



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

October 15, 2007

Susan Freese  
Town of Little Creek  
498 Main Street  
Little Creek, DE 19901

RE: PLUS review – PLUS 2007-09-06; Town of Little Creek Land Development Ordinance

Dear Ms. Freese:

Thank you for meeting with State agency planners on September 26, 2007 to discuss the proposed Town of Little Creek Land Development Ordinance.

Please note that changes to the ordinance, 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: Herb Inden 739-3090**

We appreciate the Town of Little Creek taking this very important step to implement your comprehensive plan. You are to be congratulated on having this well written and comprehensive document prepared. With some minor adjustments as suggested by several state departments it should be a great benefit to the town in managing land use activities within the town's boundaries.

**Division of Historical and Cultural Affairs – Contact: Terrance Burns 739-5685**

The Town of Little Creek Land Development Ordinance, which is reference to their Comprehensive Plan, does not mention historic character or perspective of the town/community. When considering how to protect and maintain historic character, there are other methods than just implementing design review that are usually taken as preliminary steps to implementing historic zoning, which can be controversial when taken as a first step.

The Town of Little Creek has four properties individually listed in the National Register of Historic Places, and the historic core of the town has been determined eligible for listing by the Delaware Division of Historical and Cultural Affairs staff for compliance with federal environmental laws. The town of Little Creek could consider working with the State Historic Preservation Office of the Division of Historical and Cultural Affairs, to list the eligible historic core in the National Register of Historic Places. This step will provide incentives for both homeowners and business owners for rehabilitating their historic properties to the Secretary of the Interior's Standards for Rehabilitation. These standards offer a conservative approach to maintaining the historic character while allowing for change, if or when it occurs, to accommodate new uses or modern conveniences. Income tax reduction incentives are available from the Federal government for income-producing properties and the State for residential and income-producing properties. These programs allow dollar-for-dollar deductions off the income tax liability of a percentage of the rehabilitation cost. For more information, contact Joan Larrivee, Deputy State Historic Preservation Officer at 302-736-7400. Additionally, small grants are available on a competitive basis from the Delaware Preservation Fund to assist with rehabilitation of properties listed in the National Register of Historic Places. For more information, contact the Director of the Fund, Vincent Murphy at (302) 832-0300; grant applications and guidance are available on their web site at [http://www.preservationde.org/programs/grantfund\\_guidelines.htm](http://www.preservationde.org/programs/grantfund_guidelines.htm).

If the town is looking to establish a designated historic zone with authority to protect the historic resources within, the town may want to look into seeking guidance from the State Historic Preservation Office of the Division of Historical & Cultural Affairs. The State Historic Preservation Office of the Division of Historical & Cultural Affairs offers a closer link to the services such as the availability of grant funds to undertake planning activities and training to keep commissioners abreast of the latest thinking about implementing historic zoning ordinances and best management practices. For more information about the Certified Local Government and the National Register of Historic Places programs, contact Robin Bodo at 302-736-7400.

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

Generally, the ordinance appears to be well written. In particular, DeIDOT supports the section on streets, which addresses interconnections and cul-de-sacs. DeIDOT offered the following comments as to how the ordinance might be improved.

- 1) On page 9, it is recommended that the definition of “Municipal Governing Body” be revised to read “The legislative body for the Town of Little Creek, Delaware, as defined in the Town Charter.”
- 2) On page 30, in Figure 4-2, the flowchart for subdivision and site plan approvals appears to leave the developer of a subdivision having to go through the entire Single Family Development Plan process, which is charted on page 29 in Figure 4-1, for each lot in the subdivision. It is recommended that Figure 4-1 be adapted to give developers of subdivisions a more direct path to obtaining building permits once they have a recorded Record Plat.
- 3) On page 36, regarding home-based businesses, professional offices for doctors and dentists are permitted, but medical and dental clinics are prohibited. DeIDOT recommends that the definition of Medical Clinic on page 8 be revised to make the distinction between an office and a clinic clearer.
- 4) On page 38, Table 7-1 indicates that two-family dwellings, manufactured homes and townhouses are not permitted in any zoning district. DeIDOT understands from the meeting that this was intentional. However, these types of dwelling are mentioned elsewhere in the ordinance as though they were permitted somewhere. Specific locations are as follows:
  - a) Page 33, Section 6-2.A.3.a;
  - b) Page 40, Section 8-1.A.1;
  - c) Page 50, Sections 10-1.D.1, 10-1.D.2, and 10-1.E.3;
  - d) Page 51, Sections 10-3.B.1 and 10-3.B.2; and
  - e) Page 63 Sections 13-10.E.

If the Town wants to keep these sections in the ordinance for future use, they should be marked in that regard. Otherwise it could be argued that the ordinance intended to permit these uses and that Table 7-1 is in error.

- 5) On page 53, Section 11-5, Lighting, would appear to prohibit lawn-mounted spotlights and floodlights for the illumination of flags and seasonal decorations.

- If that was not intended, then we recommend that the Town reword this section to make it clear what lighting is permitted.
- 6) On page 65, DeIDOT recommends that Section 14-2.B.1 be reworded as follows “New residential developments in the R-1 zone shall be designed to have both adequate off-street parking for residents of the housing units and adequate on-street parking or overflow parking available to accommodate visitors, service delivery vehicles, and families with more than two vehicles.”
  - 7) On page 67, Section 14-2.E.18 uses the word “may” regarding driveway lengths. If the intent is to prohibit driveways between 20 and 40 feet in length, “shall” should be used.

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

When DNREC reviewed the Town of Little Creek’s draft Comprehensive Plan, we recommended that the Town adopt ordinances which would address well head protection, the use and storage of hazardous materials, riparian and wetland buffers, impervious cover, and drainage. We were pleased to discover that the Town’s Land Development Ordinance addressed all of those recommendations, to one degree or another. We offer the following comments as a way to enhance the good work the Town has already done with this ordinance.

**General Comments/Observations/Questions to Consider**

Table 4-1, Information Required

There are several instances where the information required for Development Plan review for a single family development plan seems inadequate. For example, existing easements are not required to be delineated on a plan for a single family development, but are for minor subdivisions, site plans, etc. In certain cases, knowledge of the location of utility line easements, drainage easements and the like could be as important for a single family development as for a subdivision. In addition, Water Resource Protection Areas, floodplains, wetlands, environmentally sensitive land, wooded areas, specimen trees and agricultural land are not required for plan review on single family developments, but are required for other types of development.

Because expansion of existing homes and building on existing lots will comprise a large portion of the future growth of Little Creek, the Town is encouraged to take a second look at the required information for review of single family development plans and to

require additional information where it would not cause an undue financial burden, particularly in areas that could affect public safety or health.

Landscaping Plan is listed twice under the “Improvements and Construction Information” section, each listing different requirements. They should be combined.

#### Section 11-5, Lighting

This section does not specify the lighting requirements for new construction. Are there specific lighting requirements for new residential or commercial developments? If so, they should be clearly set forth in this section. If it is the policy of the Town to limit the number of streetlights, in keeping with its rural character, that should also be specified in this section.

#### Section 12-7, Riparian Buffer Areas

A.3 – The Town should consider revising this section to specify that walking trails shall not be paved in the RBA, as pavement decreases the function of the RBA. The text could read. ...”however, as appropriate, the riparian buffer may contain non-paved walking trails.”

#### Appendix 1 – Approved Trees

Several species are starred, but there is no notation to tell us what the star signifies.

### **Water Quality**

Under section 187-5, consider adding the following definitions:

**“Total Maximum Daily Load (TMDL)”** means the amount of a given pollutant that may be discharged to a waterbody from point, nonpoint, and natural background sources and still allows attainment or maintenance of the applicable narrative and numerical water quality standards. A TMDL is the sum of the individual Waste Load Applications (WLA’s) for point sources and Load Allocations (LA’s) for nonpoint sources and natural background sources of pollution. A TMDL may include a reasonable margin of safety (MOS) to account for uncertainties regarding the relationship between mass loading and resulting water quality. In simplistic terms, a TMDL matches the strength, location and timing of pollution sources within a watershed with the inherent ability of the receiving water to assimilate the pollutant without adverse impact.

**“Pollution Control Strategy (PCS)”** means a document that specifies actions necessary to systematically achieve pollutant load reductions specified by a Total Maximum Daily Load for a given waterbody.

**Impervious Surfaces:** The total land cover containing roads, buildings, parking lots, sidewalks and stormwater management ponds.

The following are additional recommendations to enhance the ordinance:

- a) A provision requiring all applicants to submit a United States Army Corps of Engineers (USACE) approved wetlands delineation to the Town of Little Creek as conditional approval for any new commercial and/or residential development. Additionally, conditional approval for any project should also be tied to a DNREC assessment of potential impacts to tidally-influenced wetlands.
- b) A provision prohibiting the placement of stormwater management ponds within 100-feet of water bodies and wetlands. That is, all “newly-approved” commercial and/or residential projects should maintain a vegetated (i.e., native vegetation) 100-foot upland buffer from all stormwater management ponds and wetlands.
- c) A provision requiring a 100-foot upland buffer (planted with native vegetation) from all wetlands and water bodies.
- d) A provision requiring a best management practice (BMP) implementation plan for all residential and/or commercial development exceeding 20% imperviousness.
- e) A provision requiring that the calculation for surface imperviousness include all forms of constructed surface imperviousness, including roads, rooftops, parking lots, sidewalks and stormwater management ponds
- f) A provision prohibiting the use of structural Best Management Practices (BMPs), such as wastewater treatment areas and stormwater management structures from consideration as open space.
- g) A provision prohibiting the placement of lot lines within wetlands for 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.

- h) A provision requiring the applicant to use “green-technology” stormwater management, whenever practicable, in lieu of “open-water” stormwater management ponds.

### **Water Resource Protection Areas**

Both wellhead protection and excellent ground-water recharge potential areas are located within the municipal boundaries (see map). A significant portion of the Town is within an excellent ground-water recharge potential area. City of Dover, PWS DE0000571 wellhead protection area is located in the northern section of Town. Cavaliers Restaurant, PWS DE0000156 wellhead protection area is in the southern section.

The Ground Water Protection Branch (GWPB) applauds the Town’s initiative in developing this source water protection ordinance. GWPB found contextual errors that are problematic. GWPB also found requirements within the ordinance that do not provide adequate protection or are ambiguous. DNREC acknowledges that some of this language comes directly from the Guidance Manual. Since the time of its publication, the application of the principles and concepts has progressed. This PLUS review contains revised language with the intent to assure that source water protection ordinances provide adequate protection.

- 1) In Subsection A, Wellhead Protection Areas, the definition of the word ‘wellfield’ is two words.

GWPB recommends:

- Using ‘well field’ not ‘wellfield’

- 2) In Subsection B, 1.General Requirements (a.), the statement “shall be diverted *around* the wellhead”, the use of the word *around* is ambiguous.

GWPB recommends:

- Use the words ‘diverted away from’ instead of ‘around’

- 3) The Sediment and Stormwater Program has informed the Source Water Protection and Assessment Program that the language contained in Subsection B, 1. General Requirements (b.) is too specific. They have recommended using a more general statement.

GWPB recommends using this statement as 12-1, B. 1.a:

- Stormwater shall be treated by an approved stormwater quality management practice in accordance with current requirements of the *Delaware Sediment and Stormwater Regulations* dated October 11, 2006 or as later revised.

4) Subsection B, 2. Impervious Surfaces (a.), is a contradictory statement. It clearly states that impervious surface will not be allowed within 20 (twenty) feet of the well and then allows impervious surfaces. Additionally, a twenty-foot buffer is inadequate to assure water quality.

GWPB recommends:

- The Source Water Assessment and Protection Program (SWAPP) recommends, that the impervious surface within a 150 (one-hundred fifty) foot radius of the well be limited to the building and access associated with the well and distribution and treatment facilities and their maintenance.

5) Subsection B, 2. Impervious Surfaces, (b.), uses the wording “impervious surfaces shall be minimized to the extent possible”. This statement is ambiguous and requires qualifications on what ‘possible’ means.

GWPB recommends:

- Impervious cover not exceed 20% of that portion of the parcel within the wellhead protection area as delineated by DNREC Source Water Assessment and Protection Plan. GWPB applauds all efforts to lower that threshold.

6) Subsection B, 3. Storage Facilities to prevent Groundwater Contamination, (a.), contains inaccurate language. DNREC Tank Management Branch (TMB) has provided language and definitions to replace these clauses.

GWPB recommends adopting the following requirements and definitions:

- a. Underground storage tanks with a capacity greater than 110 gallons containing a hazardous substance as defined in CERCLA §101(14) shall **not** be permitted in a delineated wellhead area.



b. Underground storage tanks with a capacity greater than 110 gallons containing petroleum, and Residential and Agricultural USTs with a capacity greater than 1,100 gallons containing heating fuel or motor fuel shall **not** be permitted in a delineated wellhead protection area.

- DEFINITIONS:

**Hazardous Substance UST System** means an underground storage tank system that contains a hazardous substance defined in 101(14) of the CERCLA (but not including any substance regulated as a hazardous waste under RCRA Subtitle C) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

**CERCLA Hazardous Substances** are defined in terms of either those substances specifically designated as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), otherwise known as the Superfund law, or those substances identified under other laws. In all, the Superfund law includes references to four other laws to designate more than 800 substances as hazardous, and identify many more as potentially hazardous due to their characteristics and the circumstances of their release. See:

<http://www.epa.gov/superfund/programs/er/hazsubs/cercsubs.htm>

**Underground Storage Tank (UST).** An UST is one or a combination of Tanks including underground Pipes, the volume of which is 10% or more belowground, as defined in the Delaware *Regulations Governing Underground Storage Tank Systems*, March 12, 1995 or as later revised. The following USTs are **not** subject to the design, construction, operation, and maintenance requirements of the Delaware UST Regulations: Residential Heating Fuel, Agricultural, and Residential Motor Fuel USTs less than 1,100 gallons and any UST less than 110 gallons.

7) Subsection B, 3. Storage Facilities to prevent Groundwater Contamination, (b.), contains inaccurate language. Hazardous waste and sanitary waste are governed by separate regulations. DNREC Division of Air and Waste Management had provided language and definitions to replace these clauses.

c. Hazardous Waste Treatment, Storage, and Disposal Facilities, as defined in Title 7, DE Administrative Code, Section 1302, *Delaware Regulations Governing Hazardous Waste*, shall **not** be permitted in wellhead areas.

d. Sanitary and Industrial Landfills, as defined in Title 7, DE Administrative Code, Section 1301, Delaware Regulations Governing Solid Waste, shall **not** be permitted in wellhead areas.

- DEFINITIONS:

**Hazardous Waste:** A solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating irreversible, illness, or pose a substantial present or potential a hazard to human health or the environment when improperly treated, stored, transported, or dispose of, or otherwise managed, Without limitation, included within this definition are those hazardous wastes described in Sections 261.31, 261.32, and 261.33 of the Delaware Regulations Governing Hazardous Waste.

**Sanitary Landfill:** A land site at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal, except that it will not include any facility that has been approved for the disposal of hazardous waste under the Delaware Regulations Governing Hazardous Waste.

8) Subsection B, 3. Storage Facilities to Prevent Groundwater Contamination, (c.), refers to aboveground storage tanks (AST). The language should include more detail. If it is the intent of the Town to allow all AST we suggest e1 noting it will require local oversight as it is more restrictive than the current DNREC regulations.

GWPB offers the following OPTIONS: Either e1, e2, as e

e1) Aboveground storage tanks shall be permitted in a delineated wellhead area if the ASTs, regardless of storage capacity are designed, constructed, operated, and maintained with the applicable requirements in of the Delaware *Regulations Governing Aboveground Storage Tanks*, February 11, 2005 or as later revised. The storage capacity exemptions in Part A, Section 1.2 of the Delaware AST Regulations shall not apply.

**NOTE: This (e2) is more restrictive than DNREC requirements. This choice will require local regulation, oversight, and authority. The technical expertise may fall on an outside contractor at the expense of the owner/applicant.**

**OR**

e2) Aboveground storage tanks with a capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesel, heating fuel or kerosene shall be permitted in a delineated wellhead area if the ASTs are designed, constructed, operated and maintained with the applicable requirements in of the Delaware *Regulations Governing Aboveground Storage Tanks*, February 11, 2005 or as later revised.

**NOTE: This (e2) is compliant with the current DNREC requirements.**

9) Subsection B, 3. Storage Facilities to Prevent Groundwater Contamination, (c.) (i.) and (ii.) need clarification. The requirement discusses secondary containment. The Town intends to allow AST regardless of size within wellhead protection areas with ‘appropriate secondary containment’. The word ‘appropriate’ is ambiguous and requires qualification.

GWPB recommends:

- Define how and by whom the term ‘appropriate’ will be determined.
- Use the entire definition from TMB amending (7) to Towns name the Town’s designated authority if it is outside DNREC TMB regulations:  
Definition from TMB: “Secondary Containment” means a containment system designed and constructed to retain any Regulated Substance that leaves the primary containment including an AST and Ancillary Piping and prevent any Regulated Substance from reaching the surface water, groundwater, or adjacent land before cleanup occurs. Included are structures/ devices sufficiently impermeable to contain released Regulated Substances for a period of time sufficient for the cleanup and removal of captured material including:
  - (1) dikes, berms or retaining walls;
  - (2) curbing;
  - (3) diversion ponds, holding tanks, sumps;
  - (4) vaults;
  - (5) double-walled tanks;
  - (6) liners external to the tanks;
  - (7) other means as approved by the \_\_\_\_\_ (*Responsible Authority*).

10) The definition in Subsection C, Excellent Recharge Areas, refers to methods used in New Castle County and is not applicable in Kent County.

GWPB recommends replacing the paragraph with the following:

- Definition. Excellent Ground-Water Recharge Potential Area: Those areas with high percentages of sand and gravel that have "excellent" potential for recharge as determined through a Stack Unit Mapping Analysis delineated by the Delaware Geological Survey and presented in the Report of Investigations No. 66, Ground-water Recharge Potential Mapping in Kent and Sussex Counties, Delaware, Geological Survey, 2004.

11) Subsection C, Excellent Recharge Areas, does not contain a clause limiting impervious cover.

GWPB recommends one of the following options:

- a1) Impervious Cover: The excellent ground-water recharge potential area shall not exceed 20% impervious cover per parcel and limited to residential development.

OR

a2) Impervious Cover: The excellent ground-water recharge potential area shall not exceed 20% impervious cover per parcel.

OR

a3) Impervious Cover: The excellent ground-water recharge potential area should not exceed 20% impervious cover. New development in this Area may exceed the 20% impervious cover threshold within the excellent ground-water recharge potential area, but shall be no more than 50% impervious cover, provided the applicant submits an Environmental Assessment Impact Report (See Environmental Assessment Impact Report Section XXX9).

**Note: An Environmental Assessment Impact Report will require technical oversight and a section defining it within this ordinance.**

12) Subsection D, Regulations Governing Development, contains outdated language. GWPB acknowledges this error. DNREC Tank Management Branch (TMB) has provided language and definitions to replace this requirement.

GWPB recommends replacing the paragraph with the following 2 (two) requirements:

- Underground storage tanks with a capacity greater than 110 gallons containing petroleum, and Residential and Agricultural USTs with a capacity greater than 1,100 gallons containing heating fuel or motor fuel shall be permitted in a excellent ground-water recharge potential area if the USTs are designed, constructed, maintained and operated in accordance with the Delaware *Regulations Governing Underground Storage Tank Systems*, March 12, 1995 or as later revised. (NOTE: Regulated USTs must be constructed with secondary containment of the tanks and piping and must have continuous monitoring for releases.)

**AND**

Underground storage tanks with a capacity greater than 110 gallons containing a hazardous substance as defined in CERCLA §101(14) shall be permitted in a delineated excellent ground-water recharge potential area if the USTs are designed, constructed, maintained and operated in accordance with the Delaware *Regulations Governing Underground Storage Tank Systems*, March 12, 1995 or as later revised (NOTE: Regulated USTs must be constructed with secondary containment of the tanks and piping and must have continuous monitoring for releases.)

The municipal boundaries are shown in beige with an outline of black. The wellhead protection areas are shown in red. Excellent ground-water recharge potential areas are shown in green.



## **Drainage and Stormwater Management**

### **1. *Section 4-4, Minor Subdivision, Major Subdivision, and Site Plan Approval, D-4***

Request town consider including a requirement for the submittal of a Stormwater Impact Study prior to approval of a subdivision or site plan. A Stormwater Impact Study is a new process being introduced by the DNREC Sediment and Stormwater Program. Applicants will be required to meet with the appropriate Sediment and Stormwater Program, Kent Conservation District, etc to identify drainage and stormwater related issues and potential up and down stream impacts which may be caused by the new development. A report will be generated with the findings of the study. Please contact me if you would like a copy of the application and paperwork that the developer will be required to submit.

### **2. *Figures 4-1 and 4-2***

Incorporate Stormwater Impact Study report into plan approval diagrams.

### **3. *Section 7-4, Home Based Businesses***

Add a designation for Watermen based businesses to allow watermen to sell their product from their home with appropriate state approvals (DNREC, Public Health, etc).

### **4. *Section 9-4, Easements, C.***

A drainage easement along waterways and drainage ways should be established and recorded for the waterways and drainage ways and include an area no less than 25 feet wide as measured from the top of bank for maintenance of such waterways and drainage ways.

Waterways and drainage ways will require periodic reconstruction at intervals dependent upon the sedimentation load from upstream. Periodic reconstruction involves the removal of sediment from the waterways or drainage ways bottom to establish or reestablish a design grade. The removed sediment, referred to as spoil, is typically disposed of by piling or spreading along side the waterways or drainage ways.

**5. Section 9-5, Plans and Profiles B,3**

Include Delaware Department of Natural Resources and Environmental Control.

**6. Section 12-1, Water Resource Protection Area**

Please see language in attached model well head protection ordinance to ensure no conflict between 1a and 1b.

**7. Section 12-2, Drainage, A**

Natural and preexisting drainage ways should be analyzed for function and obstructions removed as needed. Mechanized maintenance of the drainage way is permissible. Existing non-invasive vegetation will be saved where practical.

**8. Section 12-3, Permanent Stormwater Management**

- A 1: Recommend adding the word “lots” for clarification purposes or replace property with lot to eliminate confusion on lots within developments. Also remove the word “higher.”
- A 3 and B2: Kent Conservation District is Delegated by the Sediment and Stormwater Program as the approval agency for sediment and stormwater plans for new developments in the County. The standards and specifications enforced by the District are the “Delaware Sediment and Stormwater Regulations.”
- B3b: add or the DNREC Drainage Program

**9. Section 12-7, Riparian Buffer Area, A.3**

Drainage easements should be permissible within the riparian buffer area.

**10. Section 12-7, Riparian Buffer Area B**

When planting riparian buffers future drainage maintenance should be considered. Trees and shrubs should be spaced to allow for mechanized drainage maintenance at maturity. Tree and shrub planting in this manner will promote 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.

Existing vegetation should be removed as needed to perform drainage maintenance.

Any maintenance plan for a riparian buffer area should include a drainage maintenance component to ensure the continual function of the drainage way. Locations for mechanized drainage maintenance equipment access to the riparian buffer area, along with spoil disposal areas, should be specified within the plan.

### ***11. Miscellaneous Comments***

- **Floodplain Ordinance**

Please send language for Floodplain Ordinance to Greg Williams, Environmental Scientist in the Floodplain Management Program at 89 Kings Highway Dover, DE 19901 or [Gregory.williams@state.de.us](mailto:Gregory.williams@state.de.us) or 302.739.9921 to review. He can also provide model ordinance language.

- **Low Impact Development and Conservation Design**

Consider including language to allow for and encourage Low Impact Development practices and conservation design as well as Green technology practices within the town's limits. This may include allowances and/or incentives for pervious pavement, etc. For more information on these practices please visit our website at <http://www.swc.dnrec.delaware.gov/SedimentStormwater.htm>.

- **Master Drainage and Stormwater Code**

Consider the development of a master drainage plan for stormwater management. It is recommended the town develop a master drainage plan for the area within the current town boundary and any future potential annexation areas. Along the identified drainage conveyances the town should specify open space to be utilized for drainage maintenance, wildlife habitat corridors, and for interconnectivity of bicycle and pedestrian paths if feasible and practical.

The development of a master drainage 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 percent impervious surfaces.



- **TMDLs**

Recommend incorporating language identifying the existence of total maximum daily loads for nutrients and bacteria in local waterways and require new developments and redevelopments to meet pollution limits as identified for the watershed by the TMDL. A strategy will be developed for the watershed to meet these limits in the future. This strategy may be a combination of regulatory and voluntary actions. Contact Lyle Jones, Watershed Assessment Section for more information and for assistance. He can be contacted at 302.739.9939 or [lyle.jones@state.de.us](mailto:lyle.jones@state.de.us).

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) if you have any questions or would like to have us meet with you.

**State Fire Marshal's Office – Contact: Duane Fox 739-4394**

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

During the meeting, it was agreed that the State Fire Marshals Office would provide the following advice:

1. Section 4-4 (pg 19) makes no mention of plans and application being submitted to the State Fire Marshals Office for review and approval.
2. Some Definitions may need to be revisited to address concerns raised:

SELF STORAGE FACILITY may want to also refer to “Mini Storage, a phrase generally used sometimes in industry. Additionally, the definition as written would also include large mobile storage containers (PODS, etc) but probably not the intent.

DWELLING, TOWNHOUSE. The end of the definition should state “...common, 1-hour fire resistant walls.”

DAY CARE, CHILD is defined in national codes as well as the State Fire Code differently than noted. The following is an excerpt direct from the national standard. Note that Office of Child Care Licensing refers to a Group Day Care Home as a Large Family Child Care Home.

3. 3.3.122.1\* Day-Care Home. A building or portion of a building in which more than 3 but not more than 12 clients receive care, maintenance, and supervision, by other than their relative(s) or legal guardians(s), for less than 24 hours per day.
4. 16.6.1.4.1 Subclassification of Day-Care Homes. Subclassification of day-care homes shall comply with 16.6.1.4.1.1 and 16.6.1.4.1.2.
5. 16.6.1.4.1.1 Family Day-Care Home. A family day-care home shall be a day-care home in which more than three, but fewer than seven, clients receive care, maintenance, and supervision by other than their relative(s) or legal guardian(s) for less than 24 hours per day, generally within a dwelling unit.
6. 16.6.1.4.1.2 Group Day-Care Home. A group day-care home shall be a day-care home in which not less than 7, but not more than 12, clients receive care, maintenance, and supervision by other than their relative(s) or legal guardian(s) for less than 24 hours per day, generally within a dwelling unit.

The Delaware State Fire Marshal's Office has the responsibility to review all commercial and residential subdivisions for compliance with the Delaware State Fire Prevention Regulations. This Agency asks that a MOU be established between the Delaware State Fire Marshal's Office and the Town. The State Fire Marshal's Office would be issuing approvals much like DeDOT, Kent Conservation, and DNREC. This Agency's approvals are based on the Delaware State Fire Prevention Regulations only.

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans in accordance with the Delaware State Fire Prevention Regulation. 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: Scott Blaier 698-4500**

The Delaware Department of Agriculture would like to compliment the Town on its well-conceived and well-written land development ordinance.

In reference to Section 7-4 “Home-based business”, we suggest that there be a provision for waterman to sell their “catch of the day” from their residence. You may also consider small butchering operations catering to people who hunt, trap and catch animals such as: deer, waterfowl, fish, etc.

The Department encourages the Town to contact the Delaware Forest Service and Plant Industry Section to learn more about programs and grants to assist the Town with tree planting, landscaping, etc. They can be reached at (302) 698-4500.

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

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.

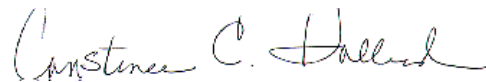
The Department supports development and development ordinances that are in accordance with and further the objectives of the State Strategies for Policies and Spending.

DOE has no comments or objections to the ordinance(s) under review.

Following receipt of this letter the Town should review all comments and recommendation and provide to 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 ordinance or not and the reason therefore.

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