



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

March 24, 2007

The Honorable Don Tinari  
Mayor, Town of Cheswold  
P.O. Box 220  
Cheswold, DE 19936

RE: PLUS review – PLUS 2008-02-10; Town of Cheswold Comprehensive Plan  
Amendment

Dear Mayor Tinari:

Thank you for meeting with State agency planners on February 27, 2008 to discuss the  
proposed Town of Cheswold comprehensive plan amendment.

According to the information received, you are seeking an amendment to your  
comprehensive plan to amend the Five-Year Growth Plan and Growth Phasing Maps  
(Maps 8 and 9) and to add a new chapter, Chapter 5 to allow for the annexation of  
additional lands that were not previously contemplated for annexation within the  
planning horizon.

Please note that additional plan changes, 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: David Edgell 739-3090**

This proposal represents the an amendment to Cheswold's certified comprehensive plan  
to place and additional 399.4 acres into the town's short term annexation area. The new

annexation areas are in the vicinity of the Delaware Air Park and the Villages of Noble Pond Development.

Cheswold's comprehensive plan is due for a scheduled five year update by October of 2008. Our office requests that the Town of Cheswold integrate these annexation area amendments into their regularly schedule plan update, which we understand is an ongoing project. Due to the process times involved, this amendment can not be completed and approved by all parties much before October, and would only be in full force and effect for a few months before being superseded by the update.

As it is in the best interest of all parties to consider these amendments in the context of the larger plan update, our office will not process this request as a stand alone amendment. We look forward to reviewing your full plan update through PLUS in the near future.

To assist you in preparing your plan update, here are some preliminary comments on these two new annexation areas:

1. Delaware Airpark Area: It is strongly recommended that any new annexation or subdivision activity be coordinated with the Delaware Department of Transportation and the Delaware River and Bay Commission (the operators of the airport). We are concerned about how new development activity will impact airport operations and the ongoing expansion plans. The Town should take particular care in selecting land uses that are compatible with the airport use.
2. Nobles Pond Area: Our office has no objections to the inclusion of this area into the comprehensive plan as an annexation area. We suggest that the Town coordinate closely with Kent County regarding the approved subdivision, and consult with your solicitor about the viability of annexing a subdivision that is already under construction and relying upon an approved and recorded plan. It may be necessary to approve a new plan which will conform to all Town codes and ordinances. This may cause some difficulties for the developer if there are any differences between the Town and County codes.

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

The Cheswold Comp Plan Amendment was reviewed and the Division of Historical and Cultural Affairs has no issues with the proposed annexation other than to advise the town of reviewing the proposed annexation areas for potential unmarked burial sites to be identified and excluded from development plans in order to avoid triggering the state's unmarked human remains law. If you or anyone else would like to discuss these comments in further detail, please contact Ms. Robin Krawitz either by telephone or

email. Her contact information is as follows: (302) 736-7400 or [Robin.Krawitz@state.de.us](mailto:Robin.Krawitz@state.de.us) .

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

- 1) While DelDOT respects the right of the Town to plan for the land uses that it believes are appropriate, we believe that residential development may not be the best use of the Caldwell property or, for that matter, the adjoining Gulfstar property, which is already shown as future residential lands in the Town's Plan. The northwest portion of the Caldwell Property is in the Runway Protection Zone associated with the planned expansion of the Delaware Air Park, and residential development would not be permitted there. Beyond that area, however, is a larger area, which is more difficult to define, where residents would find the aircraft noise objectionable. If the Town believes that residential development is the best use for these properties, DelDOT will require that the developer agree to an Avigation Nuisance Easement & Non-Suit Covenant. A sample copy of such a document is available on request. However, they recommend that other, possibly industrial, uses be considered for these lands. Alternatively, the use of the land could be maintained as agriculture through the transfer or purchase of development rights.
- 2) The addition of the Caldwell lands to the area being annexed within 3 to 5 years creates a line of parcels from Route 42 to Lynnbury Woods Road (Kent Road 152) west of Delaware Airpark. In discussions with the owners of those parcels, DelDOT recommends that the Town introduce the idea of building a Town street or streets connecting those two roads. The block bounded by those roads, Moorton Road (Kent Road 92) and Brenford Road (Kent Road 42) is an appropriate size for a rural area but is undesirably large for a developed area. It would be appropriate to include the concept of this street in the overall Plan update.
- 3) The Eddie Evans Farm lands are presently being developed as The Village of Nobles Pond. In March 2007, DelDOT wrote to Kent County, commenting on a traffic impact study for that development. A copy of those comments is available on request.

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

**Water Resource Protection Areas**

The Water Supply Section, Ground-Water Protection Branch (GPB) has determined that there are wellhead protection areas and excellent ground-water recharge potential areas within the municipal boundaries and the areas proposed for annexation. The Town identifies Area B as having ground water issues (see map). DNREC recognizes the Town's efforts in voluntarily developing and adopting source water ordinances in 2005. As written, these ordinances are not protective of the resource.

The Town identifies Area B as having ground-water issues. Using DNREC databases, GPB could not find reasons for this designation. An area to the south of Area B has three leaking underground storage tanks, two Super Fund sites, three hazardous waste generators, and numerous private septic systems.

GPB recommends:

Investigating the reasons for Area B's designation as having ground-water issues to determine if it is a mapping error and the area should be mapped further south at the Area of Concern (see map).

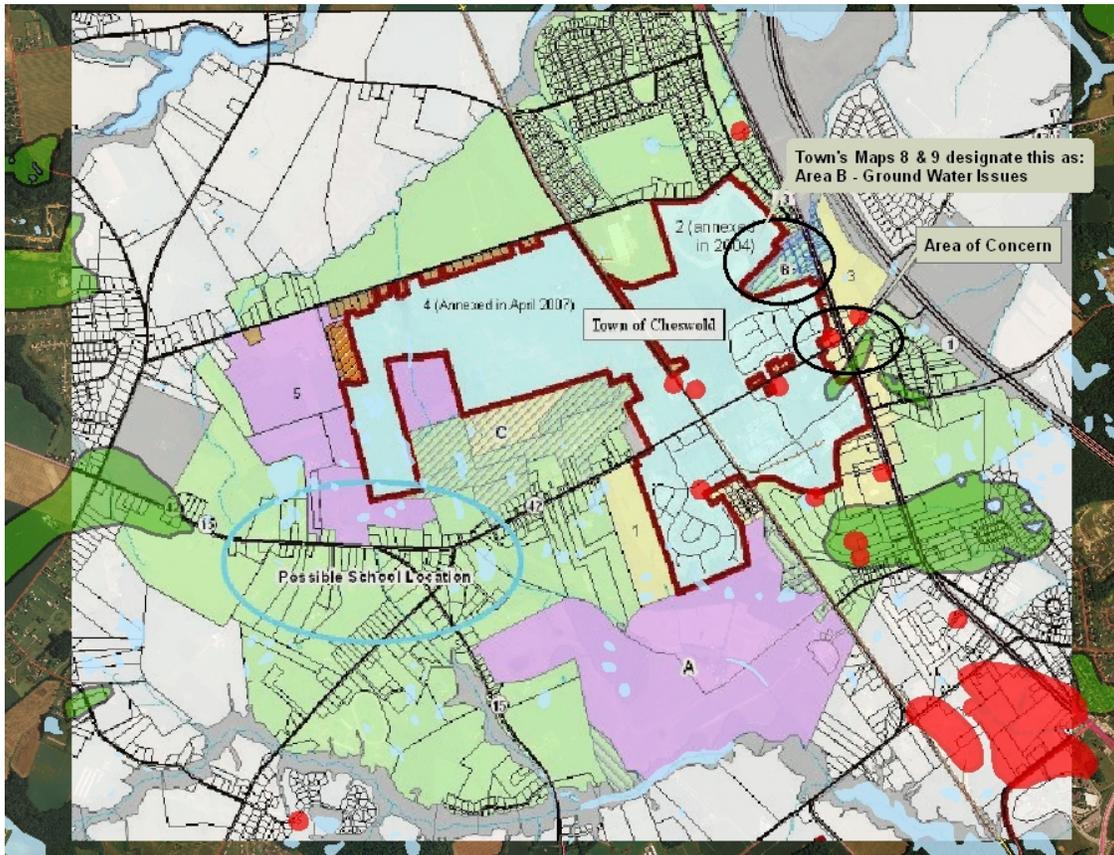
The Town of Cheswold had a population of less than 2000 persons at the time of the 2000 Census. The Town voluntarily developed ordinances in accordance with Delaware Code Annotated, § 6082. DNREC applauds the Town's efforts in this accomplishment but do not want the citizens of Cheswold to hold the false belief that the sources of their drinking water are being protected.

GPB reviewed the Town of Cheswold Comprehensive Plan (PLUS 2007-03-04) and provided comments to address the Town's source water ordinances. The ordinances as written contain outdated language, inappropriate references, and lack impervious cover thresholds.

GPB recommends:

The Town contact either the Delaware Rural Water Agency or the DNREC Source Water Protection Program for guidance and assistance in developing source water ordinances that are protective.

**Map of the Town of Cheswold Comprehensive Plan (PLUS 2008 - 02 -10) Map 9,** Growth Phasing for the Land Use Plan, as provided in the application is shown overlain with DNREC source water protection areas. The green areas are excellent ground-water recharge potential areas. The red areas are wellhead protection areas. Area B is noted on the Town's Maps 8 and 9 as areas having ground water issues. The Area of Concern is noted from the DNREC Site-Index Database as having three leaking underground storage tanks, two Super Fund sites, and three hazardous waste generators.



## Drainage

1. The Town should develop a Master Drainage Plan for the area within the existing Town boundary and future annexation areas. Adequate drainage and the proper maintenance of drainage systems within and around the Town of Cheswold are vital to agriculture, existing and proposed development, and the overall quality of life within the Town. Well-maintained ditches provide the drainage conveyance

framework that enables the area to have productive farmland and desirable residences.

2. The areas proposed for annexation in the amendment have drainage concerns associated with them. In the past, the Town has looked to the Drainage Program for technical assistance and funding to resolve drainage issues. With numerous drainage concerns in the long range planning area, along with the areas proposed for annexation in this amendment, the Town should be aware of the limited resources of the Drainage Program to assist the Town with drainage problems.

#### Future Land Use and Annexation within Land Use Plan and Land Use Ordinances

1. Streams and 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 or piling alongside the ditch. The Town should develop a Drainage Management Plan if they do not have one. A Drainage Management Plan would include a maintenance plan for drainage conveyances, include points of access for maintenance equipment, and designate spoil disposal areas.

#### Town Services

1. The Town should consider developing a mechanism to provide the means of funding to resolve drainage issues within the Town. Drainage easements should be for the Town and recorded as such. This gives the Town the ability to hire a contractor for maintenance of the drainage conveyance.
2. The Town should develop a Master Drainage Plan to identify existing open channels and stormwater pipes within the Town boundary, and future annexation areas, as these may require maintenance in the future. The riparian buffers along the channels provide a multitude of benefits to water quality and wildlife along with recreational opportunities. A Master Drainage Plan could also serve as a guide to link future development open space as greenways.

#### Natural Resources and Environmental Protection within Land Use Plan and Land Use Ordinances

3. Existing drainage ways should be incorporated into the Town's green infrastructure. However, a maintenance plan needs to be in place should blockages from storm debris, beaver, or other sources occur. The Town should identify existing open channels within the Town boundary as these channels

may require maintenance in the future. Most of the channels have trees and wetlands adjacent to the channel and the riparian buffer provide a multitude of benefits for water quality and wildlife. There must be a balance between preserving the riparian buffer and having the capability to access the channel to perform maintenance. A recommended easement width of 50 feet from edge of existing tree line, wetland, or top of bank whichever is greater would allow such access. By identifying such areas now, future development would incorporate the easement into community open space thereby preserving the riparian buffer while allowing for channel maintenance access.

4. Designate all wetland buffers as un-subdivided open space. No portion of any building lot should be within the buffers. During prolonged wet periods, the wetland buffers may become too wet for normal residential use. Designation as open space will aid in the prevention of decks, sheds, fences, kennels, and backyards being placed within the buffers thereby reducing nuisance drainage complaints.
5. Water bodies, ponds, intermittent and perennial streams, along with ditches should be buffered from development. However, the planting of riparian buffers should consider future drainage maintenance. When applied in conjunction with a Drainage Management Plan, existing buffers should be enhanced or new buffers planted to obtain riparian buffers on each side of the existing water conveyance. A tree and shrub planting on buffers with the tallest trees planted on the south and west side of the water conveyance will maximize shading of water. 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. Do not plant trees closer than 5 feet of the top of the bank to avoid future blockages from tree roots. Plant the balance of the buffer, as well as stream and ditch banks, with herbaceous vegetation to aid in the reduction of sediment and nutrients entering into water conveyance. Grasses, forbs and sedges planted within these buffers should be native species, selected for their height, ease of maintenance, erosion control, and nutrient uptake capabilities. Remove invasive vegetation prior to the planting of native species. The construction of pedestrian and bicycle paths within the buffer should be encouraged.
6. Existing woodland provides valuable wildlife habitat as well as soil erosion protection, water quality filtering, and surface water uptake. Unless managed for timber, wooded areas typically were areas that were unprofitable for farming due to poor drainage. Without trees to absorb the surface water these areas tend to require intensive drainage. The Drainage Program recommends

such areas be incorporated into recreation plan and not be allowed to be cleared for the creation of stormwater management areas.

7. Explore the use of drainage ways and other open space set aside for drainage maintenance for bicycle and pedestrian interconnections in new developments.

### **Rare Species**

We have not surveyed all of the parcels that are being proposed for annexation (or those already annexed). Therefore, it is unknown if State-rare, or federally listed plants, animals or natural communities will be impacted by development of these parcels. Some of the parcels have been surveyed and both rare plant and animal species have been documented. These species could be impacted if development of the parcels do not include preservation of forested and wetlands areas.

### **Forest Preservation**

In addition to providing wildlife habitat, forests also provide environmental services that benefit humans directly such as water quality protection (erosion control and sediment, nutrient, biological and toxics removal), climate moderation, aesthetic value and recreational opportunities. Cumulative forest loss and wetland degradation throughout the State is of utmost concern to the Division of Fish and Wildlife which is responsible for conserving and managing the State's wildlife (see [www.fw.delaware.gov](http://www.fw.delaware.gov) and the Delaware Code, Title 7). Current State, County and local ordinances and regulations do not adequately protect these resources. Therefore, we have to rely on landowners and/or the entity that approves projects (i.e. counties and municipalities) to consider implementing measures that will aide in forest loss reduction and wetland protection.

### *Recommendations:*

1. DNREC highly recommends that the Town require developers, or applicants of development projects, to contact the Natural Heritage and Endangered Species Program to determine if their project activities will impact a State-rare or federally listed species. In some cases a site visit may be requested in order to provide the necessary information. The Town should then consider requiring implementation of recommendations provided by the NHESP before approving site plans.

Contact information:

Environmental Review Coordinator  
Natural Heritage and Endangered Species Program  
DNREC-Division of Fish and Wildlife  
4876 Hay Point Landing Rd  
Smyrna, DE 19977

2. Forest blocks or forested wetlands on some of these parcels should be considered for preservation. Incentive-based programs for wildlife management are available to private landowners through our agency. Shelly Tovell is the contact person (302-735-3600).
3. Many parcels in the long-range planning area contain wetlands and water courses and should be required to maintain, at an absolute *minimum*, a 100-foot buffer comprised of the existing vegetation (or planted with native species of trees, shrubs, grasses, or wild flowers). Lot lines and infrastructure should not be permitted to impact this buffer zone. Current State, County and local required buffer widths do not appear to recognize scientific research which indicates that 100-foot vegetative buffers (not comprised of mowed grass) are necessary to adequately protect water quality. In addition, forested riparian areas are critical to many species of wildlife, providing travel corridors, foraging and nesting areas.
4. DNREC encourages the Town to consider State Agency comments for PLUS 2007-05-06, Saratoga, which is located in Area 5 on the map. The plans for this development could have been more environmentally sensitive and as proposed will potentially impact forests, wetlands and rare species.

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

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

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 and be maintained between the Delaware State Fire Marshal's Office and the County of Kent. The State Fire Marshal's Office would be issuing approvals much like DelDOT, Kent Conservation, and DNREC. This Agency's approvals are based on the Delaware State Fire Prevention Regulations only.

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

The Delaware Department of Agriculture has no objections to the proposed comprehensive plan amendment to annex several parcels. These parcels are already included in the Towns' Comprehensive Plan as future annexation areas.

**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**

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.

1. 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.
2. 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.
3. 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.

4. The DOE offers its support to assist and participate by coordinating with this municipality, 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.
5. The DOE appreciates the Town of Cheswold's consideration of potential future school sites in its Comprehensive planning and plan amendments. It must be noted however that the potential future school site identified on page 9 of the draft amendment January 2008 map is identified as a long-range planning area. The identification of this as a potential future school site does not commit the DOE or the school district to any particular location for future school site planning.
6. The DOE further appreciates the Town Of Cheswold's consideration of the effects of this amendment on the two local school districts.

***Approval Procedures:***

These new annexation areas will not be processed as a stand alone amendment. Please integrate them into your regularly scheduled Plan Update, which is due to be completed on or before October 2008. We look forward to reviewing this update through the PLUS process. It is recommended that you budget a minimum of four (4) months from submission of the update for PLUS review to plan certification.

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: Kent County