt’s Chapel Road and future interchange at Route 113A be established to provide better access to the site and the surrounding area. It may be necessary and desirable to incorporate this service road into any redesign as well.

These design related comments reflect the discussion at the PLUS meeting, and the sentiments of our office and other agencies that were in attendance that day. These comments are only recommendations, and we note that Kent County has final regulatory authority on this application. We hope these comments and recommendations are helpful as you continue to work with the Kent County planning staff regarding the final design of the project.

**State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685**

The SHPO does not favor this development for several reasons but particularly because it is directly across the road from Barratt's Chapel, a property listed in the National Register of Historic Places. This development will greatly affect this historic property. Barratt's Chapel is listed in the Register for its significance as the "Cradle of Methodism" and its architecture. The integrity of its setting, being the open space surrounding the chapel, also contributes to its listing in the National Register.

Barratt's Chapel was constructed in 1780, was the first Methodist church built in Kent County, and one of the first two Methodist churches built in Delaware. It is significant not only on a local and state level, but on a national level. It is known as the "Cradle of American Methodism" because of its unique place in the development of the denomination and is the site where the first sacraments were administered by Methodist clergy in America, in 1784.

The proposed development would diminish the chapel's rural setting and therefore lessen its historic significance and integrity. This development would also start a pattern of more developments in the area, which will further diminish the chapel's historic significance.

If the development does occur, the SHPO office would like to offer some recommendations:

SHPO would like for the developers to explore other design alternatives and move the commercial property to another place within the development; leaving the parcels directly across from Barratt's Chapel as open space or, if necessary, single family homes. Also, some landscaping planted on the east side of the development will help lessen the visual effects on the chapel.

SHPO is aware that Kent County's architectural historian is working with the developers to design compatible buildings and we have full confidence in her decisions. We are also aware that there will be public hearings at the county level for this project; however the applicant and developers may want to discuss the plans with the people of Barratt's Chapel to gather their input on what type of designs or buildings they would prefer.

Finally, on the property where the development is proposed, there are existing structures (a house and outbuildings) that will be demolished. Obviously these buildings will be adversely affected by the development. Please contact Anne McCleave in the SHPO

office at 302-739-5685, so that she and Kent County's architectural historian can visit the site and document the existing buildings before they are demolished.

There are large and important archaeological sites within the subject property. They are located on the southwest area of the development where the storm water management ponds and the single family lots are proposed. SHPO would very much like to visit the site with the applicant or developers to locate these sites and advise how best to design the development so it does not harm any of the sites. Please contact Anne McCleave at 302-739-5685 to schedule a time the archaeologists can visit the property.

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

A traffic impact study was scoped for this project on March 25, 2004. DelDOT recommended that the applicant proceed with that study expeditiously. Review times for completed studies are currently about eight months.

As part of their planning for the Route 1 corridor, DelDOT intends to eliminate left turns at the intersection of Route 1 and Barratts Chapel Road and place interchanges on Route 1 at Route 113A and Route 12. These improvements are scheduled for construction beginning in Fiscal Year 2006. Therefore, the developer should expect that the present left-turn access to and from Route 1 will be eliminated.

A preliminary analysis by DelDOT has determined there would be benefits derived from serving this site with a service road, running through the site along its east edge, more or less parallel to southbound Route 1, and connecting Barratts Chapel Road to Delaware Route 12. That road is not presently part of the improvements just mentioned, and no schedule has been established for its design and construction. It is suggested that that the site plan should incorporate this concept into the design to accommodate its future construction.

DelDOT recognizes the stub streets to the adjacent parcel on the south as being desirable. The developer is commended for providing them. However, as discussed below, both they and the street connecting them should be designed as collector streets, with 60-foot rights-of-way.

The 20-foot wide alleys will not be maintained by the State and a note on the record plan should state who will maintain them.

The plan shows 36-foot wide rights-of-way for some streets. This is not one of DelDOT's standard right-of-way widths. The State has a reduced right-of-way policy that permits 26-foot wide rights-of-way in certain circumstances, but not 36 feet. We ask that the plan be revised to use our standard 50-foot rights-of-way.

The first entrance, adjacent to the proposed commercial area, appears to be too close to Delaware Route 1. DelDOT does not believe it will be possible to design and construct

the necessary improvements within that distance. It is recommended that the developer's engineer re-evaluate this part of the plan and adjust it by moving the entrance.

DelDOT support the comments, from several agencies, that the commercial area should be located near the center of the community. In addition to better serving the new community, such a location would likely be better for safety and operations.

The applicant's engineer should coordinate with the DelDOT Subdivision Manager for Kent County, Mr. George Shaw, regarding their requirements with regard to the design of the streets and the site entrances. Mr. Shaw may be reached at (302) 760-2261.

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-3091**

**Soils**

According to the soil survey update, the following soils were found in the immediate vicinity of the proposed construction and grouped on the basis of drainage class:

- Well Drained – Sassafras
- Moderately well drained – Woodstown
- Poorly drained (**hydric**) – Fallsington
- Very poorly drained (**hydric**) – Swamp & Tidal Marsh

Sassafras is a well-drained upland soil with few limitations for development. Woodstown is a moderately well-drained soil of low-lying upland that has moderate limitations for development. Fallsington is a poorly-drained wetland associated (hydric) soil that has severe limitations for development. Swamp and Tidal Marsh are very poorly-drained wetland associated (hydric) soils that have severe limitations for development.

**Wetlands**

The proposed development is bordered on the west by Spring Creek, which flows into the Murderkill River and through the Milford Neck Wildlife Area. State wetland maps (SWMP) indicate the presence of Palustrine forested, scrub shrub and emergent wetlands bordering this stream. These wetlands are an important component of the large riparian forest located within this parcel.

Site plans show that there will be minimal impacts to wetlands and that a minimum buffer width of 50' has been employed throughout the project. As a result, impacts to wetland and forest resources have been greatly minimized.

**A wetland delineation, in accordance with the methodology established by the Corps of Engineers Wetlands Delineation Manual, (Technical Report Y-87-1) should be**

**conducted. Once complete, this delineation should be verified Corps of Engineers through the Jurisdictional Determination process.**

Impacts to wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

Streets and lots should be laid out so as to not cross or intersect wetland areas or forested areas. Site plans show that a 25' buffer has been employed from wetlands; DNREC recommends that vegetated buffers of no less than 100' be employed around wetlands and waterbodies. To minimize potential homeowner activities within wetlands, no lot lines should contain wetlands, their buffers or other resources of conservation concern. All wetlands and other resources conserved on site should be placed into a permanent conservation easement or other binding protection mechanism.

It is also recommended that the Farm Services Agency of the USDA be contacted to assess whether the farmed wetlands on subject parcel meet the recognized criteria for classification as "prior converted wetlands." Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection provided that there is no proof of a continuous "fallow period" of five years or greater in that parcel's cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the Army Corps of Engineers (ACOE). The contact person for assessing a parcel's cropping history is Sally Griffin at the USDA – she can be reached at 678-4182

It should also be noted that this parcel contains sensitive headwater (unnamed tributary to Spring Creek) and near headwater wetlands (Spring Creek) which drains to the Murderkill River. Headwater and near headwater streams are important for the protection of water quality and the maintenance/integrity of the ecological functions throughout the length of the stream, including the floodplain system downstream. Since such streams are a major avenue for nutrient-laden stormwater and sediment runoff, their protection deserves the highest priority.

**In recognition of this concern, the Department strongly recommends that the applicant preserve the existing natural forested buffer adjacent to Spring Creek and the unnamed tributary in its entirety. Efforts to maximize or expand the existing natural forested buffer width via planting of native woody or herbaceous vegetation, is strongly recommended.**

**Finally, the Department further recommends that the applicant minimize the clearing/removal of trees in the upland forested areas of this parcel. Upland forested areas are important for mitigating the impacts of stormwater runoff on water quality as well as preservation of habitat for a variety of wildlife species.**

### **TMDLs**

Although Total Maximum Daily Loads (TMDLs) as a “pollution runoff mitigation strategy” to reduce nutrient loading have not yet been developed for most of the tributaries or subwatersheds of the Delaware Bay watershed to date, work is continuing on their development. TMDLs for the Murderkill River subwatershed, of which this parcel is part, are scheduled for completion in December 2006.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available technologies (BATs) and/or best management practices (BMPs) as “methodological mitigative strategies” to reduce degradative impacts associated with development.

### **Water Supply**

The project information sheets state that water will be provided to the project by a central public water system. Our records indicate that the project site is not located in an area where public water service is available. Any public water utility providing water to the site must obtain a certificate of public convenience and necessity (CPCN) from the Public Service Commission. Information on CPCNs and the application process can be obtained by contacting the Public Service Commission at 302-739-4247. Should an on-site public well be needed, it must be located at least 150 ft. from the outermost boundaries of the project. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any wells.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-3665.

## **Stormwater Management**

**Source:** Delaware Sediment and Stormwater Regulations

**Requirements:**

1. Land disturbing activities in excess of 5,000 square feet are regulated under the Delaware Sediment and Stormwater Regulations. A detailed sediment and stormwater management plan must be reviewed and approved by our office prior to any land disturbing activity (i.e. clearing, grubbing, filling, grading, etc.) taking place.
2. The review fee and a completed Application for a Detailed Plan are due at the time of plan submittal to our office. Construction inspection fees based on developed area and stormwater facility maintenance inspection fees based on the number of stormwater facilities are due prior to the start of construction. Please refer to the fee schedule for those amounts.
3. The following notes must appear on the record plan:
  - The Kent Conservation District reserves the right to enter private property for purposes of periodic site inspection.
  - The Kent Conservation District reserves the right to add, modify, or delete any erosion or sediment control measure, as it deems necessary.
  - A clear statement of defined maintenance responsibility for stormwater management facilities must be provided on the Record Plan.
4. Ease of maintenance must be considered as a site design component and a maintenance set aside area for disposal of sediments removed from the basins during the course of regular maintenance must be shown on the Record Plan for the subdivision.
5. All drainage ways and storm drains must be contained within drainage easements and clearly shown on the plan to be recorded by Kent County.
6. A soils investigation supporting the stormwater management facility design is required to determine impacts of the seasonal high groundwater level and soils for any basin design.
7. Access to the proposed stormwater facility must be provided for periodic maintenance. This access should be at least 12 feet wide to leading to the facility and around the facility's perimeter.
8. Proper drainage of developed lots and active open space should be considered in the development of the grading plan for this subdivision.

**Comments:**

1. This site may be eligible for a waiver of stormwater quantity management due to the proximity of a tidal outfall. The project would still be required to meet stormwater quality management requirements.
2. The preferred methods of stormwater management are those practices that

maximize the use of the natural features of a site, promote recharge and minimize the reliance on structural components. The designer is encouraged to consider the conservation design approach and limit the amount of tree clearing required for the development of the site including the stormwater management facilities shown in the wooded areas.

3. It is recommended that the stormwater management areas be incorporated into the overall landscape plan to enhance water quality and to make the stormwater facility an attractive community amenity.
4. A letter of no objection to recordation will be provided once the detailed Sediment and Stormwater Management plan has been approved.
5. Based on the site characteristics, a pre-application meeting is suggested to discuss stormwater management and drainage for this site.

### Drainage

The Drainage Section requests that any area designated as a drainage/utility easement be left as open space and not owned by the individual landowners. Structures, decks, buildings, sheds, kennels, fences or trees should not be placed within the drainage easement to allow for maintenance. The Drainage Section further requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

### Habitat

A review of our database indicates that the following species and/or communities at or adjacent to the project site:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Lycaena hyllus</i>	Bronze Copper	Butterfly	S2		G5	

**State Rank:** S1- extremely rare within the state (typically 5 or fewer occurrences); S2- very rare within the state (6 to 20 occurrences); B - Breeding; N - Nonbreeding; **State Status:** E – endangered, i.e. designated by the Delaware Division of Fish and Wildlife as seriously threatened with extinction in the state; **Global Rank:** G1 - imperiled globally because of extreme rarity (5 or fewer occurrences worldwide); G2 - imperiled globally because of great rarity (6 to 20 occurrences); G3 - either very rare and local throughout its range (21 to 100 occurrences) or found only locally in a restricted range; G4 - apparently secure globally but uncommon in parts of its range; G5 - secure on a global basis but may be uncommon locally; T\_ - variety or subspecies rank; Q – questionable taxonomy; **Federal Status:** LE – endangered, i.e. designated by the U.S. Fish and Wildlife Service as being in danger of extinction throughout its range; LT – threatened, i.e. designated by USFWS as being likely to become endangered in the foreseeable future throughout all or a significant portion of its range; PS – proposed status.

This species was collected from the freshwater emergent tidal marsh which borders the project site. We recommend maintaining this wetland area and increasing the buffer from 50 ft to at least 100 ft to reduce the amount of sediments, pollutants, and other non-point source material that could potentially affect the condition and survivability of organisms that rely on this habitat.

It is also recommended that you maintain the forested buffer of at least 100 ft along Spring Creek. In addition to the functions mentioned above, forested buffers also serve as habitat for many terrestrial species that are dependent on aquatic and wetlands habitats for a portion of their annual life cycle.

We request that no invasive species be used in the revegetation of disturbed areas. A list of species considered invasive in Delaware can be found on the DNHP web site, <[www.dnrec.state.de.us/fw/invasive.htm](http://www.dnrec.state.de.us/fw/invasive.htm)>. We further recommend the use of native plants and the DNREC botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

### **Open Space**

To maximize the existing buffering capacity and wildlife habitat on site, it is recommended that lot lines and other infrastructure (such as stormwater management ponds) be pulled out of the forest and areas of community open space be designated along the riparian areas. Doing so will accomplish two things: it will preserve the existing riparian buffers on site and its value for birds and wildlife and it will create recreational opportunities for residents by allowing them access to and views of the forest and stream.

In areas set aside for passive open space, the developer is encouraged to consider establishment of additional forested areas or meadow-type grasses. Once established, these ecosystems provide increased water infiltration into groundwater, decreased run-off into surface water, air quality improvements, and require much less maintenance than traditional turf grass, an important consideration if a homeowners association will take over responsibility for maintenance of community open spaces. It is suggested that the developer target the northwestern portion of the project site for such activities, as the existing buffer in this area is not as extensive as in other portions of the property.

Open space containing forest and/or wetlands should be placed into a permanent conservation easement or other permanent protection mechanism. Conservation areas should also be demarked to avoid infringement by homeowners.

### **State Resource Area**

This project contains land currently identified as part of the proposed Upper Murderkill River State Resource Area. State Resource Areas are comprised of lands that contain a variety of natural and cultural resources significant to the state, representing the finest

examples of Delaware's diverse natural heritage. Consideration should be given to protecting these resources during design and construction of this project.

This project contains lands along the Murderkill River of statewide significance identified by the Natural Area Advisory Council as the highest quality and most important natural lands remaining in Delaware. We acknowledge the effort to protect the forested lands on this property but discourage the removal of trees for storm water management sites. Consideration should be given to relocate the storm water management sites.

A minimum 100 foot buffer is recommended from the edge of any non-tidal or tidal stream or wetland, in which no clearing of vegetation or building of permanent structures be permitted. In order to provide increased protection for surface water quality, we recommend that lot lines remain outside of the buffer and reforestation occurs in areas where the existing buffer is less than 100 feet wide.

## **Recreation**

We discourage building trails or other recreational facilities adjacent to storm water basins where standing water and the potential flash flooding exist. Storm water infrastructure and active recreation facilities are not compatible.

It is recommended that sidewalks be built fronting every residence and stub streets. A complete system of sidewalks will: 1) fulfill the recreation need for walking and biking facilities 2) provide opportunities for neighbors to interact in the community and 3) facilitate safe, convenient off-road access to neighboring communities, public mass transit stops, schools, stores, work etc.

If a trail system is planned, we recommend that a series of stacking trail loops be designed with access points in each subdivision "pod" and connections to adjacent communities. Community trail systems with long continuous trails, perimeter-only trails, and systems with few access points, often go unused and neglected. For trail design/construction specifications, contact Susan Moerschel at (302) 739-5285.

The Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2003-2008 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities. The high and moderate facility needs in Kent County are listed below. Consideration should be given to incorporate some of these recreation opportunities into the project.

High Priorities include walking or jogging paths, bike paths, swimming pools, picnic areas, playgrounds, and fishing areas.

Moderate priorities include skate facilities, hiking trails, baseball/softball fields, campgrounds, soccer fields, volleyball courts, basketball courts, and canoe/kayak access

### **Underground Storage Tanks**

There are no LUST sites located near the proposed project. However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

### **State Fire Marshal's Office – Contact: Kevin McSweeney 739-3696**

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

- a. **Fire Protection Water Requirements:**
  - Water distribution system capable of delivering at least 1500 gpm for 2-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers. (Mercantile)
  - Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers. (Assembly and Townhouses)
  - Where a water distribution system is proposed for single family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required. (One & Two- Family Dwelling)
  - Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.
  
- b. **Fire Protection Features:**
  - All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
  - Buildings greater than 10,000 sq.ft., 3-stories of more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
  - Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
  - Show Fire Lanes and Sign Detail as shown in DSFPR

- For townhouse buildings, provide a section / detail and the UL design number of the 2-hour fire rated separation wall on the Site plan.

c. **Accessibility**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Barrett's Chapel Road must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

d. **Gas Piping and System Information:**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

e. **Required Notes:**

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Townhouse 2-hr separation wall details shall be shown on site plans
- Note indicating if buildings are to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

**Department of Agriculture - Contact: Mark Davis 739-4811**

DDA is not in favor of this proposed subdivision or the PUD conditional use request. This site borders an Agricultural Preservation District and is located in an active, viable agricultural community. Again we state: If a proposed new subdivision borders or is near an agricultural preservation district, then the owner of the preservation district is entitled to the following use protections, quoted from the Delaware Code:

**§ 910. Agricultural use protections.**

(a) Normal agricultural uses and activities conducted in a lawful manner are preferred and priority uses and activities in Agricultural Preservation Districts. In order to establish and maintain a preference and priority for such normal agricultural uses and activities and avert and negate complaints arising from normal noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations, land use adjacent to Agricultural Preservation Districts shall be subject to the following restrictions:

(1) For any new subdivision development located in whole or in part within 300 feet of the boundary of an Agricultural Preservation District, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:

*"This property is located in the vicinity of an established Agricultural Preservation District in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."*

(2) For any new subdivision development located in whole or in part within 50 feet of the boundary of an Agricultural Preservation District, no improvement requiring an occupancy approval shall be constructed within 50 feet of the boundary of the Agricultural Preservation District.

(b) Normal agricultural uses and activities conducted in accordance with good husbandry and best management practices in Agricultural Preservation Districts shall be deemed protected actions and not subject to any claim or complaint of

nuisance, including any such claims under any existing or future county or municipal code or ordinance. In the event a formal complaint alleging nuisance related to normal agricultural uses and activities is filed against an owner of lands located in an Agricultural Preservation District, such owner, upon prevailing in any such action, shall be entitled to recover reasonably incurred costs and expenses related to the defense of any such action, including reasonable attorney's fees. (*68 Del. Laws, c. 118, § 2.*)

A forested buffer is required between the proposed subdivision and all adjacent properties in active agricultural use. In addition, a forest buffer should be maintained for those pre-existing residential properties and along all streams, wetlands, and river that border the proposed subdivision.

The developer should consider a diverse landscape plan that uses Delaware native tree and shrub species and encourages the "Right Tree for the Right Place" concept.

Precautions should be made to preserve some of the larger pre-existing trees during the construction process. Preservation of select trees will add value to the subdivision and improve the overall appearance. It is recommended that a certified arborist be utilized in species selection and for developing guidelines for tree care during construction.

**Public Service Commission - Contact: David Bonar 739-4247**

Artesian was issued the CPCN for the area on July 6, 2004.

Please be aware that recent legislation placed non-governmental companies providing wastewater services to 50 or more customers (in the aggregate) under the regulatory control of the PSC. While rules are not yet in place, the service provider will need to apply to become a regulated entity (if not already) as well as apply for a CPCN to provide sewer services.

If there is any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines.

**Delaware State Housing Authority – Contact Karen Horton 739-4263**

DSHA supports this proposal because some of the units will be targeted for first-time homebuyers. The provision of these units will help address the need for affordable homeownership that was identified in the 2003 Statewide Housing Needs Assessment

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

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July 21, 2004

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Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in black ink and is positioned above the typed name and title.

Constance C. Holland, AICP  
Director

CC: Kent County