



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

July 11, 2005

Mr. Joseph T. Conaway, President  
Bridgeville Commissioners  
101 North Main Street  
Bridgeville, DE 19933

RE: PLUS 2005-06-09; Bridgeville Land Use and Development Code

Dear Mr. Conaway:

Thank you for meeting with State agency planners on June 22, 2005 to discuss the proposed Bridgeville Land Use and Development Code.

Please note that changes to the code, 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 following are a complete list of comments received by State agencies:

**Office of State Planning Coordination – Contact: Ann Marie Townshend 739-3090**

We applaud the Town of Bridgeville on the completion of its draft Land Use and Development Code. We ask that you consider comments made by State agencies as you finalize the ordinance.

On page 20 (Section 234-17), it states that the Board of Adjustment shall consist of 5 members, that these members shall serve a 3-year term, and that the terms shall be staggered that generally only 1 member is appointed or re-appointed each year. With 5 members and 3-year terms, the appointment of 2 members in a year will not be an uncommon occurrence. We suggest that you change 3(b) of this section to state, “The terms shall be staggered so that generally no more than 2 members are appointed or re-appointed each year.”

On page 53 (Section 234-36), there is a list of “Permitted Uses” in the Residential Planned Community Overlay district. Because this is an overlay district, that list should be eliminated. Permitted uses will exist in the base zoning district.

**State Historic Preservation Office (SHPO) – Contact: Alice Guerrant 739-5685**

Bridgeville's proposed development code does have a section on the historic district (Sec. 234-40). However, it is weak in several areas. There is no definition of the historic district, or what will constitute this overlay zone. Bridgeville has several properties individually listed in the National Register of Historic Places besides the NR-listed Bridgeville Historic District; will these be included in the overlay? The Town could decide on National Register listing as their criterion for historic overlay, they could include National Register-eligible properties as well as the listed ones, or they could develop their own criteria. In addition, there are a number of properties around the town, most of which have not yet been evaluated for eligibility for the National Register. Will there be some mechanism for protecting such properties by extending the historic overlay? Such properties are rural farmsteads for the most part; will there be allowances in the zoning to provide larger lots, landscaping, or other ways to protect their historic values and settings?

The State Historic Preservation Office has noted that they do not find the phrase "encourage development and redevelopment of Bridgeville's historic resources" particularly preservation-friendly. It is suggested that this read "encourage the appropriate maintenance and adaptive reuse of Bridgeville's historic resources, and appropriate infill of new development in historic areas."

What will the additional standards be to "maintain the historic character of the structure?" There needs to be a mechanism to develop these in writing, with opportunities for public comment. Will they be based on the Secretary of the Interior's Standards for Rehabilitation, on some other government's review standards, or will Bridgeville develop their own standards? They must be in writing and officially adopted by the Town to meet any legal challenges. Who will be the "applicable historic review agency?" Most local governments set up their own review board, thereby providing a forum for public discussion on historic preservation issues. This is recommended. If no local board is provided, the Town will have to enter into a relationship with an agency or consultant to provide architectural reviews to whatever standards the Town puts in place.

The property development standards should include some protection for the streetscapes, by requiring that new construction maintain the historic setbacks so that it does not interrupt the street's visual flow. What kind of protections will be in place in the case of a proposed demolition of a property in the historic overlay zone? There probably are other issues that should be considered as well. The State Historic Preservation Office will be happy to meet with the Town to discuss these issues, and to provide technical assistance on such things as defining historic property, establishing a historic review board, and developing review standards. The primary contact person for these issues is Robin Bodo, our National Register Coordinator. She can be reached at 302-739-5685.

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

- 1) In Article 2, it is recommended that changes be made to several definitions:
  - a) The definitions of Automobile Service Station and Gasoline Station, respectively on pages 6 and 10, are very similar. It is recommended that you use just one definition for both.
  - b) The definition of a Convenience Store, on page 6, seems too broad; most modern supermarkets provide these same services among others.
  - c) Why is a separate definition needed for a Triple-Attached Dwelling? It would appear to be simply a Townhouse Dwelling in a three-unit building.
  - d) There are two definitions for “Alley,” one on page 5 and one on page 15.
  - e) The definition of Garden Apartment, referenced in Section 234-31.B.2.b and elsewhere, appears to be missing.
- 2) The chart of the Major Development Plan Review Process, on page 29, includes code references in the left margin. DelDOT is unable to find the referenced sections.
- 3) Section 234-24.F.1.a (4), on page 33, prohibits adult-entertainment establishments within one mile of a church, school, hospital or similar institution. Given the current size of the town, this requirement seems impossible to meet. It is recommended that the Town be sure of its legality before adopting it.
- 4) Section 234-24.F.2.h (1), on page 34, permits “Small-scale retail uses” in campgrounds and parks. It is recommended that the Town consider quantifying “small-scale” with limit on floor area for each use.
- 5) Section 234-24.F.5.b, on page 35, refers to requirements for “Automobile storage facilities” at the entrances to drive-in theaters. Because this term could be confusing, it is recommended that the sentence be rewritten “Facilities shall be provided, between the access street and the ticket gates, to accommodate a queue of automobiles equal to at least 25 percent of the theater capacity.
- 6) Article 10 clearly states that “Large-Scale Retail Uses are permitted as conditional uses in the C-1 Zone.” It is not clear, however, in Article 7, that those uses are not permitted by right in C-1 and M-1 Zones.
- 7) In Section 234-62.B, Design Standards for Roads and Streets, beginning on page 81, DelDOT has the following comments:

- a) In paragraph 1, while it is technically correct to write, "...minimizing street grades, avoiding excess cuts and fills..." it might be clearer to write "...avoiding steep grades and excess cuts and fills..."
- b) In paragraph 3, a maximum cul-de-sac length of 1,000 feet is specified. It is recommended that a shorter length be considered. DelDOT is presently revising its subdivision street standards and they are considering a 200-foot limit, with an exception process for environmentally constrained areas.
- c) In paragraph 5a(2) indicates that new collector streets do not need to continue existing, planned or platted streets on adjacent tracts when the Planning & Zoning Commission determines that "Coordination between the 2 subdivisions is unnecessary." When might that occur?
- d) DelDOT strongly supports paragraph 5b, which requires that collector streets be extended to the property line of undeveloped adjacent tracts. DelDOT is presently revising its subdivision street standards and that concept, which we refer to as "connectivity," is central to those revisions.

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

**General Comments:**

The resource protection sections of this Land Use and Development Code are weak. Grant funds were awarded to the Town of Bridgeville through the Delaware Coastal Programs in part to address protections to wetland and stream buffers; however, there is no section that addresses required protection of stream and wetland buffers. In addition, no mention is made of deed restrictions or conservation easements for any natural areas. As such, the ability of this development code to meet its goals of promoting health, safety and general welfare and encouraging the most appropriate uses of the land cannot be met.

While it is understood that it has taken quite some time to develop this document, it is not adequate to meet basic and generally accepted environmental protections. This document should not be adopted without additional mechanisms for protection of resources.

**Page 1, Section 234-2, Purposes:**

This section should include a purpose that states something to the order of "direct development activities away from sensitive environmental resources" or "conserve sensitive environmental resources."

Over what distance shall agricultural uses, agricultural preservation districts, etc. be shown? On the parcel? Adjacent to? Or within 200 feet or more?

The list asks for a delineation of "...other environmentally sensitive areas..." What are "other environmentally sensitive areas?" At the very least, a definition of environmentally sensitive area should be included in the definitions section and should include habitat for rare or endangered species of plants and animals, mature and/or large tracts of forest, areas delineated by the state as Green Infrastructure, etc.

A review of the DNREC Natural Heritage Database should be required for all projects containing undisturbed open spaces, wetlands and forest. This database contains information and locations of the State's rare and endangered species.

Specify what "supporting documentation" is for wetland delineations.

What is a "significant feature?" Please define in the definitions section, and expand upon the concept in this section.

**Page 26, Required information, Improvements and Construction information:**

Why is an open space and recreation plan required only as a "general" requirement under the sketch plan? Detailed information about the management and maintenance of open space is necessary for informed decision-making.

**Page 63, Article 9, Overlay Zones:**

The Town is *strongly* encouraged to develop an overlay zone for "sensitive environmental features" including, but not limited to waterbodies and their buffer areas, wetlands, floodplain, steep slopes and scenic vistas. Delineating those areas known to be unsuitable for development and subdivision can increase predictability of the development process for both the developer and the planning and zoning commission. Such an overlay zone would support and provide the background information for decisions to be made under Article 13, section 234-56.F.1. that states that "land ...unsuitable for subdivision or development...shall not be subdivided or developed."

**Page 78, Character of Land:**

The general standard should be much stronger. It should specifically state that delineated wetlands, floodplains and steep slopes shall not be subdivided. Without such specific language, commissioners will have the ability to interpret this on a case by case basis, resulting in decreased protection to important environmental features and resources and perhaps resulting in subdivided land that becomes a maintenance problem for the Town due to drainage and erosion issues.

**Page 78, Mitigating Circumstances:**

This section should state that unsuitable lands shall be developed only in unusual circumstances, where not developing such land would result in a complete loss of

development potential of a parcel of land. Subdividing and constructing a few lots within, for example, steep riparian slopes along the edge of a large parcel should not qualify for a waiver when lots can be subdivided on other suitable land within the parcel.

**Page 81, Design Standards:**

This section should clearly articulate that construction of cul-de-sacs within subdivisions shall be minimized.

**Page 87, Delineation required:**

Section 2.a. – This section should also include requirements for delineation of flood plain, water resource protection areas, etc. on the plan, as well as all other resource areas as set forth in Administrative procedures.

Section 2.c. -- This section should be deleted. Building lots should never contain delineated wetlands. The U.S. Army Corps of Engineers considers wetlands within lots to be a “loss” and will require mitigation for this loss as part of the permit process. Wetlands within subdivided lots are highly likely to be impacted by homeowner activities, in violation of the Federal Clean Water Act.

**Page 88, Water Resource Protection Areas:**

DNREC applauds the first steps that the Town of Bridgeville has taken in recognizing “Water Resource Protection Zones” as essential for maintaining a clean and sustaining water supply. DNREC - Division of Water Resources, Source Water Protection is available for any questions that the Town of Bridgeville regarding source water protection code development and implementation. They strongly encourage the Town of Bridgeville to adopt wellhead protection areas and excellent recharge areas as Critical Areas that need to be protected to insure a sufficient supply of clean drinking water.

The adoption of Critical Areas (excellent recharge and wellhead protection areas) would fit well in Section 234-42 (page 66) of the Land Use and Development Code. Adoption of the areas as “Critical Areas” sets the stage for any Regulations developed and listed as part of Section 234-71 (page 88). If the Critical Areas were adopted in the Comprehensive Plan, this step is not necessary for the Code.

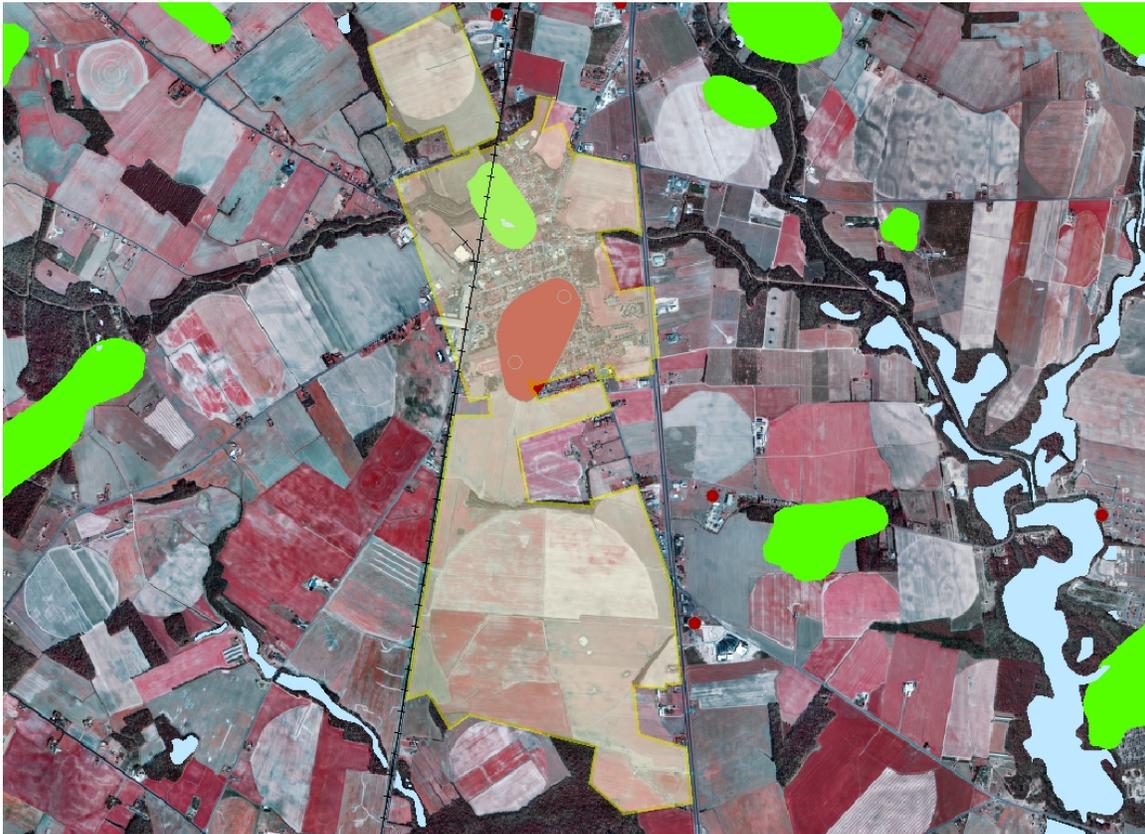
The DNREC Water Supply Section has delineated the wellhead protection area for the Town of Bridgeville which covers a large part of the developed area for the Town of Bridgeville. This delineation was completed for the three supply wells that serve the town and the final assessment was provided to the Town of Bridgeville at the end of 2002. The Town included this information in the Comprehensive Plan of February 2002.

An excellent recharge area exists within the municipal boundary. The three wells that supply the town are entirely within the municipal boundary. The wellhead area

associated with these wells is almost entirely within the municipal boundary (See map next page). Part of the wellhead area falls outside of the Town of Bridgeville's jurisdiction in Sussex County jurisdiction. DNREC encourages the Town of Bridgeville to be aware of the regulations and ordinances that Sussex County develops since it will directly affect the capture zone for the public wells.

As the Town of Bridgeville begins to develop regulations and ordinances to protect Critical Areas, we encourage the Town to utilize the Source Water Protection Guidance Manual for the Local Governments of Delaware as a reference point (<http://www.wr.udel.edu/swaphome/phase2/SWPguidancemanual.html>). The recommendations in this document should be fully incorporated into this section. Once incorporated, resource agencies should be provided an additional opportunity to review and comment on the changes made to this section.

Map of Town of Bridgeville with municipal boundaries in light yellow, wellhead areas in dark red and excellent recharge in light green.



**Page 105, Land Dedication:**

1.c.5. – What happens if more than 25% of a parcel to be developed is floodplain? Will the town not accept it as part of the subdivision open space? Does this then encourage inappropriate development of the floodplain?

What about dedication of wetlands, waterbodies and buffers?

Who will maintain and manage stormwater facilities and their associated easements?

**Page 107, Section 234-89, Maintenance:**

The municipality should strongly consider assuming maintenance responsibility for these open spaces; one of the benefits of being within an incorporated area is the additional services that can be provided above and beyond what are provided in the unincorporated area. Many homeowner's associations/maintenance corporations are volunteer based, have difficulty collecting annual fees and often lack the knowledge, skills and political capital to properly manage open spaces, particularly natural open areas such as streams and wetlands, and most certainly stormwater management ponds.

**Page 108, Screening and Landscaping:**

This section should encourage use of native plants when possible. It should explicitly prohibit the use of the 10 "problem" plants as identified by Livable Delaware efforts.

**Page 109, Shading:**

B. What is an "unreasonable" burden? Who will decide what that burden is?

**State Fire Marshal's Office – Contact: Duane Fox 856-5298**

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. The DE State Fire Marshal's Office has the responsibility to review all commercial and residential subdivisions for compliance with the DE State Fire Prevention Regulations. This Agency asks that a MOU be established between the DE State Fire Marshal's Office and the Town of Bridgeville. The Town of Bridgeville will be issuing final approvals on commercial and residential subdivisions. The State Fire Marshal's Office would be issuing approvals much like DelDOT, Sussex Conservation District, and DNREC. This Agency's approvals are based on the DE State Fire Prevention Regulations only.

- The DSFPR require dead-end roads that exceed 300 ft require an approved turn-around or 38 ft paved radius cul-de-sac. A reference to DSFPR Part V Chapter 1 Section 1-2.4 should be added to your document.

Some of the compliance issues are listed below. 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 (Road Name Here) 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 building is 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. 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: Milton Melendez 698-4534**

The Delaware Department of Agriculture has no objection to the Bridgeville Land Use and Development Code. Nevertheless, it should be noted that primary “Developing Areas” of the town border two properties that have been permanently preserved. There are building restrictions that protect the agricultural activities of those properties; therefore, any planned development on adjacent lands will be subject to those restrictions. For further information you may contact Milton Melendez at (302) 698-4534.

The Delaware Forest Service commends the efforts taken by the community to develop an ordinance to direct future growth. The Delaware Forest Service has only a few minor

suggestions to further clarify and strength the sections relating to trees within the community.

Page 108 – Please consider the use of species identified within the publication “Trees for Delaware” this includes a mix of variety of trees of hardwood and softwood species. In addition, this publication encourages the concept of the “Right Tree for the Right Place” to avoid future maintenance cost to the community and its residents. Finally, species such as Leyland Cypress should be greatly limited in use within the community. Species such as this one when over planted will increase maintenance cost to the community. Also the Forest Service would encourage the community to reference its long term relationship with the Delaware Forest Service and make reference to the services they provide to serve as a technical and educational resource to the community and future developers.

Page 109 – Reference the ANSI 300A Planting Standards for future tree planting activities. This will allow for a simple reference for professionals whom work within your community and will require less updates as industry trends change over time.

**Public Service Commission - Contact: Andrea Maucher 739-4247**

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

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

The Town of Bridgeville Land Use and Development Code establishes a Town Center Zone in the older areas of Bridgeville. The Town Center Zone will allow mixed development by blending commercial and residential uses together. The Town Center Zone will allow for diverse housing types within the Town’s Center, creating a healthy mix of businesses, residences, social, and economic activity.

**Delaware Economic Development Office – Contact: Dorrie Moore 739-4271**

The Delaware Economic Development Office (DED0) supports the Bridgeville Land Use Policy and Development Code. Our office will work with the Bridgeville officials regarding economic development issues in the Town.

**Following receipt of this letter, the applicant shall provide 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 code or not and the reason therefore.**

PLUS 2005-06-09

July 11, 2005

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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 printed name and title.

Constance C. Holland, AICP  
Director