



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

February 20, 2008

Randy DuPlechain
Davis, Bowen & Friedel
23 North Walnut Street
Milford, DE 19963

RE: PLUS review – 2008-01-11; Cypress Hall Commercial

Dear Mr. Duplechain:

Thank you for meeting with State agency planners on January 23, 2008 to discuss the proposed plans for the Cypress Hall Commercial project to be located on the southwest corner of Route 113 and Shawnee Road.

According to the information received, you are seeking site plan approval through the City of Milford for a 218,200 sq. ft. shopping center.

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

Executive Summary

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. *Our office*

notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.

State Strategies/Project Location

- This project is located in Investment Level 2 according to the *Strategies for State Policies and Spending*. This site is also located in the City of Milford. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near term future. State investments will support growth in these areas. Our office has no objections to the proposed development of this project in accordance with the relevant City codes and ordinances.
- It is recommended that the developer and the City work together to reduce the amount of parking required in order to limit imperviousness.
- It is recommended that the developer consider a more innovative site design that better integrates the residential and commercial components of the site.

Street Design and Transportation

- DelDOT has recently made the decision to not continue the US 113 North/South Study in the Milford/Lincoln area. At this time, they have not fully determined the effect that it will have on the plans for this development, but it will be a factor in their evaluation of the proposed site access.
- The relevant segments of Routes 113 and 36 are classified as principal and minor arterial roads, respectively. DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 50 feet from the centerline on principal arterial roads and 40 feet from the centerline on minor arterial roads. Further, on divided highways, such as Route 113 in this instance, the distance is measured from the inside edge of the travelway, rather than from the actual centerline. Therefore we will require right-of-way dedication along the frontage to provide any additional width needed from this project.
- DelDOT will require the developer to provide pedestrian facilities along the property frontage on both Shawnee Road and Route 113.
- DelDOT would recommend that the developer be required to provide a bus stop on Route 113, related facilities such as a concrete pad and a shelter, and a

sidewalk leading into the shopping center, at a location acceptable to the Delaware Transit Corporation (DTC).

- The plan shows Seabury Avenue Extended as a continuous street from Route 113 into the site. The review recommended that Seabury Avenue Extended be vacated entirely. Since then DelDOT have revised their position in recognition of the fact that some homeowners along Shawnee Road depend on Seabury Avenue for rear access and the City needs utility access along the right-of-way. DelDOT will now require that Seabury Avenue Extended be closed at Route 113 and the remainder of it be terminated with a cul-de-sac as far west as possible at Route 113. City utility access can be maintained by means of a driveway leading from the cul-de-sac. How much of the right-of-way can or should actually be vacated still needs to be determined.

A plan presented at the PLUS meeting does show the desired cul-de-sac. Details, such as the exact cul-de-sac location will be addressed as our review of the plan continues.

- For improved safety and operations, DelDOT recommends eliminating parking on the aisles leading from the shopping center parking lot to the service road. For the same reason, they recommend eliminating access from those aisles near their intersections with the service road.

Natural and Cultural Resources

- Reduce impervious cover to a value less than 50% dependent on an environmental assessment. The environmental assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis.
- Maintain the portion of the wellhead protection area within the development as open space with low maintenance vegetation that does not require herbicides, pesticides, or fertilizers.
- Divert stormwater runoff away from the wellhead.
- Incorporate pre-engineered inlet filters designed to remove urban pollutants such as hydrocarbons into the storm drain system as pre-treatment prior to discharge to infiltration facilities or other stormwater management BMPs designed primarily for TSS reduction.

- A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site
- The Drainage Program is aware of existing drainage concerns downstream of this project. Please contact the Sediment & Stormwater Program of the Sussex Conservation District to discuss the probability of a downstream analysis for this project.

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

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

This project is located in Investment Level 2 according to the *Strategies for State Policies and Spending*. This site is also located in the City of Milford. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near term future. State investments will support growth in these areas. Our office has no objections to the proposed development of this project in accordance with the relevant City codes and ordinances.

There are some design related factors particular to this project that are noteworthy. Our office has the following recommendations for the developer and the City of Milford:

- There is a wellhead protection area located on this site (see DNREC comments below for more information). In order to protect the quality of the drinking water from this city owned public well, DNREC recommends limiting impervious surface to 20% - 50% on the portion of the site associated with this wellhead area. It is recommended that the developer and the City carefully evaluate the amount of parking necessary for this project in order to reduce the amount of imperviousness if possible. Please consider innovative solutions such as:
 - Reducing the number of required spaces due to the fact that this will be a mixed use development.
 - Provide stronger pedestrian connections between the residential and commercial portions of the site to promote walking and biking.
 - Pave only a portion of the parking at this time, while reserving overflow parking as open space. Only pave overflow parking in the future if warranted by actual demand.
 - If overflow parking must be paved, use pervious paving material.

- The project is touted as a mixed use development, which includes commercial services and residential housing. This shopping center is designed as a conventional “auto oriented” highway commercial development. While there are sidewalk connections to the residential portion, more could be done to integrate the commercial areas with the homes to encourage walking and biking. A more appealing and innovative site design would improve the quality of the shopping experience, and the marketability of the residential component. It is recommended that the developer review our publication Better Models for Development in Delaware for more information and some ideas for how to improve the site design.

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

No comments were received from the Division of Historical and Cultural Affairs

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) DelDOT’s US 113 North/South Study seeks to identify, select and protect an alignment for a limited access highway from north of Milford south to the Maryland state line. In that process we have, with the help of working groups, evaluated several alternative alignments for each of four areas (Milford, Ellendale, Georgetown, and Millsboro South).

On July 1, 2007, the General Assembly passed Senate Bill 155, the Fiscal Year 2008 Bond Bill. The epilogue language of the bill states that DelDOT "shall be prohibited from proceeding with the US 113 South/North Improvements Project in the Lincoln and Milford area as proposed in the Department's Capital Transportation Program" and that the Department should "continue to work to achieve local consensus for an acceptable alignment corridor for the Milford/Lincoln project area."

In an attempt to achieve that consensus, the Department contacted each of the Milford Area Working Group members individually in early fall 2007 and was able to arrange meetings with all but two of the 27 members. However, it became clear from the Working Group members' opinions that *there is no community consensus for a compromise alternative. Therefore DelDOT will not be continuing the US 113 North/South Study in the Milford/Lincoln area.*

Although US 113 remains a major transportation route in Sussex and southern Kent Counties, there is not sufficient community support to undertake needed improvements to this important corridor in the Milford area at this time. As a

result, planned economic growth and increasing local, seasonal, and through traffic will not be adequately accommodated in the future. Based upon comprehensive study of this corridor, the following will likely happen by 2030 due to a lack of capacity improvements:

- Travel time will increase by 70 percent.
- It will take more than five times as long to turn left onto or cross US 113 at locations without signals (2 minutes vs. 20 seconds).
- At some locations, it will take eight times as long to turn left from US 113 at locations without signals (2 minutes vs. 15 seconds).
- Traffic at seven of ten traffic signals in the Milford area will become congested, creating delays, compromising safety, harming the economy and degrading air quality.

The opportunity to provide a bypass around the rapidly growing Milford area will likely not exist in the future due to development. As a result, continuing traffic growth along US 113 will likely result in actions to address congestion and safety issues on the existing alignment, such as closing crossovers and prohibiting left turns. In the long term, these measures will create access restrictions on existing US 113 that were strongly opposed by the Milford Area Working Group and the City of Milford throughout the study process. In the absence of improvements to the US 113 corridor, it is more critical than ever that we all recognize the linkage between land use decisions made at the local level and their transportation consequences for the State of Delaware.

DelDOT has only recently made the decision to not continue the US 113 North/South Study in the Milford/Lincoln area, and have not fully determined the effect that it will have on the plans for this development, but it will be a factor in their evaluation of the proposed site access.

- 2) The relevant segments of Routes 113 and 36 are classified as principal and minor arterial roads, respectively. DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 50 feet from the centerline on principal arterial roads and 40 feet from the centerline on minor arterial roads. Further, on divided highways, such as Route 113 in this instance, the distance is measured from the inside edge of the travelway, rather than from the actual centerline. Therefore we will require right-of-way dedication along the frontage to provide any additional width needed from this project.

- 3) As discussed at the PLUS meeting, the proposed south entrance on Route 113 is still under review and has not yet received even conceptual approval.
- 4) DelDOT will require the developer to provide pedestrian facilities along the property frontage on both Shawnee Road and Route 113. These facilities will be a shared use path in a 15-foot wide permanent easement, sidewalks within the right-of-way, or some combination of the two.
- 5) In September 2006, DelDOT commented to the City on a traffic impact study for the development of a larger parcel of which the subject land is a part. A copy of the letter to the City, and the review comments that accompanied it, are enclosed. That study addressed a 160,000 square foot shopping center and a residential component that we understand is also changing. Because the proposed commercial development is larger now, DelDOT will require updated analyses at the site entrances to make sure they will be adequate. However, they see no need for a new study.
- 6) Implementation of two recommendations from the 2006 traffic impact study review will require changes to the plan distributed with the PLUS application:
 - a) The plan does not show transit access. DelDOT would recommend that the developer be required to provide a bus stop on Route 113, related facilities such as a concrete pad and a shelter, and a sidewalk leading into the shopping center, at a location acceptable to the Delaware Transit Corporation (DTC). The developer may contact Mr. David Dooley, a Service Development Planner at DTC, to discuss what should be provided and where. Mr. Dooley may be reached at (302) 577-3278, ext. 3464.
 - b) The plan shows Seabury Avenue Extended as a continuous street from Route 113 into the site. The review recommended that Seabury Avenue Extended be vacated entirely. Since then DelDOT have revised their position in recognition of the fact that some homeowners along Shawnee Road depend on Seabury Avenue for rear access and the City needs utility access along the right-of-way. DelDOT will now require that Seabury Avenue Extended be closed at Route 113 and that the remainder of it be terminated with a cul-de-sac as far west as possible at Route 113. City utility access can be maintained by means of a driveway leading from the cul-de-sac. How much of the right-of-way can or should actually be vacated still needs to be determined.

A plan presented at the PLUS meeting does show the desired cul-de-sac. Details, such as the exact cul-de-sac location will be addressed as our review of the plan continues.

- 7) For improved safety and operations, DelDOT recommends eliminating parking on the aisles leading from the shopping center parking lot to the service road. For the same reason, they recommend eliminating access from those aisles near their intersections with the service road.
- 8) DelDOT supports the comment from the City of Milford that the access to Outparcels P-1 through P-3 along the service road should be revised. They suggest a shared access for P-1 and P-2 opposite the shopping center entrance. The access to P-3, along a right-turn lane leading to Route 113, would not be acceptable if the service road were to be State-maintained. DelDOT suggests that consideration be given to combining P-2 and P-3.
- 9) The developer's site engineer should maintain contact with the DelDOT Subdivision Manager for western Sussex County, Mr. Derek Sapp, regarding specific requirements for access and off-site improvements. Mr. Sapp may be reached at (302) 760-4803.

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

Soils

According to the Sussex County soil survey, Downer, Ingleside, and Hambrook were mapped in the immediate vicinity of the proposed construction. Downer, Ingleside and Hambrook are well-drained upland soils that, generally, have few limitations for development.

Impervious Cover

Based on a review of the PLUS application form, post-construction surface imperviousness was estimated to reach about 72% (appears closer to 100%). However, given the projected scope and density of this project, this estimate appears to significantly understate the actual amount of created post-construction surface imperviousness. When calculating surface imperviousness, it is important to consider all created forms of constructed surface imperviousness (i.e., rooftops, sidewalks, roads, and stormwater management ponds) in the calculation for surface imperviousness; otherwise, an inaccurate assessment of this project's environmental impacts will result. Therefore,

surface imperviousness should be recalculated with all of the above-mentioned forms of constructed surface imperviousness included.

Studies have shown a strong relationship between increases in impervious cover to decreases in a watershed's overall water quality. It is strongly recommended that the applicant implement best management practices (BMPs) that reduce or mitigate some of its most likely adverse impacts. Reducing the amount of surface imperviousness through the use of pervious paving materials ("pervious pavers") in lieu of asphalt or concrete in conjunction with an increase in forest cover preservation or additional tree plantings are some examples of practical BMPs that could easily be implemented to help reduce surface imperviousness.

TMDLs

Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Mispillion watershed. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited water body" can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are required by federal law, states are charged with developing and implementing standards to support these desired use goals. In the Mispillion watershed, "target-rate-nutrient reductions" of 45 percent will be required for nitrogen and phosphorus. Additionally, "target-rate-reductions" of 96 percent will be required for bacteria.

TMDL Compliance through the PCS

As indicated above, Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been proposed for the Mispillion watershed. The TMDL calls for a 45 percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for a 96 percent reduction in bacteria from baseline conditions. A Pollution Control Strategy (PCS) will be used as a regulatory framework to ensure that these nutrient reduction targets are attained. The Department has developed an assessment tool to evaluate how your proposed development may reduce nutrients to meet the TMDL requirements. Additional nutrient reductions may be possible through the implementation of BMPs such as increasing the amount of passive, wooded open space (planted with native woody and herbaceous vegetation), use of pervious paving materials to reduce surface imperviousness, and the deployment of green-technology stormwater management treatment technologies. Contact Lyle Jones at 302-739-9939 for more information on the assessment tool.

Water Supply

The project information sheets state water will be provided to the project by the City of Milford via a public water system. DNREC records indicate that part of this project is located within the public water service area granted to the City of Milford under Certificate of Public Convenience and Necessity 91-CPCN-09.

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

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

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

Source Water Protection Areas

The Water Supply Section, Ground Water Protection Branch (GWPB), has determined that a significant portion falls within a wellhead protection area for Milford Water (see following map and attached map). Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where land use activities or impervious cover may adversely affect the quantity and quality of ground water moving toward these wells.

This project falls within the municipal boundaries for the City of Milford. The City of Milford does not have a Source Water Protection ordinance. A Draft of their ordinances was reviewed in July of 2007. GWPB made comments to the City and have not received a response.

The Water Supply Section recommends that the portion of the new development within the wellhead protection area not exceed 20% impervious cover. Some allowance for augmenting ground-water recharge need be considered if the impervious cover exceeds 20% but is less than 50% of that portion of the parcel within this area. However, the development should not exceed 50% regardless. An Environmental Impact Assessment

Report will be necessary to determine the quantity of clean water to be recharged via a recharge basin. The purpose of an impervious cover threshold is to minimize loss of recharge (and associated increases in storm water) and protect the quality and quantity of ground water and surface water supplies.

The change from cropland to the proposed commercial use will introduce petroleum hydrocarbons that are associated with commercial land use (DNREC, 1999). The Source Water Assessment Report for Milford Water shows that this well draws from an unconfined aquifer and has a rating of moderately to high susceptibility to contamination with a high vulnerability rating (DNREC, 2003). This development as proposed has the potential to increase these ratings and may cause the Public Drinking Water System to exceed drinking water standards.

The proposed development would change the impervious cover from 0% to approximately 72%. The Developer provided these numbers on the PLUS application form. Ideally, relocating any open space areas to the part of the parcel within the wellhead protection area would decrease the total impervious area in the wellhead protection area. Augmenting the ground-water recharge with clean rooftop run-off systems are another alternative to reducing the total impervious cover.

In addition, because the wellhead protection area is the source of public drinking water, the storage of hazardous substances or wastes should not be allowed within the area unless specific approval is obtained from the relevant state, federal, or local program.

DNREC GWPB recommends:

- Reduce impervious cover to a value less than 50% dependent on an environmental assessment. The environmental assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis.
- Maintain the portion of the wellhead protection area within the development as open space with low maintenance vegetation that does not require herbicides, pesticides, or fertilizers.
- Divert stormwater runoff away from the wellhead.
- Incorporate pre-engineered inlet filters designed to remove urban pollutants such as hydrocarbons into the storm drain system as pre-treatment prior to discharge to infiltration facilities or other stormwater management BMPs designed primarily for TSS reduction.

References

Delaware Department of Natural Resources and Environmental Control (1999). *The State of Delaware Source Water Assessment Plan*: Dover, DE, p. 301.

<http://www.wr.udel.edu/swaphome/publications.html>

Department of Natural Resources and Environmental Control. (2005). *Public Water Supply Source Water Assessment Milford Water*. p.51

http://www.wr.udel.edu/swaphome/Publications/Final_assess/SussexCo/Milford%20Water.pdf

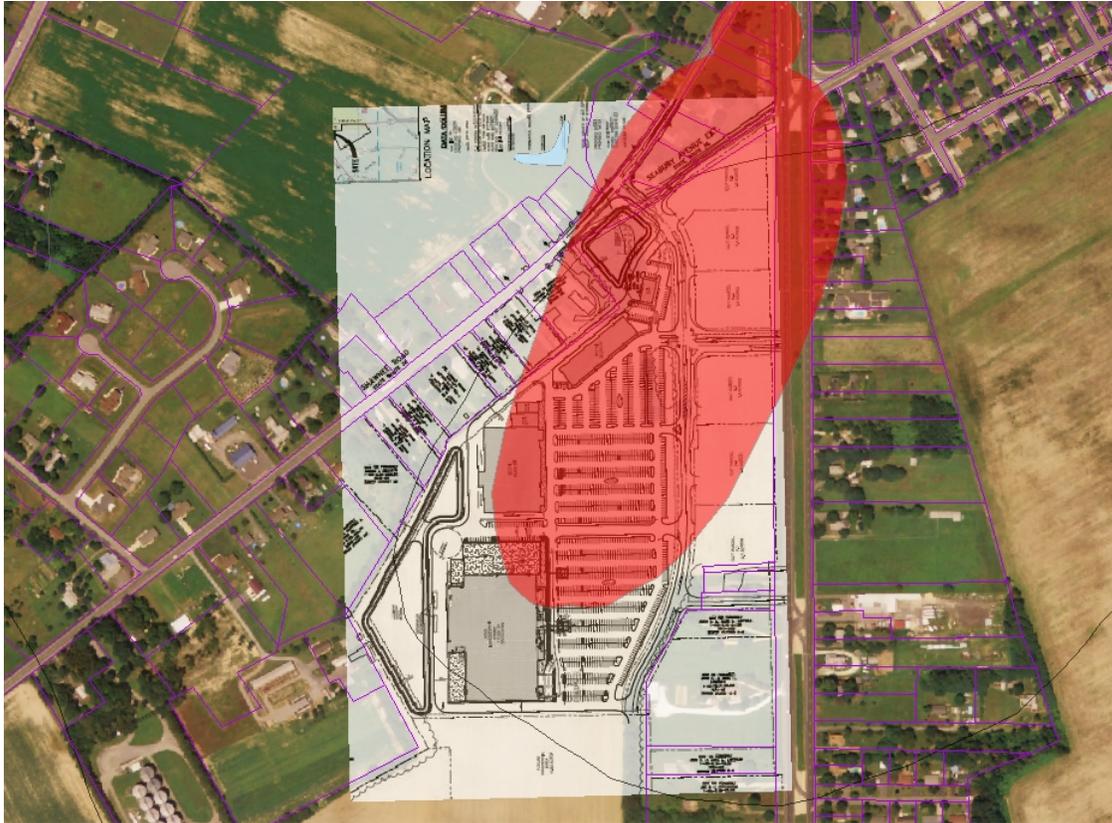
Delaware Department of Natural Resources and Environmental Control (2005): Source Water Protection Guidance Manual for the Local Governments of Delaware: Dover, DE, 144 p.

http://www.wr.udel.edu/publications/SWAPP/swapp_manual_final/swapp_guidance_manual_final.pdf

Kauffman, G.J., Wozniak, S.L., and Vonck, K.J., 2005, Delaware Ground-Water Recharge Design Manual: Newark, DE, Water Resources Agency, University of Delaware, p. 31.

<http://www.wr.udel.edu/swaphome/Publications/SWPguidancemanual.html>

Map of Cypress Hall (PLUS 2008-01-11). The site plan is overlain on the site. The dark red area shows the wellhead protection area.



Sediment and Erosion Control/ Stormwater Management

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. Contact the reviewing agency to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan as soon as practicable. The site topography, soils mapping, pre- and post-development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion. The plan review and approval as well as construction inspection will be coordinated through the Sussex Conservation District. Contact Jessica Watson at the Sussex Conservation District at (302) 856-7219 for details regarding submittal requirements and fees.

Because of the parcel's location in an impaired watershed and the amount of impervious surface, consider incorporating more green technology BMPs and low impact development practices to reduce stormwater flow and to meet water quality goals.

The Sediment and Stormwater Management Program ensures sediment and erosion control plans and stormwater plans comply with local land use ordinances and policies, including the siting of stormwater management facilities. However, we do not support placement in resource protection areas or the removal of trees for the sole purpose of placement of a stormwater management facility/practice.

Minimize the amount of parking to the maximum extent practicable to reduce the amount of impervious surfaces. Incorporate pervious technology for overflow parking areas, parking spaces, etc., when possible and allow for shared parking between commercial areas. Coordinate with the local jurisdiction to determine if (a) variance(s) would be needed.

Drainage

The Drainage Program is aware of existing drainage concerns downstream of this project. Please contact the Sediment & Stormwater Program of the Sussex Conservation District to discuss the probability of a downstream analysis for this project. The Drainage Program requests that the engineer take precautions to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water. The Drainage Program requests that the engineer check existing downstream conditions for function and blockages prior to the construction. Notify downstream landowners of the change in volume of water released on them.

Underground Storage Tanks

There is one inactive LUST site(s) located near the proposed project:

Nann's Corporation, Facility # 5-000437, Project # S9109201

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel with nitrile rubber gaskets in the contaminated areas.

State Fire Marshal's Office – Contact: R.T. Leicht 739-4394

This project is located within the City of Milford. You should contact the City of Milford Fire Marshal's Office to determine what the site plan submittal requirements are for this project.

Department of Agriculture - Contact: Scott Blaier 698-4500

The Delaware Department of Agriculture has no objections to the proposed commercial development. The project is located within the City of Milford, and the *Strategies for State Policies and Spending* encourages environmentally responsible development in Investment Level 2 and 3 areas.

Right Tree for the Right Place

The Delaware Department of Agriculture Forest Service encourages the developer to use the "Right Tree for the Right Place" for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

Do Not Plant List

Due to the high risk of mortality from insects and disease, the Delaware Forest Service does not recommend planting any of the following species:

Callery Pear
Leyland Cypress
Red Oak (except for Willow Oak)
Ash Trees

Please contact the Delaware Forest Service for more information at (302) 698-4500.

Native Landscapes

The Delaware Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and will clean our rivers and creeks of storm-water run-off pollutants.

To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

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.

Department of Education – Contact: John Marinucci 735-4055

This proposed project is in the Milford School District. This is a site plan review for commercial use. This site plan review is commercial in nature with no apparent impact on educational service delivery or infrastructure and, as such DOE has no objections or comments regarding this request.

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

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".

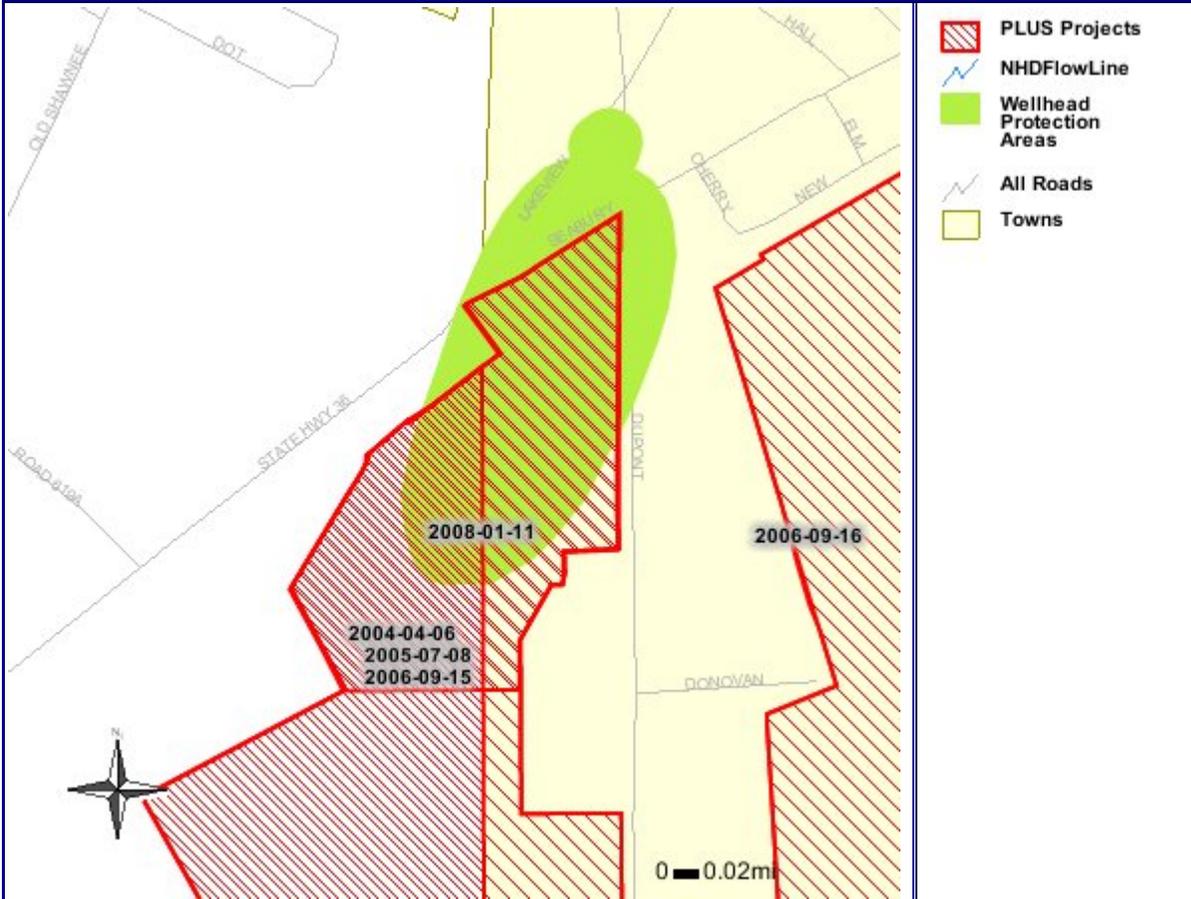
Constance C. Holland, AICP
Director

CC: City of Milford



Cypress Hall

2008-01-11



This map was produced by the Delaware Department of Natural Resources and Environmental Control.

