



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF MANAGEMENT AND BUDGET  
STATE PLANNING COORDINATION

October 18, 2007

Mr. Gary Taylor  
Town of Selbyville  
68 West Church Street  
Selbyville, DE 19975

RE: PLUS review – PLUS 2007-08-03; Selbyville Comprehensive Plan

Dear Mr. Taylor:

Thank you for meeting with State agency planners on August 22, 2007 to discuss the proposed Town of Selbyville Comprehensive Plan.

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 following are a complete list of comments received by State agencies:

***Certification Comments:* These comments must be addressed in order for our office to consider the plan amendment consistent with the terms of your certification and the requirements of Title 22, § 702 of the Del. Code.**

- The plan as presented makes no mention of the US 113 North / South Study. As you are aware this is an extensive planning and implementation process to ensure the health and vitality of this highway corridor. Before certification maybe considered the town should meet and clarify their position on this project and include a summary of the decision reached by the Town and Del-Dot.

- The town must expand and further explain the public process that was undertaken to develop this update and how community concerns were identified and addressed in the planning process.

***Recommendations: Our office strongly recommends that the Town consider these recommendations as you revise your plan.***

**Office of State Planning Coordination – Contact: Bryan Hall 739-3090**

- This office and several other state agencies including the Department of Agriculture recognizes that the town should re-evaluate the current 2.2 units per acre zoning that as described in the DRAFT promotes sprawl which impacts the local agricultural community. The Town should consider further expanding its growth areas along US 113 to allow for increased density and should consider the use of TDR's to further support and promote the agriculture community.
- This office supports the mapping recommendations made by the Department of Transportation that suggest the creation of a local road map to clarify this infrastructure designation. In addition, the need to clarify Map 2 of the DRAFT plan to better reflect local resources will only highlight the many services currently provided while identifying the need to plan for others; for example the need for an increase in local medical services. By identifying these additional services, it may lend itself to plan and aid in the redevelopment of the downtown area; a concern expressed by the Town and by several state agencies.
- This offices echo's the concerns rose by DNREC that a necessary implementation item once the comp is adopted is the need to protect drinking water. Although this is not a requirement for certification at this time based upon local population numbers; the continued proposed growth pattern for the community will likely impact the resource over time.
- As part of the implementation process, the Town should consider partnering with DNREC to strengthen environmental regulations and clarify the Town's definition of open space to further protect natural resources within the existing and future Town.

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

- 1) On page 5, the first paragraph under Location and History includes a statement that the town "is surrounded by farmland on three sides." DelDOT understands

- that this is a reference to the fourth side being the Maryland line, but we point out that the land there is farmland too.
- 2) Because the Plan refers frequently to local streets, it would be helpful to include a map showing the names of those streets.
  - 3) The scale of Map 2 – Social Services is such that it is difficult to see the exact locations of the facilities shown. DelDOT recommends that a different scale be used for this map, similar to the scale used for Maps 3 and 4. However, they also support Sussex County’s comments on the desirability of showing planned services in the areas that have been annexed recently or that may be annexed in the future. Perhaps two maps are needed.
  - 4) DelDOT supports the Office of State Planning Coordination’s comments on the public involvement effort associated with developing the Plan. This effort should be discussed in more detail.
  - 5) The Transportation chapter does not mention the US 113 North/South Study, which is exploring options for a limited-access facility in the US 113 corridor. DelDOT appreciates the Town’s efforts to work with us in the study process. They recommend that some discussion of that effort be included in the Plan.
  - 6) On Map 5 – Future Land Use, north of Route 17, there is one area outside the Town boundary that is marked for residential use and one area that is inside the Town boundary but is not marked for any use. Are these errors?
  - 7) The Plan mentions the proposed 1.4 million square foot Selbyville Town Centre shopping mall twice, once on page 7 in describing current conditions in Selbyville and once on page 21 in discussing the need for more skilled, higher-paying jobs. Presently a traffic impact study (TIS) is in progress for the mall and DelDOT expects to have more detailed comments on the project after the TIS is complete. For now, however, DelDOT has three observations regarding the proposed mall as it relates to the Plan:
    - a) The proposed mall is mentioned as an example of progress in providing skilled, higher-paying jobs. Retail jobs require more skill and provide better pay than some of the agricultural jobs presently available in the town, but they do not require as much skill, or pay as well, as many manufacturing and professional jobs. The Plan should explain more about this situation.

- b) Perhaps because it does not mention the US 113 North/South Study, the Plan does not mention that all options considered by that study, including improvement of the existing road, would affect the proposed shopping mall. Because the plan for the mall is still being developed and there are still several highway options under consideration, a full treatment of these issues may not be possible in the context of the Plan but recognition of them in the Plan is important.
- c) On page 21, it is mentioned that the “Downtown business area needs promotion” and, on page 22, there is an objective “To attract new businesses to the Downtown business area and create an atmosphere for joint promotion.” Often, downtown business areas lose customers and then businesses when large shopping centers open nearby.

Therefore, it is recommended that the Town consider including a recommendation in the Plan for a study to identify possible effects of the mall on the downtown business community and to find ways to address those affects. For example, if there are businesses that would likely move from the downtown area, can they be encouraged to stay? If so, how? If not, what sorts of businesses would be good candidates to replace them, and how can the Town attract those businesses? As discussed at the PLUS meeting, however, it may be that the businesses that would be affected by the mall have already left the downtown area.

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071**

### **Water Resources**

It is apparent in the Town of Selbyville’s update to its comprehensive plan that protecting ground water, surface water and wetlands are of utmost importance to the Town. It cannot be done without the Town’s continued recognition of the connection between its land use practices and its commitment to environmentally sensitive land use and growth.

Water supply allocation is a major concern that needs to be addressed.

Well head protection could be managed better through updating the Town’s Source Water Protection Ordinance.

The Natural Resource and Environmental Protection Section needs to be rewritten to account for local actions the Town can take inside its own boundaries to address the Total

Maximum Daily Load (TMDL). The Town should have its own ordinances to improve water quality and habitat in response to the TMDL.

The Comprehensive Plan should recommend that ordinances be updated to improve water quality. It appears the definition for wetlands in the Subdivision Ordinance is not complete. It does not include wetlands as defined by the U.S. Army Corps of Engineers. At a minimum the Town should require a copy of any permits a delineation and jurisdictional determination by the U.S. Army Corps of Engineers before providing any approvals.

Many of the Town's efforts to reduce the negative effects of poor planning and sprawl appear to be aimed at controlling density. Another means could be promoting Leadership in Energy and Environmental Design (LEED). See the US Building Council at <http://www.usgbc.org/DisplayPage.aspx?CategoryID=19>

Below are specific comments:

### **Page 27, Water Facilities**

The current Town water supply is permitted under Water Allocation permit 89-0004M, last modified in 1995. The most recent Water Use Report (2006) shows an annual water use of 110,986,000 gallons for a population of 2,021. The permit allows an annual water use of up to 165 million gallons. The Water Allocation Program has the following concerns about the current water use:

1. The per capita water use is currently 150 gallons per day per capita almost double the statewide average, and it is rising quickly.
2. The last year's unaccounted for water losses were 18%, well above the regulatory goal.
3. No water levels were reported for the wells in the last reporting cycle.

Future water use will be hard to predict, because of the following omissions from the comprehensive plan:

1. Projected build out population for the proposed annexation areas.
2. Planned expansion of the water treatment plant.
3. Future well locations, if needed.

Although the plan proposes expansion of the public wastewater treatment plant to 2 MGD, it is not clear if there will be an expansion of the water treatment plant beyond its current 1 MGD.

Assuming that present water use and population trends continue, the Town can be expected to exceed its permitted annual water use limit by 2016 and its peak daily use limit by 2013. Accelerated development could accelerate that timetable. Either new wells or another water source will be needed before that time.

The Water Supply Section, Ground Water Protection Branch (GWPB) determined that the proposed annexation area does not fall within any excellent ground-water recharge potential areas. There is a wellhead protection area within the existing municipal boundaries (see map). The maps submitted in this application do not show proposed well sites.

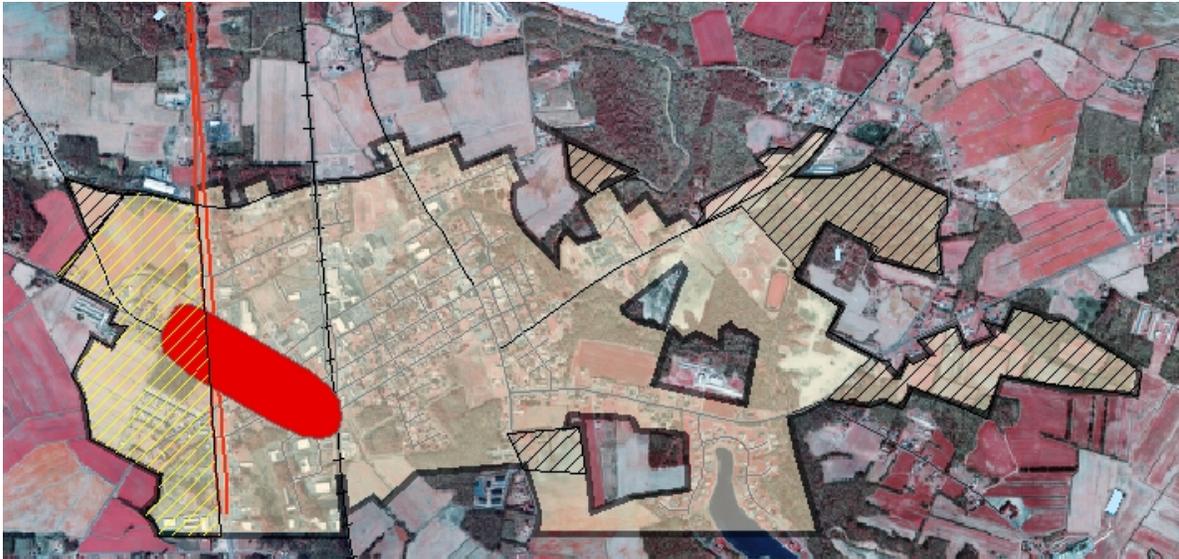
Current wellhead protection ordinances in the Town prohibit the following (among others) within the wellhead area:

1. Application of hazardous materials, including pesticides.
2. Underground storage tanks
3. Stormwater infiltration basins
4. Sanitary landfills

The current wellhead protection area extends up to 2,700 feet from the existing wells in the up gradient direction. **The Comprehensive Plan needs to address what precautions will be taken to assure that suitable space for new wells will be available when needed.**

The Town of Selbyville developed and adopted an ordinance to address wellhead protection and areas of excellent recharge in August of 2006. GWPB applauds the Town's efforts. The document was referenced to examine its effectiveness in protecting these areas as the Town grows. This review found the existing ordinance to have problematic language.

- Water Supply GWPB recommends that the Town revise and update their source water protection ordinance.
- Water Supply GWPB is willing to meet to discuss the recommended revisions and updates.



**Map 1. Town of Selbyville Comprehensive Plan Amendment (PLUS 2007-08-03)**  
The wellhead protection area is shown in red.

**Page 37, Background subsection of the Natural Resources and Environmental Protection Section**

The first paragraph under the Natural Resources Section, states that “Selbyville is located within the Bunting Branch.” Although true, Selbyville’s current municipal town boundary is also contained within the Little Assawoman and Assawoman watersheds. Moreover, future annexation could extend the municipal Town boundary beyond the Bunting Branch into the Little Assawoman and Assawoman watershed. Furthermore, the future proposed land annexation(s) may extend well into the Indian River Bay watershed.

In addition, please consider the following as a revision in lieu of the last 4 sentences of the first paragraph:

Under Section 303(d) of the 1972 Federal Clean Water Act (CWA), states are required to identify all impaired waters and establish total maximum daily loads (TMDLs) to restore their beneficial uses. A TMDL defines the amount of non point and point source pollutants a water body can absorb on a daily basis without violating State water quality standards. A Pollution Control Strategy (PCS) will

provide the regulatory framework for achieving the TMDL reductions necessary for meeting State water quality standards.

TMDL regulations have been developed for all watersheds (e.g., Buntings Branch, Indian River Bay, Little Assawoman and the Assawoman) affected by current and projected residential and/or commercial development.

The Bunting Branch watershed TMDL requires nutrient reductions of 31% and 19% for total nitrogen and total phosphorus from baseline conditions, while a 40% (17% for marine waters) reduction will be required for bacteria from baseline conditions.

The Indian River Bay watershed TMDL for the low nutrient reduction area requires a nutrient reduction of 40% for total nitrogen and total phosphorus from baseline conditions (high reduction areas will require an 85% and 65% reduction in total nitrogen and total phosphorus, respectively), while a 40% (17% for marine waters) reduction will be required for bacteria from baseline conditions.

The Little Assawoman Bay watershed TMDL requires a nutrient reduction of 40% for total nitrogen and total phosphorus from baseline conditions, while a 40% (17% for marine waters) reduction will be required for bacteria from baseline conditions.

**Page 37. Strengthen the Recommendations section for Natural Resources and Environmental Protection.**

**1) Specific or Scientifically Defensible Buffer Width Recommendations.**

100-foot minimum upland buffer width (planted with native vegetation) from all wetlands and water bodies are important for mitigating nutrient and sediment impacts.

Research has documented that a buffer width of less than 100-foot is not sufficiently protective of water quality. In fact, a literature review of existing buffer research has documented consensus among researchers that a 100-foot upland buffer is the minimum buffer width necessary, under most circumstances, to protect water quality. (Castelle, A.J., A.W. Johnson, and C. Conolly. 1994. Wetland and Stream Buffer Size Requirement—A Review. *J. Environ. Qual.* 23:878-882.

Mayer, Paul M., Steven K. Reynolds, Jr., Marshall D. McCutchen, and Timothy J. Canfield. 2007. Meta-Analysis of Nitrogen Removal in Riparian Buffers. *J. Environ. Qual.* 36:1172-1180.)

## **2) Ordinance to Reduce Impervious Surface Areas.**

Studies have shown a strong relationship between increases in impervious cover to decreases in a watershed's overall water quality. Reducing the amount of surface imperviousness through the use of pervious paving materials ("pervious pavers") in lieu of asphalt or concrete, is an example of a Best Management Practice (BMP) that could be implemented to help reduce non-point source pollution. The use of pervious paving materials is especially important for large commercial parking lot areas.

It is strongly recommended that the Town enact an ordinance requiring a best management practice (BMP) implementation plan for all residential and/or commercial development exceeding 20% imperviousness.

Additionally, the ordinance should define how to calculate surface imperviousness. The calculation for surface imperviousness should include all constructed surfaces that contribute to imperviousness including, roads, rooftops, and sidewalks.

## **3) Protect Open Space through ordinance**

It is strongly recommended that the Town adopt an "open-space" ordinance.

## **4) Restrict Development on Hydric Soils**

Hydric soils are soils that have a high seasonal high water table (less than one-foot from the soil surface) and are generally considered unsuitable for development. Building in hydric soils is likely to leave prospective residents susceptible to future flooding problems from groundwater-driven surface water ponding, especially during extended periods of high-intensity rainfall events such as tropical storms/hurricanes or "nor'easters." Since much of the land area in and around the Town of Selbyville contains poorly to very poorly-drained hydric soils, it is strongly advised that the Comprehensive Plan include a recommendation to enact an ordinance which specifically restricts development to non-hydric soil mapping units.

### **The Plan should incorporate the following as recommendations for future ordinances:**

- a) An ordinance requiring all applicants to submit a United States Army Corps of Engineers (USACE) approved wetlands delineation to the Town of Selbyville before any approval for commercial and/or residential development. Additionally, this ordinance should also require proof that DNREC was contacted for purposes of assessing the impacts to tidal wetlands.

- b) An ordinance requiring a 100-foot upland buffer (planted in native vegetation) from all wetlands and water bodies.
- c) An ordinance requiring the calculation for surface imperviousness for all commercial and residential development include all constructed forms of surface imperviousness, including rooftops, roads, and sidewalks.
- d) An ordinance requiring a best management practice (BMP) implementation plan for all residential and commercial development exceeding 20% imperviousness.
- e) An ordinance prohibiting the placement of stormwater management ponds within 100-feet of water bodies and wetlands.
- f) An ordinance should be adopted that prohibits the placement of lot lines within wetlands within all “new” commercial and/or residential developments. Existing or established lots should “maximize” – to the greatest degree practicable – the distance from building structures and the wetlands line.
- g) An ordinance that prohibits development on hydric soil mapping units (using the NRCS soil survey or a licensed soil scientist as determinants).
- h) An ordinance requiring the applicant to use “green-technology” stormwater management in lieu of “open-water” stormwater management ponds whenever practicable.

## **Drainage and Stormwater Management**

### *1. Surface Water Management*

- Surface water management is a key element that is missing in the comprehensive plan. Add a section under infrastructure to identify and discuss how surface water – particularly stormwater- is managed in the town. Include recommendations for future surface water management as part of the plan, particularly with the level of development and annexation proposed.

The potential town expansion area would include the upper reaches of Bear Hole Ditch, Polly Branch, Sandy Branch, and White Oak Swamp Ditch. The development of a master drainage and stormwater plan in conjunction with an impervious cover overlay would allow for the proper maintenance of drainage

conveyances while balancing growth to keep the watersheds below 15-20 percent impervious surfaces.

Update current codes and ordinances to allow for, encourage, and/or require low impact design elements for new and redevelopment when practical and as they comply with other local ordinances and state and federal regulations (FEMA, Coastal Development, etc). These practices can greatly assist in improving water quality conditions for local waters.

## 2. *Tax Ditches*

- The potential town expansion area would include five tax ditch organizations. Within the area of potential expansion is a network of private drainage ditches that conveys surface water to existing tax ditches. These well-organized and maintained tax ditches provide the drainage conveyance framework that enables the area to have productive farmland and desirable residences.
- Streams, tax ditches, and private ditches will require periodic reconstruction at intervals dependent upon the sedimentation load from upstream. Periodic reconstruction involves the removal of sediment from the ditch bottom to establish or reestablish a design grade. The removed sediment, referred to as spoil, is typically disposed of by spreading along side the ditch within the tax ditch right-of-way. Tax ditch rights-of-way need to be unobstructed.
- Existing tax ditch rights-of-way should be protected from development encroachment to allow for routine maintenance and periodic reconstruction. Routine maintenance primarily consists of mowing ditch bank vegetation and the removal of small blockages. Periodic tax ditch reconstruction involves the removal of sediment from the ditch bottom to reestablish the original design grade. The removed sediment, referred to as spoil, is typically disposed of by spreading within the tax ditch right-of-way. By the town allowing subdivision lot lines to be within the tax ditch right-of-way the town is limiting the tax ditch organization the ability to properly maintain the surface water drainage system vital to the town.
- The town should explore the practice of one sided construction and maintenance of private ditches and tax ditches providing there is adequate room for maintenance. Work with the DNREC Drainage Program, Sussex Conservation District, Bunting Tax Ditch, Bear Hole Tax Ditch, Puncheon Tax Ditch, Sandy Branch Tax Ditch, and the Vines Branch Tax Ditch to ensure adequate tax ditch right of way is retained for the placement of spoil.

### 3. *Alternatives*

- **Page 33, *Encourage Bicycle and Pedestrian interconnections in new developments.***
  - Explore the use of tax ditch rights-of-ways and other open space set aside for drainage maintenance for bicycle and pedestrian interconnections in new developments.
  
- **Page 36, *Consider requiring open space set-aside or payment in lieu of open space.***
  - The consideration of payment in lieu of open space should be balanced against the space needed for the maintenance of drainage conveyances. The town should map existing drainage conveyances, tax ditches and private ditches, and ensure their protection. By protecting drainage conveyances, along with their adjacent maintenance areas, an interconnection of bicycle and pedestrian paths would be established. In this manner, the developers would get some credits toward open space requirements while the town would get some payments in lieu of open space. Town residents would be able to utilize the bicycle and pedestrian paths to and from existing and future park and sports areas.
  
- **Page 37, *Consider requiring buffers when land is converted from agriculture to urban uses.***
  - Planting of riparian buffers should consider drainage maintenance. On private ditches, where practical, the buffers should be planted on the south and west side of the ditch to maximize shading. Trees and shrubs should be native species, spaced to allow for mechanized drainage maintenance at maturity. Tree and shrub planting in this manner will provide a shading effect promoting water quality while allowing future drainage maintenance. Trees should not be planted within 5 feet of the top of the bank to avoid future blockages from roots. The buffers as well as the channel banks should be planted with herbaceous vegetation to aid in the reduction of sediment and nutrients entering into the conveyance. Grasses, forbs and sedges planted within this buffer should be native species, selected for their height, ease of maintenance, erosion control, and nutrient uptake capabilities.

## **Floodplains**

### **Page 37, Natural Resource and Environmental Protection**

- Recommend including a plan to limit development in the floodplain. There is a fair bit of construction already located in the floodplain and commercial development slated for areas adjacent to the floodplain and although the town seems to be trying to limit impervious surfaces, something like the mall could have a big impact on flooding issues in the area.
- Also, the floodplain seems to be constricted at both 113 and the railroad tracks. The Mountaire Chicken processing plant is in the floodplain and on one occasion during a flood one of their wastewater lagoons failed and discharged into the stream. These types of problems will likely continue without a plan to control development in the floodplain.

It appears as though these are commercial structures that are currently located in the floodplain. There is also plenty of farm land in and adjacent to the floodplain that will be annexed. What is the plan in these areas (they are shown as the new commercial district on the town's map)?

The Division is committed to providing technical assistance as needed as the Town works to revise local codes, ordinances, and local environmental management programs and policies. Please contact Jennifer Campagnini, Planner at 302.739.9921 or [Jennifer.campagnini@state.de.us](mailto:Jennifer.campagnini@state.de.us).

### **State Resource Areas**

Four parcels in the Areas of Potential Expansion (Map 8) to the north, in whole or in part, are within the Jay Patch State Resource Area; the Jay Patch is a large area of wet forest. Five parcels in the Areas of Expansion to the west are a part of the Great Cypress Swamp State Resource Area; the Great Cypress Swamp is the largest forested tract in the State. Both State Resource Areas provide wildlife habitat and are important for maintaining water quality.

In its Comprehensive Plan, the Town of Selbyville should include a map of the State Resource Areas and should incorporate language that specifically addresses how lands in these ecologically sensitive areas will be protected.

## Rare Species

Please note that the entire area of interest has not been surveyed for the presence of rare species, so it is unknown what impact developing some of these areas could have on those species. The following species are known to occur within or adjacent to areas currently designated for potential expansion into mixed residential/commercial:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Accipiter cooperii</i>	Cooper's Hawk	Bird	S1B		G5	
<i>Nerodia erythrogaster</i>	plain belly watersnake	Reptile	S1		G5	
<i>Opheodrys aestivus</i>	rough green snake	Reptile	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; SX-Extirpated or presumed extirpated from the state. All historical locations and/or potential habitat have been surveyed; SH- Historically known, but not verified for an extended period (usually 15+ years); there are expectations that the species may be rediscovered; SE-Non-native in the state (introduced through human influence); not a part of the native flora or fauna.

**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 Candidate – Taxa for which the U.S. Fish and Wildlife Service has on file enough substantial information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species.

It is highly recommended that impacts to rare species and wildlife habitat be considered when land use changes are proposed. In addition, our office may like the opportunity to survey some of these areas so that we can provide informed comments and recommendations that would reduce impacts to rare species, especially those that are listed as State-rare.

## Riparian and Wetland Buffers

From a wildlife perspective, not only are buffers important for maintaining the function and integrity of wetland habitat, but these buffers also provide critical habitat for wetland dependent species during a portion of their life cycle. Also, buffers along riparian areas are especially important for wildlife travel.

The plan does mention the importance of buffers, but needs to go a step further and state what measures will be put in place to ensure that the buffers are adequate for the purpose they need to serve. Upland buffers around wetland areas and along water courses should be at least 100 feet in width to provide the functions listed in the paragraph above.

Buffers should be comprised of native vegetation and not simply mowed lawn areas. These recommendations are based on peer reviewed scientific research.

### **Forested Wildlife Habitat**

There is no mention of forest protection in the plan, although there are several large forested parcels within the potential annexation area. An estimated 20,000 acres of forest have been lost in Delaware since 1990. Cumulative loss of forested habitat has led to a corresponding loss of forest-dependent species (Environmental Law Institute. 1999. *Protecting Delaware's Natural Heritage: Tools for Biodiversity Conservation*. ISBN#1-58576-000-5). Large, connected areas of forest are important for many species of wildlife, especially migratory birds, due to the State's location within the Atlantic flyway. When forested areas are fragmented by development, wildlife populations are separated, road mortality increases, invasive species have an advantage and many forest dwelling species become more vulnerable to predation. In addition, human/animal conflicts increase because displaced wildlife must either disperse into surrounding areas or coexist with people.

Cumulative forest loss throughout the state is of utmost concern to our Division which is responsible for conserving and managing the states wildlife (see [www.fw.delaware.gov](http://www.fw.delaware.gov) and the Delaware State Code, Title 7). Because of an overall lack of forest protection, we have to rely on those who are responsible for land use change and/or the entity that approves the change (i.e. counties, towns and municipalities) to consider implementing measures that will aide in forest loss reduction.

DNREC highly recommends that maintaining large, connected areas of forest be a priority when land use changes are proposed. It would be even more beneficial if there was an incentive to preserve these areas *before* they are earmarked for development. There was some indication in the plan that additional recreational opportunities and open space were desirable and these forested areas could fulfill part of that need.

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

At this time, this Agency has no objection to, and makes no comments regarding, the Comprehensive Plan or an amendment to a Comprehensive Plan.

### **Department of Agriculture - Contact: Scott Blaier 698-4500**

The Delaware Department of Agriculture would like to congratulate the town on a thorough and well-written comprehensive plan. DDA would like to offer the following comments for the Town's consideration:

- The town's comprehensive plan considers potentially annexing a large area of land in the future, in effect doubling its size (page 44). Much of this land is currently in agricultural use. It was the Department's understand during the plan review at the August 22 PLUS meeting that the maximum permitted density allowed in the future annexation area will be 2.2 units per acre (R3 and R4 zoning designation).
- The Department urges the Town to consider some higher density and mixed use zoning for these areas as well. Generally, when municipalities annex new land, they provide sewer and water service that allows higher density development. From the Department's perspective this is the best case scenario, as it uses less farmland acres to accommodate the state's growing population. From a state planning perspective, higher density development within municipalities allows more efficient growth and allows many of the State's livable Delaware goals to be achieved such as: affordable housing, viable public transportation alternatives, farmland preservation, to name a few.
- The Department asks that plan include some additional discussion in the Agricultural Preservation Section on page 35, including transfer of development rights (TDRs). DDA understands that the town is not interested in being a receiving area at the moment, but an opportunity may present itself in the future whereby the town may benefit from participating in a TDR program.

DDA would also mention that wastewater spray irrigation is now allowed on farmland enrolled in the Agricultural Lands Preservation Program. Some landowners have already taken advantage of this provision to create or expand existing sewer capacity or expand processing facilities that discharge large volumes of wastewater (i.e. poultry processing plant).

- The Delaware Forest Service would like to work with the Town of Selbyville to develop a comprehensive urban forestry plan that would address relevant issues within the Town. Trees should be considered a part of the Town's infrastructure just as roads and utilities. Planning to include tree conservation during development, and tree canopy goals would dovetail with goals already stated in the current update of the comprehensive plan. Please contact the Delaware Forest Service at (302) 659-6705 for more information.

**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 Vicki Walsh 739-4263**

DSHA has reviewed the Municipal Comprehensive Plan for the Town of Selbyville to determine how the Municipality has incorporated the State's goals, policies, and strategies as they relate to affordable housing. Since the Town of Selbyville's population is less than 2,000, the Comprehensive Plan is required to state their position on housing growth. DSHA supports the Plan's position on housing growth. However, because of the increasing housing challenges facing this area, we encourage the Town of Selbyville also include incentives that ensure long-term affordable housing for low- and moderate-income persons.

The following list of tools and mechanisms are examples of some initiatives that the Town of Selbyville can implement in creating affordable housing opportunities to residents and employees:

- Innovative zoning techniques to provide additional affordable housing opportunities within the existing housing stock, such as permitting accessory dwelling units in residential areas as a matter of right. This would help address at least some of the seasonal housing issues;
- Require, as part of all annexation agreements for parcels being annexed, that some of the units be set aside to be affordable for low- and moderate-income persons via long-term affordability restrictions;
- Partner with the Diamond State Community Land Trust (DSCLT) to ensure long-term affordable homeownership opportunities to low- and moderate-income households. This can be done by donating land to the DSCLT, within the Town of Dewey Beach, or through contractual agreements for monitoring long-term affordability restrictions on units that have been set aside to be affordable;
- Encourage the provision of employee-occupied rental units within commercial and public facilities;
- Provide developer incentives, such as density bonuses or expedited review, to facilitate affordable housing opportunities; and
- The Town can also ensure that some of the housing units attained, through the above mechanisms, be targeted for employees of the Town, local businesses or local emergency service providers.

DSHA is available to meet with the Town of Selbyville to further discuss planning for affordable housing. Please contact Vicky Walsh at (302) 739-4263 or via e-mail at [Vicky@destatehousing.com](mailto:Vicky@destatehousing.com) if you have any questions or are interested in learning more about these programs.

**Department of Education – Contact: John Marinucci 735-4055**

1. The DOE supports the State Strategies for Policies and Spending, to the extent possible and practicable within the limits of the Federal and State mandates under which the Department operates.
2. In its review of Comprehensive Plans and Comprehensive Plan Amendments, the DOE considers:
  - Adequate civil infrastructure availability within the region to accommodate current and future educational facilities.
  - Transportation system connections and availability to support multimodal access within the community, to include but not limited to walk paths, bike paths, and safe pedestrian grade crossings.
  - Transportation road system adequacy to accommodate bus and delivery vehicle traffic to current, planned or potential educational facilities.
  - Recreation facilities and opportunities within the community and their respective proximity to current and planned or potential education facilities. The DOE also recognizes the potential that the educational facilities are to be considered recreational facilities by and within the community.
3. The DOE *typically* considers industrial/commercial development incompatible with educational facilities, however, residential development and educational facilities *are typically* considered to be compatible. As a result, the DOE is interested in the proximity of current and planned or potential education facilities to commercial/industrial development zones.
4. The DOE recognizes the integral role of educational facilities within communities. As such, the DOE seeks to assure that residential growth, that generates additional demand on educational facilities, is managed with adequate educational infrastructure being made a part of sub-division plans as appropriate.
5. The DOE offers its support to assist and participate by coordinating with Selbyville, the local school districts the County, the Office of State Planning Coordination as well as other school districts and stakeholders as future development and annexations may be considered.

6. The DOE noted that the Comp. Plan does a good job addressing education services or schools which serve the citizenry of Selbyville.
7. DOE has no objections or comments regarding the Comp. Plan under consideration.

**Sussex County – Contact: Richard Kautz 855-7878**

While shown on several maps the Intergovernmental Coordination Zone should be discussed and explained in the text. For example, the Town position concerning the Route 113 realignment could be included here.

One of the functions of a Comprehensive Plan is to plan for municipal services and to coordinate their funding through a capital improvements program and budget. Map 2 shows existing public facilities and a significant area of annexation but no anticipated public facilities for the annexed area. Some consideration should be given to the need for services in the annexed area and they should be reflected on this map.

The Sussex County Engineer Comments:

The draft comprehensive plan should include a description of the Town's disposal of treated wastewater. The Selbyville Wastewater Treatment Facility (SWWTF) operated by the Town of Selbyville discharges to Sussex County's ocean outfall. The ocean outfall was constructed in late 70's for the County's South Coastal Regional Wastewater Facilities (SCRWF).

The Sussex County Engineering is in the process of revising the agreement with the Town of Selbyville for an increase in the allowable 7-day discharge to 2 million gallons per day (MGD) peak to the ocean outfall as approved by the Sussex County Council on January 13, 2004 following a request from the town. The draft comprehensive plan states the town is undertaking an expansion of their plant to a revised capacity of 2.0 MGD.

In order for the SCRWF for meet it's ultimate treatment requirement of 24 MGD, the Ocean outfall will require upgrades. The majority of upgrades are beyond the 20-year planning period of the South Coastal Planning Study undertaken and completed by Sussex County in July of 2005. The timing for all future improvements will ultimately be a function of future growth rates including those in Selbyville's service area.

As future upgrades occur to the SWWTF, it is required that the town takes measures to limit the instantaneous flows to the SCRWF and that the current agreement is amended accordingly. Future improvements should be examined including the installation of

Variable Frequency Drives (VFDs) on the SWWTF effluent pump station. This would assist in attenuating flows in the SCRWF effluent force main. For questions regarding these comments, contact Rob Davis, Sussex county Engineering Department at (302) 855-7820.

**Following receipt of this letter, the Town should make any certification changes noted in this letter and review all other comments for consideration. The plan should then be resubmitted to this office for review before final adoption by the Town. A written response regarding the changes made to the plan should accompany the resubmitted plan.**

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".

Constance C. Holland, AICP  
Director

CC: Sussex County