



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
Budget Development, Planning and Administration
State Planning Coordination

September 24, 2008

Ms. Rebecca Greene
Town of Felton
P.O. Box 239
Felton, De 19943

RE: PLUS review – 2008-08-06; Town of Felton Comprehensive plan Update

Dear Ms. Greene:

Thank you for meeting with State agency planners on August 27, 2008 to discuss the proposed update for the Town of Felton comprehensive plan.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

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

1. Pages 52 – 55, Section 6.4b, Annexation Area, we appreciate the long term outlook of the town by planning for annexation timing over the next 20 year period. The text on page 53 includes only Near Term (2008-2010) and Long Term (2011 – 2020). Map 7 identifies Near Term and Intermediate Term areas. There is a Long Term category in the legend, but it is not reflected on the map. Map 8 confuses the matter further by referencing the Short Range Growth Area, which is not discussed in the text or identified on Map 7. It will be important to clarify the terminology to ensure consistency between the text and map series. Municipal comprehensive plans are updated every five years, and as such it is important to identify parcels that will be considered for annexation within that five year period. Please revise the maps and text to clearly indicate which subset of parcels the Town would like to be able to consider for annexation within the five year period covered by this plan update. The longer range parcels can remain in the plan as “long term annexation areas” or “areas of concern,” but please be

- aware that a plan update would be required in order to consider annexation. The plan must be revised to clearly identify areas to be annexed within the 5 year period, and to clarify annexation area terminology between the text and maps.
2. Plan text on pages 44-46 must be revised to reference the current version of the Strategies for State Policies and Spending by properly identifying and referencing Investment Levels 1 -4. There are references to the previous 1999 – 2005 version of the Strategies on pages 44, 45, 46, 48 and 51. There may be other references. Please review the entire text.
 3. The plan and maps must be clarified to demonstrate that properties in agricultural preservation districts and that have had their development rights purchased by the State will not be annexed. Currently, the coloration on the maps makes it difficult to determine whether or not these parcels are to be annexed.
 4. The previous plan had notes included on the annexation plan map that addressed issues related to the limitation on annexation for certain parcels in agricultural preservation districts. These notes should be placed on the annexation plan map in the this update.
 5. On Page 49, the discussion of McGinnis property, this text is incorrect. The State has purchased the development rights from the McGinnis property. This parcel will remain in agricultural use in perpetuity. Remove all reference to “the possibility of being extended if the property owner does not request termination . . .” Please see the comments from the Delaware Department of Agriculture in this letter for more information. As per our January 24, 2007 letter from Connie Holland to David Kelly, please be aware that Felton may not annex the McGinnis property or identify it as an annexation area in the plan.
 6. Please submit all required annual reports. Our records indicate that your last annual report was submitted in December of 2005. Please submit annual reports for 2006, 2007 and 2008. We will not forward the plan for certification until we are in receipt of all required reports. A template is attached for your use.

Recommendations: Our office strongly recommends that the Town consider these recommendations as you review your plan for final approval.

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

Our office would like to commend that Town of Felton for a well done comprehensive plan update. Felton has actively worked to implement its comprehensive plan over the past five years, and has made great progress on ordinances, utilities, and the annexation of important properties. The plan update is a refinement of the town’s plan that should serve Felton well as the town continues to grow and develop. Please consider these recommendations as you revise your plan.

1. It is recommended that the land use plan discuss land use categories used in the existing limits in more detail. This would help to guide the revisions to the zoning ordinance that are discussed.
2. Work with DelDOT to craft a recommendation that will enable collaborative planning for annexation areas which contain Route 13 frontage. Perhaps this could / should be done in advance of annexation requests by looking at the entire annexation area now.
3. It is recommended that map 6 be revised to use the color scheme found in State Strategies; specifically use yellow rather than green for Level 3.
4. Please reconsider the future land uses for the commercial and residential parcels along Rt. 13 in the southern part of the annexation area. Is this area likely to become strip commercial? If so, perhaps indicate this so that minor plan amendments are not necessary. This area must be reconciled with DelDOT's Corridor Capacity Preservation Program, and perhaps all commercial uses should be required to access a service road connection.
5. Page 17 indicates that Felton has a higher rate of owner occupied units than the County and the State, but this is not verified by the 2000 Census figures shown in Table 10. Please review, and revise as necessary.
6. Page 21, I recommend you contact Bob Hart of the Lake Forest School District for an update on the District's long range plans for new school construction. A new elementary school in Harrington is opening soon.
7. Page 24, State Police Troop #3 (not #6) is located in Camden.
8. Page 30, change the reference from the "Dover Senior Center" to the Modern Maturity Center.
9. Page 39, Section 5.2, the last sentence references "area of concern." This designation appears to have been removed from the maps. Please clarify.
10. Pages 39-40, Section 5.3 Stormwater Management, the town describes a stormwater management issue in town, but does not discuss any solutions to it. DelDOT street and stormwater management upgrades are mentioned, but the plan does not discuss any steps that could be taken for town streets. Please work with DelDOT, KCD, and DNREC to craft a recommendation that will enable future collaboration on stormwater management issues.
11. Page 55, indicates that PLUS reviews are required for annexation requests. This is incorrect. PLUS review is not required for any annexations that are consistent with a municipality's certified comprehensive plan. Land development

- applications that meet the thresholds found in Del C and Felton’s PLUS MOU must be reviewed through PLUS, but not the annexation itself. Please revise.
12. Pages 56 – 57, Section 6.5b, Next Steps, please be aware that our process for comprehensive plan certification has changed since your last plan was certified. Once all certification issues and recommendations from our PLUS review have been addressed, our office will forward the plan to the Governor for certification along with our recommendation. The plan will be certified at his/her discretion.
 13. Page 57, indicates that the plan will be adopted by resolution. We recommend that the plan be adopted by ordinance. Please discuss the pros and cons of adoption by resolution or ordinance with your solicitor.
 14. The plan does not address economic development, but it should. What are the town’s goals for attracting and retaining businesses? Felton need not stay a bedroom community.
 15. Our office has been involved in the process of “sub area master plans” in a number of other communities. A sub area master plan involves pre-planning for the growth of a certain geographic area, including roads, utilities, land uses, environmental features, and other components. The large annexation areas south of Felton appear to be good candidates for this type of planning. If these areas are developed, they will undoubtedly contain a population larger than the town itself in the future. It would only make sense to anticipate the infrastructure needs of this growth, and coordinate the various elements of it. We encourage the town to consider a recommendation in the plan to enable this type of planning effort in the future. Our office is willing to assist the town with these types of planning studies.
 16. And finally, we would like to request the opportunity to review our PLUS MOU in order to ensure that it is working for both parties. A copy of the current MOU is attached. Our office will be contacting you to set up a meeting to review the MOU.

State Historic Preservation Office (SHPO) – Contact: Terrence Burns 739-5685

No comments Received

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) In the list of Town, County and State Officials, Mr. Petit de Mange’s title should be corrected to read County Administrator and to show his AICP credential.
- 2) Section 5.3, Stormwater System, begins by describing the Town’s progress in converting from open ditches to enclosed drainage and goes on to state that the Town still has drainage problems. While enclosed drainage can make better use

- of the right-of-way in an urban setting, it is not always an improvement over open drainage, and it can be expensive to change if the initial installation is not adequately designed. From the discussion at the PLUS meeting, it seems that the pipe installations done thus far were reasonable and appropriate. However, DelDOT suggests that more significant efforts to improve the Town's drainage system should begin with a comprehensive drainage study, or one for each watershed within the Town if there is more than one, and development of a prioritized list of improvements to be made.
- 3) Section 5.4, Transportation, mentions that "The Town has completed its network of sidewalks within the older portions of the Town". DelDOT congratulates the Town on this accomplishment.
 - 4) In Section 5.5, Summary of Issues and Recommendations, there is an item under Transportation that "The Town would like to consider, in addition to street sidewalks, a system of pedestrian paths that need not follow roadways but would meander through the Town connecting parks, public buildings and business areas to parking lots and residential areas." All other items in this section begin "The Town will..." and this seems to be a worthwhile activity. DelDOT suggests that the text be changed to read "The Town will work to establish..." Further, they recommend that the Town consider Chapter 3 (Site Plan Design) of our Standards and Regulations for Subdivision Streets and State Highway Access as a possible resource in the planning and design of this system of paths.
 - 5) In Section 6.4b, Annexation Area, DelDOT recommends that the Town reconsider its decision to exclude the lots along the west side of Chimney Hill Road between Pratt Branch and Spring Branch and the lots on both sides of Route 12 west of Chimney Hill Road. They understand that the Town is not presently able to provide water and sewer services to those lots, but those lots are also not contiguous to the Town yet. They believe it would be reasonable to include these lots for long-term annexation and to plan to serve them in the future. Certainly it would make for a more readily identifiable future Town boundary.

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

Water Resources/Water Quality

1. The Plan should make specific recommendations for reducing imperviousness. The following recommendations could be incorporated in an ordinance:

Require the use of pervious paving materials, whenever practicable, in lieu of conventional paving materials. The use of pervious paving materials is especially important for large commercial parking lot areas. Studies have shown a strong relationship between increases in impervious cover to decreases in a watershed's overall water quality. Reducing the amount of surface

imperviousness through the use of pervious paving materials (“pervious pavers”) in lieu of asphalt or concrete, is an example of practical BMPs that could easily be implemented to help reduce surface imperviousness.

Require an impervious surface mitigation plan for all residential and commercial development exceeding 20% imperviousness. The impervious surface mitigation plan should demonstrate that the impervious cover in excess of 20% will not impact ground water recharge, surface water hydrology, and/or water quality of the site and/or adjacent properties. If impacts to groundwater recharge, surface water hydrology will occur, the plan should then demonstrate mitigation of said impacts and/or if impacts cannot be mitigated, the site plan will be modified to reduce the impact of impervious cover. Additionally, it is further recommended the pervious paving materials be required. In commercial areas, it is strongly recommended that pervious paving materials be required for at least 50% of the total paved surface area(s).

Define how developers may calculate surface imperviousness. The calculation for surface imperviousness include all of the following forms of constructed surface imperviousness: all paved surfaces (e.g., roads, sidewalks, and parking areas), rooftops, and open-water stormwater management structures.

2. The Plan should make a recommendation to protect open space

It is strongly recommended that the Town exclude structural Best Management Practices (BMPs) such as community wastewater treatment areas, open-water stormwater treatment structures and wetlands from consideration as open space.

Page 34, Environmental Resources (Section 4.3)

Wetlands

Please eliminate the 3rd paragraph in the narrative under the Environmental Resources section referencing wetland regulatory requirements, and replace with the following suggested verbiage (or paraphrased) as a “stand alone” subsection (under same section) entitled “Wetland Regulatory Requirements:”

“Regulatory Protection of wetlands is mandated under Section 404 provisions of the Federal Clean Water Act. Certain other wetlands (mainly in tidal areas) are accorded additional regulatory protection under Title 7 Chapter 66 provisions of the State of Delaware’s Code. Compliance with these statutes may require an Army Corps of Engineers approved field wetlands delineation and/or an official DNREC wetland jurisdictional determination.”

TMDLs

Please eliminate paragraphs 6, 7, and 10 under the Environmental Resources section, and replace with following suggested verbiage and table as a new “stand alone” subsection (under same section) entitled “TMDLs and Water Quality:”

The Town of Felton is located within the Murderkill River watershed, which is an impaired watershed according to Section 303(d) of the Clean Water Act. Under Section 303(d) of the 1972 Federal Clean Water Act (CWA), states are required to identify all impaired waters and establish total maximum daily loads to restore their beneficial uses. A TMDL defines the amount of a given pollutant that may be discharged to a water body 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 (WLAs) for point sources and Load Allocations (LAs) 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. A Pollution Control Strategy (PCS) specifies actions necessary to systematically achieve pollutant load reductions specified by a Total Maximum Daily Load for a given water body, and must reduce pollutants to level specified by State Water Quality Standards.

The Town of Felton is located within the Murderkill River Watershed of the greater Delaware River and Bay drainage. This watershed is assigned a range of nutrient (nitrogen and phosphorus) and bacterial TMDL load reduction requirements that, as mentioned previously, must be met in order to meet the State Water Quality Standards. The following table presents the range of nutrient and bacteria reduction requirements for the Murderkill River watershed.

Delaware River and Bay Drainage	N- reduction requirements	P-reduction requirements	Bacteria-reduction requirements
Murderkill	30%	50%	32% Fresh 65% Marine

Table 1: TMDL Nutrient (Nitrogen and Phosphorus) and Bacteria reduction requirements for the Murderkill watershed.

Water Resource Protection Areas

The Water Supply Section, GWPB has found wellhead protection and excellent ground-water recharge potential areas within the Town’s municipal boundaries (see map). GWPB applauds the Town’s position on environmental issues and their willingness to participate in developing a source water protection ordinance.

The PLUS applicant provided Additional Comments that “there is no mention of significant natural features within the Town” (pg 6). Excellent ground-water recharge potential areas are considered significant natural features and this fact should be acknowledged.

In Chapter 4.3, paragraph 3, the applicant states that ground-water recharge areas are regulated only in New Castle County. The applicant further states that the DNREC is currently in the process of requiring all municipalities and both Kent and Sussex Counties to update their zoning to protect wellhead protection and excellent ground-water recharge area. These statements are not factual. Title 7, Delaware Code, Chapter 60, Subchapter VI, § 6082 requires municipalities with greater than 2000 persons and all counties to adopt source water protection ordinances by December 31, 2007. In fact, Kent County has already adopted a source water protection ordinance.

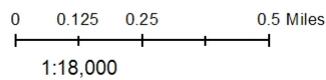
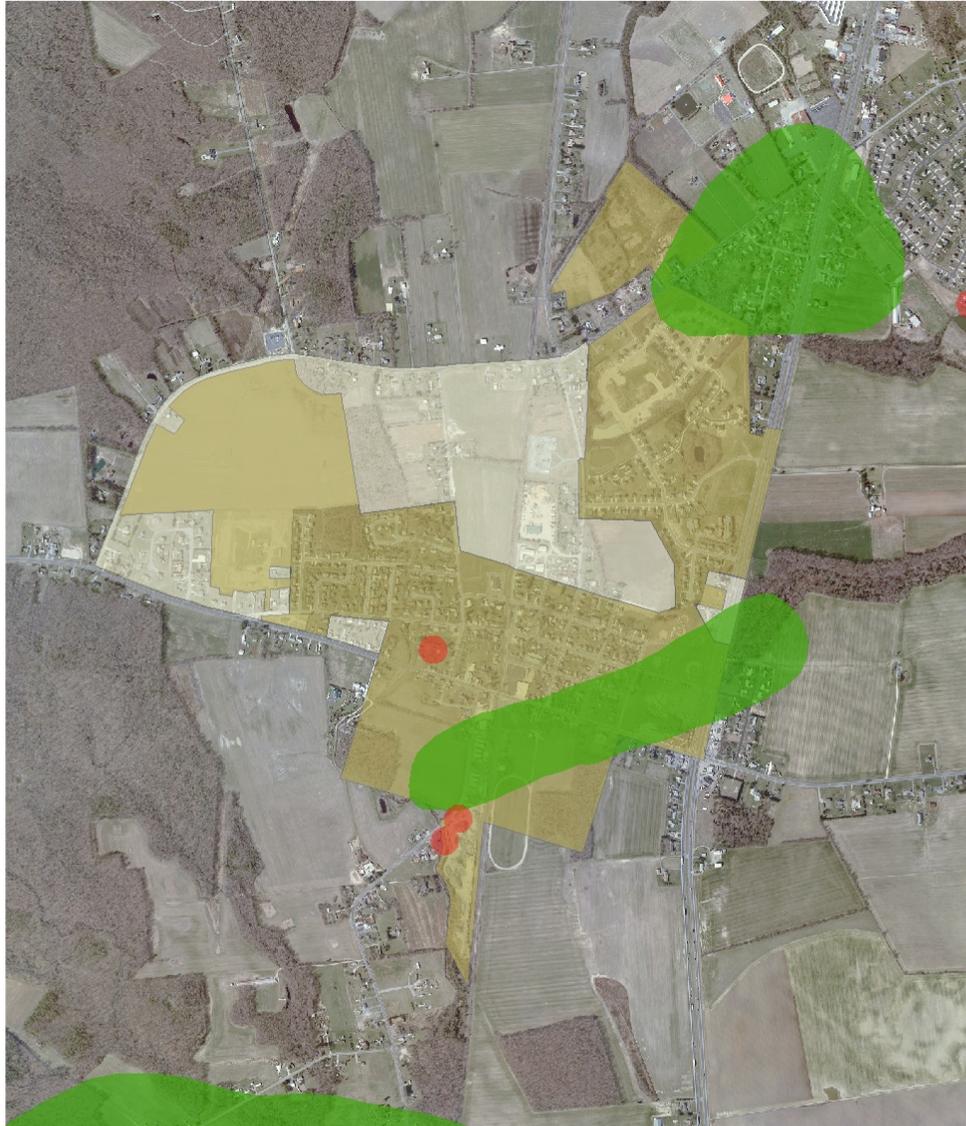
In Chapter 4.4, the section entitled, *Environmental* the Town expresses their intent to develop regulations governing wellheads and ground water recharge based on the New Castle County model. While it is important to acknowledge that the spirit of the New Castle County model is protective of the resource, it is important to note that many of the articles used by New Castle County are not applicable outside the County. It would better serve the Citizens of Felton to use the Kent County Ordinance as a template or the DNREC *Draft Model Ordinance for Smaller Municipalities of Kent and Sussex Counties*:

http://www.wr.udel.edu/swaphome/Publications/SWPOrdinances/FinalDraftModelOrdinance_KnS_041408.pdf

Should the Town require assistance, please contact the DNREC Water Supply Section.

Map of the Town of Felton Comprehensive Plan Amendment (PLUS 2008-08-06)

Town of Felton, DE



Legend

- | | |
|--|---|
|  Wellhead Protection Area |  Municipal Boundaries |
|  Excellent Ground Water Recharge Potential Area |  Short Term Growth Areas |

Water Allocation

The Town of Felton recently modified their water allocation permit to include production from Well 1 and the arsenic removal treatment system. The new allocation is adequate to provide for the projected 5-year increase in population as described in the Comprehensive Plan. The new allocation will only provide a reduced volume of water for the build out population of 1,734. The Town must undertake a significant water conservation effort before the population approaches that figure, or add a new well to the water supply system. The need is not urgent however, because projections based on the current growth rate indicate that the build out population will not be attained in less than 15 years.

Recommendations for future ordinances/revisions to existing ordinances

As specific “implementation strategies” for future code provisions or ordinances that should be incorporated under the Environmental subsection of the Summary of Issues and Recommendation Section, we recommend an ordinance or ordinances which would:

- a) Require all applicants to submit to the Town a copy of the development site plan showing the extent of State-regulated wetlands (as depicted by the State Wetland Regulatory Maps), and a United States Army Corps of Engineers (USACE) approved wetlands delineation as conditional approval for any new commercial and/or residential development. Additionally, the site plan should depict all streams and ditches which are jurisdictional pursuant to the Subaqueous Act (7 Del. C., Chapter 72) as determined by DNREC.
- b) Help protect freshwater wetlands where regulatory gaps exist between federal and state jurisdictions (i.e., isolated wetlands and headwater wetlands).
- c) Require a 100-foot upland buffer width from all wetlands or water bodies (including ditches).

Based on a review of existing buffer research by Castelle et al. (Castelle, A. J., A. W. Johnson and C. Conolly. 1994. *Wetland and Stream Buffer Requirements – A Review*. J. Environ. Qual. 23: 878), an adequately-sized buffer that effectively protects wetlands and streams, in most circumstances, is about 100 feet in width. In recognition of this research and the need to protect water quality, the Watershed Assessment Section recommends that the applicant maintain/establish a minimum 100-foot upland buffer (planted in native vegetation) from the landward edge of all wetlands and water bodies (including all ditches).

- d) Require all applicants to prepare an impervious surface mitigation plan for all residential and commercial developments exceeding 20% imperviousness. It is further recommended the Town require all projects that exceed this 20% threshold,

implement mitigating measures (e.g., pervious paving materials or preservation of open space) to reduce the negative impacts from surface imperviousness. In the case of commercial developments, it is strongly recommended that all projects require at least 50% of their total paved surface area(s) consist or contain pervious paving materials.

- e) Require the calculation for surface imperviousness for all commercial and residential development include all constructed forms of surface imperviousness, including all paved surfaces (roads, parking lots, and sidewalks), rooftops, and open-water stormwater management structures.
- f) Require the assessment of a project's TMDL nutrient loading rate through use of the Department's nutrient budget protocol. The applicant should be further required to use any combination of approved Best Management Practices (BMPs) to meet the required TMDLs for the affected watershed(s) in question.
- g) Exclude structural Best Management Practices (BMPs) such as community wastewater treatment areas, open-water stormwater treatment structures and regulated wetlands from consideration as open space.
- h) Prohibit development on hydric soil mapping units. Proof or evidence of hydric soil mapping units should be provided through the submission of the most recent NRCS soil survey mapping of the parcel or through the submission of a field soil survey of the parcel by a licensed soil scientist.
- i) Require the applicant to use "green-technology" stormwater management in lieu of "open-water" stormwater management ponds whenever practicable.

Waste Water

The Town of Felton discharges all of its raw wastewater to the Kent County Regional Wastewater Treatment Facility for treatment and discharge to the Murderkill River. Kent County has provided sanitary sewer service to Felton since 1977. The Town is served through the Felton Sanitary Sewer District, Pump Station 21, and the Kent County Wastewater Treatment Facility at Frederica. The sewer district includes Felton, the surrounding County lands, including the Felton long range planning area and the Lake Forest school complex on Killens Pond Road. The district was designed to handle 1.1 million gpd, and currently uses about 10 percent of its capacity or 117,000 gpd.

Development through out the Felton planning area (see Map 2 Planning Area) is within the County's Growth overlay zone. The Kent County Wastewater system can support the

possible annexations, and potential development beyond the Town in the “area of concern.”

The Plan does not clearly state if construction of individual or community On-site Wastewater Treatment and Disposal Systems (OWTDSs) would be prohibited in any of the proposed annexation areas. The GWDS recommends the Plan prohibit the installation of individual or community OWTDSs within the annexation areas, and clearly state that in the Plan.

Stormwater Management and Drainage

General Comments

- Surface water management and the development of a master drainage plan are key elements that are missing in the comprehensive plan.
- The annexation areas to the South and East should have a master plan prepared including transportation, surface water management, drainage maintenance, passive and active open space, recreation, groundwater protection, and water quality.
- Adequate drainage and the proper maintenance of drainage systems within and around the Town of Felton are vital to 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.

Page 33, Open Space and Recreation

- The Town should identify existing open channels within the Town boundary, and future annexation areas, as these channels 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. The development of a master drainage plan could also serve as a guide to link future development open space as greenways.
- Explore the use of drainage ways and other open space set aside for drainage maintenance for bicycle and pedestrian interconnections in new developments. For developments on waterways that are of sufficient size to kayak consider an unimproved launch area in the recreation open space plan. This would allow more residents to access the waterways, in a non-mechanized manor, while keeping the cost of operations and maintenance down.

- 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.
- 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.

Page 34, Suggestions to incorporate into existing ordinances or draft new ordinances.

- Existing drainage ways should be incorporated into the 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.

- Existing woodland provides valuable wildlife habitat as well as soil erosion protection and water quality filtering. The Town can adopt ordinances that are more stringent than the current State of Delaware Sediment and Stormwater regulations and protect woodland, riparian buffers, and wetlands by not allow the clearing of woodland, riparian buffers, and wetlands for the creation of stormwater management areas.

Page 42, Stormwater System

- Contact the Drainage Program concerning technical assistance for the maintenance and upgrade of private drainage ways within the Town or future annexation area.
- The Town should pursue drainage easements along waterways, ditches, and storm drains where currently there is none. This would give the Town the ability to hire contractors to remove blockages without the time consuming task of the State obtaining permission to trespass on the property.
- The Town should consider identifying any problem drainage areas, and tax or public ditch systems within the Town's boundaries. Contact Brooks Cahall at the DNREC Drainage Office located in Georgetown, (302) 855-1930, to obtain a GIS layer showing existing tax ditch channels and/or public ditch systems. As annexation occurs, any drainage ways within those areas may become the responsibility of the Town to maintain. The Town may want to consider developing a Drainage Code or Drainage Management Plan.
- Please incorporate discussion that reflects how the Town currently deals with stormwater management and how they would like to see it dealt with in the future as development occurs. The Town may want to consider surface water management (drainage, stormwater, flooding potential), in addition to wastewater and sewer capacities when reviewing annexation requests and plans.
- Streams, 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. For private ditches, a Drainage Management Plan would include a maintenance plan for drainage conveyances, include points of access for maintenance equipment, and designate spoil disposal areas.
- The Division of Soil and Water Conservation is requesting that the Town incorporate a requirement for a stormwater and drainage review into the Town's

preapproval requirements for new development requests. Proposed development projects should hold a pre-application meeting with the delegated agency, the Kent Conservation District, to discuss stormwater and drainage prior to the Town reviewing and/or approving plans or issuing building permits. The Sediment and Stormwater Program is set to begin requiring a pre-application meeting for all proposed land disturbing activities that require a detailed Sediment & Stormwater Plan within the coming year. These meetings are structured to assist developers in the design process and for early notification of approval requirements. In order to schedule a pre-application meeting, the applicant must forward a completed Stormwater Impact Study (SIS) to the appropriate Delegated Agency. Please contact Jennifer Campagnini or Elaine Webb with the DNREC Sediment and Stormwater Program if you have any questions regarding this new process. Please note that this process does not replace the State's PLUS process. The SIS Findings report will also be provided through that process.

- The Division has been seeing more small construction projects without an approved Sediment and Stormwater Plan. Sediment and Stormwater Regulations require a Sediment and Stormwater Plan for land disturbing activity 5,000 square feet or greater. Land disturbing activity may be more than the building footprint. Land disturbing activity means a land change or construction activity for residential, commercial, industrial, and institutional land use which may result in soil erosion from water or wind or movement of sediments or pollutants into State waters or onto lands in the State, or which may result in accelerated stormwater runoff, including but not limited to clearing, grading, excavating, transporting, and filling land. As the Town of Felton updates any land use or subdivision codes, the Sediment and Stormwater Program requests the Town make a note of the Sediment and Stormwater requirements on any construction - related project application checklists, etc.
- Lines and grades: If the Town does not have a lines and grades requirement for new construction, the Division recommends that this be considered to help resolve drainage issues arising from new construction during and post construction. County/municipal building inspectors would be able to use approved lines and grades requirement to field verify prior to issuance of Certificate of Occupancy or building permit, as appropriate.
- The Sediment and Stormwater Program is currently in the process of reviewing and updating the State's stormwater management regulations which, in the past, have focused on new development. However many existing storm water runoff issues are associated with older developments built prior to the adoption of stormwater regulations in 1990. Managing surface water for quality as well as quantity has become a major focus as well. Awareness of water quality concerns and regulations have required us to explore methods for quality and quantity

management in new development as well as opportunities for retrofits and restorations.

Page 50, last paragraph, update of Land Use Ordinances

The Drainage and Stormwater Section offers their technical assistance with updating the Land Use Ordinances through suggestions, workshop participation, and draft review.

Page 55, Coordination

- Coordinate with Kent County and surrounding municipalities within their areas of concern for annexation on the locations of tax ditches, drainage ditches, sensitive and critical habitat, wetlands, and greenways..

Habitat Preservation

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 does not include preservation of forested and wetlands areas.

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 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. We highly recommend that the Town require developers, or applicants of development projects, to contact the Natural Heritage and Endangered Species Program (NHESP) 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*, at least 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. There are large tracts of forest on the west side of the long range planning area. Several of these tracts have been surveyed by NHESP staff and have been found to be of fair quality. Forests of this size are becoming rare in Delaware and many species of wildlife depend on large, unbroken forest. The comprehensive plan should address how the highest quality forests in the long range planning area can be identified and protected.

Effect of Forest Loss/Fragmentation on wildlife resources

Forest loss that has occurred over the last decade has led to a corresponding loss of forest-dependent species. For migratory birds, it is extremely important to conserve large tracts of forests in the State of Delaware due to its position within the Atlantic flyway. Forest fragmentation resulting from development separates wildlife populations, and increases “edge effects” that leave many forest dwelling species vulnerable to predation and infiltration by invasive species. When forested areas are cleared, wildlife must either co-exist with new human residents or disperse into surrounding areas. Either scenario can result in human/animal conflicts including interactions on the roadways. Greater pressure is placed on nearby protected lands such as wildlife areas, State forests and State parks as displaced wildlife compete for finite resources. Crowding wildlife into smaller

and smaller ‘islands’ of habitat can also lead to an increase in disease related mortality.

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.

5. The southern boundary of the long range planning area enters the Murderkill Natural Area. This area should be kept in its natural state to the greatest extent possible. If any development is planned in this area, please contact Eileen Butler, Natural Areas Program Manager, at (302) 739-9235 to determine how to best minimize impacts to species in this Natural Area.
6. Environmental Features Map: This map does not include forested land. Forested land should be considered an environmental feature.
7. Section 4.3 of the 2008 draft comprehensive plan mentions the “maintenance of larger wooded lots within the town”. The plan should specify the types of maintenance and should commit to identifying and preserving the wood lots of high quality. NHESP can assist with these assessments.
8. Section 4.4 of the 2008 draft comprehensive plan’s Open Space and Recreation Section acknowledges that bird watching is an activity that is undertaken in Felton. Preserving the largest tracts of forest possible will enhance this activity.
9. Section 6.2a Goal #4 of the 2008 draft comprehensive plan should include preserving wild lands as a preservation goal
10. Section 6.3b of the 2008 draft comprehensive plan contains a section relating to “Suburban Sprawl”. Fragmentation and reduction of viable wildlife habitat should be included as a bullet under the impacts of sprawl.

Recreation

In May and June 2008, the Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2008-2011 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities. The high and moderate facility needs in Kent County are listed below. Eighty-eight percent of Kent County respondents said that Outdoor Recreation was very or somewhat important to them. Consideration should be given to incorporate some of these recreation opportunities into the Felton Comprehensive Plan. For additional information about the SCORP or outdoor recreation priorities, contact Kendall Sommers at 302.739.9235.

High facility needs:

Walking/jogging Paths
Public Swimming Pools
Bicycle Paths

Moderate facility needs:

Public Golf Courses
Basketball Courts
Baseball/Softball Fields

Open Space/Passive
Recreation

Fishing Areas
Playgrounds
Picnic Areas

Horseshoe Pits
Access for Boating (canoe, kayak, and
powerboat)
Soccer Fields
Football Fields

Site Investigation and Restoration

The Site Investigation and Restoration Branch (SIRB) encourages the development of Brownfields and can provide assistance when investigating and remediating Brownfield sites. Although SIRB has no specific comments regarding the proposed comprehensive plan at this time, if any future development occurs on sites with previous manufacturing, industrial, or agricultural use, SIRB recommends that a Phase I Environmental Site Assessment be conducted prior to development, due to the potential for a release of hazardous substances. If a release or imminent threat of a release of hazardous substances is discovered during the course of future development (e.g., contaminated water or soil); construction activities should be discontinued immediately, and DNREC should be notified at the 24-hour emergency number (800-662-8802). In addition, SIRB should be contacted as soon as possible at 302-395-2600 for further instructions.

Underground/Aboveground Storage Tanks

Should any underground storage tanks or petroleum-contaminated soil be discovered by any person during construction, the DNREC-TMB and the DNREC Emergency Response Hotline at must be notified within 24 hours. The DNREC-TMB and the Emergency Hotline may be reached at (302) 395-2500 and at (800) 662-8802, respectively. In addition, should any contamination be encountered, PVC pipe materials would have to be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.

All plans for UST system installations must be approved in advance by the TMB with exception of UST systems of 1,100 gallons or less that contain heating fuel for consumptive use on the premise where it is stored or systems that contain motor fuels for non-commercial purposes.

If any aboveground storage tanks (ASTs) less than 12,500 gallons are installed, they must be registered with the DNREC-TMB. If any ASTs greater than 12,500 gallons are installed, they are subject to installation approval by the DNREC-TMB.

Should the municipality anticipate being more restrictive than Delaware's *Regulations Governing Underground Storage Tank Systems* or Delaware's *Regulations Governing Aboveground Storage Tanks*, please be aware that the municipality shall be responsible for enforcing the more restrictive rules.

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

No comments received

Department of Agriculture - Contact: Scott Blaier 739-4811

The Department of Agriculture would like to commend the Town on a well-written comprehensive plan update. We appreciate the plans reference and support of the "Livable Delaware" goals and continued support the Agricultural Lands Preservation Program (page 56). The Department offers the following comments.

Please correct the sixth bullet item on page 49. The development rights on the McGinnis property have been purchased by the Agricultural Lands Preservation Program, and are now owned by the State of Delaware. The easement placed on this property is permanent and perpetual, and not subject to termination by current or future landowners.

Although the Agricultural Lands Preservation statute does contemplate the termination of an easement after 25 years, if certain strict criteria are met, that determination is made solely by the Agricultural Lands Preservation Board, and not the landowner.

As a standing policy, the Department of Agriculture opposes annexation of any property enrolled in the Agricultural Lands Preservation program.

The Agricultural Land Preservation application for the Pizzadili Vineyard and Winery, along Peach Basket Road, is pending. Until the preservation agreement has been completed by the owner, this property is not officially in the Agricultural Lands Preservation program.

The Department encourages the town to include more discussion about future economic development in the plan, including agriculture. The Department encourages the town to develop and promote agricultural business whenever possible, such as: farm markets, agricultural processing facilities, agricultural support businesses (i.e. fertilizer/pesticide dealers), etc. The Department now has a fully staffed marketing section, and we encourage the town to contact them at (302) 698-4535 to see how they can help.

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

Delaware Division of Public Health- Health Promotion Bureau- contact Michelle Eichinger (302) 744-1011

Ensuring that new residential and commercial development incorporates pedestrian- and bicycle-friendly features allows people to travel by foot or by bicycle and promotes physical activity as part of daily routines. Regular physical activity offers a number of health benefits, including maintenance of weight and prevention of heart disease, type 2 diabetes and other chronic diseases.¹ Research shows that incorporating physical activity into daily routines has the potential to be a more effective and sustainable public health strategy than structured exercise programs.² This is particularly important considering about 65% of adult Delawareans are either overweight or obese.³ This current obesity crisis is also affecting children. Approximately 37% of Delaware's children are overweight or obese⁴, which places them at risk for a range of health consequences that include abnormal cholesterol, high blood pressure, type 2 diabetes, asthma, depression and anxiety.¹

In Delaware, as in other states across the nation, certain patterns of land use can act as a barrier to physical activity and healthy eating for children and adults alike. Examples of such barriers include neighborhoods constructed without sidewalks or parks and shopping centers with full-service grocery stores situated too far from residential areas to allow for walking or biking between them.

As a way to promote physical activity and access to healthy foods, we recommend that the following be included in the Town of Felton Comprehensive Review:

Increase opportunities for physical activity and active transportation

- In addition to pedestrian paths that meander through town, Felton's transportation improvements should also include designated bike lanes to allow travel by bicycle between parks, public buildings, business areas and residential areas.

Increase opportunities for healthy eating

- Designate an area for a seasonal farm stand or mini farmer's market that will promote the sale of fruits and vegetables.
- Explore opportunities for a community garden, especially if there are vacant lots. Community gardens not only provide residents access to healthy nutrition, but they also provide opportunities for physical activity and community cohesiveness.⁵

Promote a healthy community

- Explore ways to promote a healthy community in the Town of Felton. The Division of Public Health with the University of Delaware's Institute for Public Administration produced a resource manual to increase opportunities for a healthy community. Here is the link to this document, http://www.ipa.udel.edu/publications/HealthyCommunities_guideWeb.pdf This document provides suggestions for funding opportunities to promote healthy communities.

¹ Nemours Health and Prevention Services (2005). *Delaware Children's Health Chartbook*, Newark, DE.

² Active Living by Design. *Transportation Fact Sheet*. Retrieved May 17, 2007, from http://www.activelivingbydesign.org/fileadmin/template/documents/factsheets/Transportation_Factsheet.pdf.

³ Delaware Health and Social Services (2008), *Division of Public Health, Behavioral Risk Factor Surveillance System (BRFSS), 1990-2007*.

⁴ Nemours Health and Prevention Services (2007). *2006 Delaware Survey of Children's Health Descriptive Statistics Summary, Volume 1*.

⁵ Hancock, T. (2001). People, partnerships and human progress: building community capital. *Health Promotion International*, 16(3), 275-80.

⁶ Active Living by Design. *Parks Trails, and Greenways Fact Sheet*.

Delaware State Housing Authority – Contact Vicki Powers 739-4263

DSHA has reviewed the Town of Felton Comprehensive Plan. Since the Town of Felton has a population of less than 2,000, they are required to state their position on housing growth. DSHA supports the Plan's position on housing growth.

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 and involvement to coordinate with the town, the local school districts, the Office of State Planning Coordination as well as other school districts and stakeholders.
5. The DOE appreciates the town's consideration of education issues and the recognition of the need for land for school expansion/construction. Continued coordination with the Lake Forest school district is encouraged to meet the educational needs of the student population of the town and surrounding residents.
6. DOE has no further comments regarding the Comprehensive Plan update under consideration.

Approval Procedures:

1. Once all edits, changes and corrections have been made to the plan, please submit the completed document (text and maps) to our office for review. **Your PLUS response letter should accompany this submission.** Also include documentation about the public review process. In addition, please include documentation that the plan has been sent to other jurisdictions for review and comment, and include any comments received and your response to them.
2. Our office will require a maximum of 20 working days to complete this review.
 - a. If our review determines that the revisions have adequately addressed all certification items, we will forward you a letter to this effect.
 - b. If there are outstanding items we will document them in a letter, and ask the town to resubmit the plan once the items are addressed. Once all items are addressed, we will send you the letter as described above.
3. Once you receive our letter stating that all certification items have been addressed, your Planning Commission and Council should adopt the plan pending

State certification. We strongly recommend that your Council adopt the plan by ordinance. The ordinance should be written so that the plan will go into effect upon receipt of the certification letter from the Governor.

4. Send our office a copy of the adopted plan along with the ordinance (or other documentation) that formally adopts your plan. We will forward these materials to the Governor for her consideration.
5. At her discretion, the Governor will issue a certification letter to your City.
6. Once you receive your certification letter, please forward two (2) bound paper copies and one electronic copy of your plan to our office for our records.

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

Attachments: Annual Report Template
PLUS MOU between OSPC and the Town of Felton