



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

June 23, 2009

The Honorable Don Tinari
Mayor
Town of Cheswold
333 Main Street
Cheswold, DE 19936

RE: PLUS review 2009-05-04; Town of Cheswold Comprehensive Plan

Dear Mr. Tinari:

Thank you for meeting with State agency planners on May 27, 2009 to discuss the proposed Town of Cheswold draft comprehensive plan update.

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. The plan must be revised to include a section in the text describing the future land use plan. Such a section would generally describe land uses in the town, and then describe what is meant by the categories of land use on the Future Land Use Map and the Annexation Plan map. You might even go so far as to describe which zoning districts are acceptable in the various land use categories.
2. The plan document does not provide any evaluation of the Town's context with regards to either the Kent County Comprehensive Plan or the Strategies for State Policies and Spending. The plan must be revised to provide such an evaluation, and include some commentary about how the Town's future land use and annexation plans are compatible with these documents. There are other regional

planning documents, such as the Dover/Kent MPO Regional Transportation Plan, which may warrant some discussion as well.

3. From the discussion at the PLUS meeting, it is our understanding that the Future School Site shown on maps 7, 8 and 9 is shown for informational purposes only and is not being considered for annexation during this five year planning period. Please clarify these intentions in the plan text and on the legend of these maps.

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

This office has received the following comments from State agencies:

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

The Office of State Planning Coordination commends the Town of Cheswold for preparing a well crafted comprehensive plan that defines a clear vision for the Town's future. It is obvious that Cheswold is preparing for growth and development compatible with the context of the town. Through careful annexations, the phasing of growth, and attention to necessary infrastructure and transportation issues this plan should work well to guide the next period of growth and revitalization in Cheswold.

In addition to the certification items listed above, we have the following recommendations to strengthen the plan:

1. From the discussion at the PLUS meeting it seems that the Town considers Route 42 as the “main street” of the community, and is interested in strategies that further define this corridor as the community center. There are clearly some concerns about the traffic on this road and how that can be compatible with further development and redevelopment. The comprehensive plan can be the place where these goals are defined, and strategies for further study can be outlined as implementation items. We encourage the Town to do so.
2. Further redevelopment and revitalization of the “old town” area will require a coordinated effort to provide water and sewer services to properties that do not now benefit from this public infrastructure. It is often desirable and cost effective to coordinate these improvements with road improvements. The comprehensive plan can be the place where more specific goals and strategies can be outlined for future implementation. We encourage the Town to do so.

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

The role of the Division of Historical & Cultural Affairs in the Preliminary Land Use Service (PLUS) process is to provide information on the development's impacts to historic properties and archaeological sites and is an advocate for their protection. In

addition, all of the information is according to the reference and resource materials at the State Historic Preservation Office, which is the central research repository of the Division of Historical and Cultural Affairs. Preserving Delaware's heritage and showcasing the historic legacy of our state are the guiding principles of our agency, and through active historic preservation efforts, the Division is committed to enhancing Delaware's quality of life by helping people connect with those aspects of our past that have made this state what it is today.

In accordance with the Preliminary Land Use Service (PLUS) outlined in [Chapter 92 of Title 29](#) of the Delaware Code, here are the following observations:

While the Cheswold plan has one goal to maintain its small-town character and another to redevelop to maintain historic homes, there is no real consideration of historic preservation. While there is a history of the town, there is no mention of interest in defining a historic district nor any list of historic properties already identified or mentioned by the citizens as important to their sense of their history. If a historic district is defined and listed, buildings within it could be eligible for historic preservation tax credits that could be helpful in rehabilitating these properties. However, the one National Register-listed property within the current boundaries of the Town will soon be (or recently was) demolished for a housing development. There is no forum for public discussion of historic preservation issues. There is no mention of any protections for historic properties within the Town or that may be annexed in the future.

Historic preservation tools can assist with the Town's goals. Appropriate rehabilitation and in-fill in historic areas are important to maintaining the historic character of a place. The Division would be happy to discuss these issues with the Town. If you need any technical assistance, or would like to discuss these issues further, please contact Alice Guerrant at 302-736-7412 or by email at Alice.Guerrant@state.de.us.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

The Town of Cheswold has submitted their draft update of their comprehensive plan for review. Briefly, the update as written contains many of the elements of a good Plan. DelDOT offer the following suggestions as to how the update might be improved.

- 1) As a general comment, we recommend that the Town consider adding the streets in the Fox Pointe and Autumn Woods developments to the maps in the Plan, perhaps using shading or some other graphic technique to indicate that they are private streets. These developments make up too much of the Town to be left as blank space on the maps.
- 2) On page 7, in the Floodplains and Wetlands section under Natural Features, there is a recommendation that the Town consider amending its zoning code to protect its groundwater recharge areas. While the related subject of storm water is addressed in the Summary of Recommendations and Actions, groundwater recharge is not.

- 3) It is recommended that the Town include more detail on the public's participation in the development of the plan. DeIDOT read that "a 'quality of life' survey...was passed out to current residents in the Town." How was it distributed? How many were distributed? How many were returned? Consider including a blank copy as an appendix to the Plan. How many workshops were held? When and where were they held? How many people attended? Including this information serves to answer any future criticism that the citizens were not consulted in the development of the Plan.

- 4) Responding to the Transportation Planning concerns raised in the Town Goals section, on page 13, we offer the following comments:
 - a) There are no easy ways to mitigate the truck and bus traffic on Main Street. Delaware Routes 300 (Maryland line to Kenton) and 42 (Kenton to Route 13, part of which is Main Street) form the most direct way from US Route 301 to the north side of Dover. Improving other roads to act as a bypass could be done, but only at significant expense and with significant impacts to the properties along the bypass route. Further, shifting traffic away from Main Street would likely be detrimental to any businesses the Town might seek to have located there. If the Town wishes to pursue a study to address the traffic problem, we recommend that they work through the Dover-Kent County Metropolitan Planning Organization (the MPO) and have this effort added to the MPO's Unified Planning Work Program (UPWP).

 - b) While DeIDOT cannot be encouraging in the current economic climate, we recommend that the Town contact the Delaware Transit Corporation about the feasibility of extending their Route 112 (Dover Mall – DeITech –DSU) service, which currently ends at Denney Road, north to include Cheswold. An initial contact there would be their Planning Manager, Ms. Catherine Smith. Ms Smith may be reached at (302) 576-6071.

 - c) Regarding bike paths, DeIDOT recommends the Town contact Mr. Jeff Niezgoda, a Planning Supervisor in our Statewide and Regional Planning Section, regarding possible future Transportation Enhancement projects. Mr. Niezgoda may be reached at (302) 760-2178. In addition to adding paths on streets, we suggest that the Town also consider off-road multi-use paths to link the Stonington subdivision on Lynnbury Woods Road to the Parker's Run subdivision, the Autumn Woods mobile home park and the as-yet-undeveloped parcel immediately east of Autumn Woods, all on Main Street. Such paths would require the acquisition of community open space from Stonington and Parker's Run and an easement through Autumn Woods, and construction of structures (bridges and/or boardwalks) over Alston Branch and the associated wetlands but they could do a great deal

to connect Stonington to the downtown by providing a shorter and safer alternative routes for cyclists and pedestrians.

- 5) Pages 26 and 27 address the Municipal Development Strategy with regard to Delaware Airpark (the airport). The first paragraph references Map 9 and cites a model used in Prince George’s County, Maryland. DelDOT would like to suggest a newer model and provide what we believe is a better map. They would ask that the Town contact Ms. Roberta Geier, a Planning Supervisor in our Statewide and Regional Planning Section for information in this regard. Ms. Geier may be reached at (302) 760-2119.

DelDOT believes the second paragraph misinterprets our comments on transfer of development rights (TDR) ordinances. They are useful ordinances, and one could be used to transfer development rights away from parcels near the end of the runway, e.g. the Mast parcel. If that is what the Town wants to do, this paragraph should be rewritten to say that more clearly. Incidentally, we note that the text of the Plan reads “transferable development rights.” In their experience, the term generally used is “transfer of development rights.”

- 6) On page 29, in Community Services and Facilities, the Plan mentions the Smyrna Health and Wellness Center with regard to emergency medical services but it does not mention Kent General Hospital. On page 30, in the Health Care section, the situation is reversed. Both facilities should be recognized in both sections.
- 7) On page 31, in the Transportation section, the Plan mentions that “the Town will continue to require private property owners to maintain the streets and sidewalks within their communities.” If the Town does not have an ordinance to this effect, we recommend that they adopt one. Other local governments have had difficulty enforcing such requirements when they were based on unwritten policies.

Separately, while it probably will not need to be addressed within the life of the present Plan, it is recommended that the Town consider the limits of this approach. Assuming proper construction to an appropriate standard, and normal wear, residential streets can last 20 years with only minor maintenance. However, experience is that when major maintenance, such as milling and repaving, is needed most homeowners associations lack the financial ability to undertake that work. The last bullet on page 35, in the Policies and Recommendations section, appears to recognize and address this situation and we support it as written.

- 8) Again in the Transportation section, the third through sixth paragraphs on page 32 address the Norfolk Southern railroad line. DelDOT has several comments regarding them:
 - a) It is recommended that the Town consider revising its zoning code to require increased buffers in residential areas. They recognize that increased buffers could render the Autumn Woods development and the

older homes along Commerce Street non-conforming, and that the public raised no safety concerns about rail line, but as the Plan states “at times potentially hazardous materials may be transported on” this line.

- b) DelDOT supports the suggestion a “hazard mitigation plan,” and by extension an emergency response plan, may need to be developed. We are willing to work with the Town in this regard and we recommend that they call Mr. Gene Donaldson, the Operations Manager for our Transportation Management Center, as an initial contact. Mr. Donaldson can be reached at (302) 659-4601. We recommend that the local fire company, the Delaware Emergency Management Agency and the Department of Natural Resources and Environmental Control also be contacted in this regard.
 - c) DelDOT recommends that the Town revisit the MPO’s Long Range Transportation Plan. Currently it does not specify a date for when passenger rail might become operational, and the 2010 date provided in the Town’s Plan no longer seems feasible.
 - d) The last paragraph states that passenger rail exists within the Town limits. Plainly, passenger rail service does not exist at present. Was something else meant?
- 9) DelDOT has comments on several of the bulleted list of recommendations found on page 36.
- a) They recognize that this list is a summary, but they suggest that the recommendation to “Create communities more conducive to walking and biking,” should be expanded to mention Transportation Enhancement projects and an ordinance requiring property owners to build and maintain (or at least to maintain) sidewalks along their property frontage.
 - b) In the recommendation to “Perform an economic development study to see what uses would be most conducive and appropriate to utilize the airport’s potential,” please be aware of the following: DelDOT, the Delaware River and Bay Authority, and the State and County economic development agencies all have responsibilities in this regard and some work has been done already. We suggest that the Town work with these agencies regarding economic development. The Town may contact Ms. Geier for information on DelDOT’s efforts.
 - c) While a zoning study would necessarily be the Town’s responsibility, we would like to be consulted in any zoning study relating to lands near the airport. We would ask that the Town contact Ms. Geier when they are ready to begin that study.

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

There are sensitive wetlands, forested areas, rare wildlife and plant species, and unique natural vegetative communities that occur within current Town boundaries and future annexation areas; however, the plan does not include any goals or recommendations that address protection of these natural resources. How will the town ensure that future developments are designed in an environmentally sensitive way if there are no action items in the plan providing guidance to residents or developers? Furthermore, there are no recommendations pertaining to natural resource protection in the plan at all, other than the need for the Town to ensure that stormwater management needs are met and that the town be cautious in becoming responsible for maintenance of these facilities.

DNREC would welcome the opportunity to work with the Town to develop measures to protect sensitive habitat including forests, high-value wetlands, stream quality and water resource protection areas.

Water Quality

Page 7, Floodplains and Wetlands

Please consider substituting the following short narrative on wetland regulatory issues:

“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 wetlands delineation and/or official DNREC wetland jurisdictional determination.”

Page 7, Soils

The plan should reference the recently completed NRCS soil survey update, not the 1974 SCS soil survey, for soils information in the immediate vicinity of Cheswold. Please contact the NRCS at 678-4172 for further information.

Page 6 or 7, Natural Features

We strongly recommend that the Plan contain a narrative about Total Maximum Daily Loads (TMDLs) as a “stand alone” section under the greater Natural Features Section. We suggest this narrative section be entitled “Water Quality Issues.” Please consider the following:

The Town of Cheswold is located within the greater St. Jones and Leipsic River watersheds.

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 (e.g., swimming, fishing, and drinking water). 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 (WLA's) for point sources and Load Allocations (LA's) for nonpoint sources and natural background sources of pollution. A TMDL may include a reasonable margin of safety (MOS) to account for uncertainties regarding the relationship between mass loading and resulting water quality. In simplistic terms, a TMDL matches the strength, location and timing of pollution sources within a watershed with the inherent ability of the receiving water to assimilate the pollutant without adverse impact.

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 the State Water Quality Standards. A variety of site-specific best management practices (BMPs) will be the primary actions required by the PCS to reduce pollutant loading(s).

The Town of Cheswold is located within the greater Delaware River and Bay drainage; specifically within the St. Jones and Leipsic River watersheds. The pollutants specifically targeted for reduction in the aforementioned watersheds are nutrients (e.g., nitrogen and phosphorus) and bacteria (See table 1). As mentioned previously, these TMDL pollutant reductions must be met in order to satisfy the water quality goals and criteria in the State Water Quality Standards (See table 1). The PCS for the St. Jones watershed is projected for completion/approval by July 2009, while no date has been projected for the Leipsic watershed.

Delaware River and Bay drainage	N- reduction requirements	P-reduction requirements	Bacteria-reduction requirements
St. Jones	40%	40%	90%
Leipsic	40%	40%	75%

Table 1: TMDL Nutrient (Nitrogen and Phosphorus) and Bacteria reduction requirements for the St. Jones and Leipsic watersheds.

Water Resource Protection Areas

DNREC Water Supply Section, Ground Water Protection Branch (GPB) recognizes the Town's efforts in preparing this Plan. However, the Plan contains contextual errors. In addition, on page 7, paragraph two, the applicant states in part that the Town should consider adopting protective measures for source water protective areas. This is confusing because the Town of Cheswold has already adopted source water protection codified as Section 12-2 thru 12-4 of the Municipal Code, 2nd Edition: September 10, 2007. As written, however, the ordinance is not protective of the resource.

Because the population of Town of Cheswold is projected to exceed 2000 persons, DNREC strongly recommends that the Comprehensive Plan formally adopt the source water protection maps prepared by DNREC in compliance with Title 7, Delaware Code, Chapter 60, Subchapter VI, § 6082 (b).

GPB recommends that the Town use the *Draft Model Ordinance for Smaller Municipalities of Kent and Sussex County* for language in revising their ordinance. This publication is located at the Source Water Assessment and Protection Program home page. DNREC Source Water Assessment and Protection Program staff is available for assistances.

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

The Ground Water Protection Branch offers these comments concerning source water protection in Cheswold and related references in the town's plan:

- 1) On page 7, paragraph two refers to State legislation (Senate Bill 119) that passed in June 2001. The proper citation is Title 7, Delaware Code, Chapter 60, Subchapter VI, § 6082 (b).
- 2) The Plan places the reference to source water protection in the Floodplains and Wetlands Section. We suggest inserting a section for source water protection that characterizes source water protection by including all elements.
- 3) Map 6 Environmental Features shows only excellent ground-water recharge potential areas and not wellhead protection areas. Please include wellhead protection areas on a source water protection area map

Drainage/Stormwater

General Comments

- The annexation areas shown on the Land Use Plan map have drainage concerns associated with them. In the past, the Town has looked to the State Drainage

Program for technical assistance and funding to resolve drainage issues. With numerous drainage concerns in the Cheswold planning area, the Town should be aware of the limited resources of the Drainage Program to assist the Town with drainage problems.

- The Drainage and Stormwater Section recommends subwatershed planning within the future annexation areas. By utilizing the drainage pattern, the Town may be able to combine habitat protection, recreation, and storm water management. The Town would need to partner with Kent County as the watersheds extend out of the proposed annexation area identified by the Town.

Page 7, Floodplains and Wetlands

- The Drainage Program recommends including wetlands setbacks as part of the ordinances to protect environmental resources. Wetlands should be protected and a setback of un-subdivided open space, surround them. No portion of any building lot should be within the setback. During prolonged wet periods, the area within the wetland setback 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 setback thereby reducing nuisance drainage complaints.

Page 12, Neighborhoods and Community Design

- The Drainage Program recommends that existing drainage ways be incorporated into open space plan. 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, along with potential annexation sites, as these channels may require maintenance in the future. Most of the channels have trees and wetlands adjacent to the channel and the riparian area provide a multitude of benefits for water quality and wildlife. There must be a balance between preserving the riparian area and having the capability to access the channel to perform maintenance. By identifying such areas now, future development would incorporate the areas into community open space thereby preserving the riparian area while allowing for channel maintenance access.
- Explore the use of drainage ways and other open space set aside for drainage maintenance for bicycle and pedestrian interconnections in new developments.

Page 18, Community Services and Facilities

- 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.

- The Town should consider developing a mechanism to provide the means of funding to resolve drainage issues within the Town; pursuing the acquisition of drainage easements within the Town boundary; obtaining drainage easements at the time of annexation for existing water conveyances on the property; acquiring a drainage easement for any water conveyance not on public right-of-way; and having the ability to hire a contractor for maintenance of the drainage conveyance.
- 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.

Page 28, Building Permits, Plan Review and Inspection Services

- 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. 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.

Page 30, Parks and Recreation

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

Page 31, Stormwater Management

- Be advised that the Sediment and Stormwater Program is currently undergoing revisions to the sediment and stormwater regulations. It is unclear at this time when the new regulations will be promulgated.

- The Town should pursue drainage easements along waterways, ditches, and storm drains where currently there are none. The Drainage Program is aware that the Town does not want the responsibility of routine maintenance on the conveyances. However, the Town should have the ability to remove blockages either natural or manmade.
- 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 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.
- Explore the feasibility of stormwater utility to fund upgrades to existing stormwater infrastructure. Upgrades to the stormwater system may reduce pollutant loads and help reach the established total maximum daily load for nitrogen, phosphorus, and bacteria. Reach out to the Kent Conservation District, Kent County and the Delaware Clean Water Advisory Council as partners in funding stormwater retrofits.
- As the Town of Cheswold 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.
- Evaluate the existing drainage patterns within the area of future annexation to ensure adequate drainage for the cumulative stormwater impact upon full build out of the Cheswold Planning Area. The Town should be mindful of potential stormwater impacts from the Town on county residents.
- The plan mentions the consideration of establishing buffers along the waterways in Town. The Drainage and Stormwater Section agrees with the establishment of buffers. 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 from 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.

Rare Species/Unique Natural Communities

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 Species of Greatest Conservation Need (SGCN¹). 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:

c/o Environmental Review Coordinator
Natural Heritage and Endangered Species Program
DNREC-Division of Fish and Wildlife
4876 Hay Point Landing Rd
Smyrna, DE 19977
(302) 653-2880

Please note that our Division scientists have not surveyed most of the parcels within current Town boundaries and annexation/growth areas for SGCN and unique natural communities. The following information is based on what is currently in the Delaware Natural Heritage and Endangered Species Program database:

SGCN within Current Town Boundaries:

¹ Species of greatest conservation need (SGCN) are indicative of the overall diversity and health of the State's wildlife resources. Some may be rare or declining, others may be vital components of certain habitats, and still others may have a significant portion of their population in Delaware. SGCN are identified in the Delaware Wildlife Action Plan (DEWAP) which is a comprehensive strategy for conserving the full array of native wildlife and habitats-common and uncommon- as vital components of the state's natural resources. This document can be viewed via our program website at <http://www.dnrec.state.de.us/nhp>. This document also contains a list of species of greatest conservation need, species-habitat associations, and maps of key wildlife habitat.

- According to our database, there is a black-ash seepage swamp that harbors at least 12 rare plant species along Alston Branch. To protect the integrity of this unique natural community, at least a 100-foot undisturbed vegetative buffer (not comprised of lawn grass) should be left intact. The Stonington development is proposing only 50-foot buffers.

Within areas proposed for future annexation:

- According to our current database, there are 10 rare plant species and a black ash seepage swamp along Willis Branch. Land considered for annexation borders this stream. In order to protect water quality and rare species, upland buffers along this stream should be at least 100 feet in width. Forested habitat along the stream corridor is also important for water quality and as habitat for wildlife.
- On April 1, 2004, our staff scientists evaluated tax parcel KH-00.56.00-01-12.00-000 (now proposed ‘Villages of Noble Pond’) for rare plants and unique natural communities. Two State-rare plants, a unique natural community (Coastal Plain Rich Woods), and a forest of high ecological quality were documented during the survey. This survey was not conducted during the growing season for most rare plants and there is a high probability that additional rare plant species occur. In addition, surveys for animal SGCN were not conducted.
- Our staff botanist conducted a rare plant species investigation of the site of the proposed Cheswold Village development, which is being considered for future annexation. No rare plants were observed during the survey, but a mid to late successional forest was observed. A large portion of the forested area is poorly drained, a habitat that could support an array of plant and animal species. It is important to note that surveys for rare *animal* SGCN were not conducted. However, adjacent landowners have noted the presence of an Eastern box turtle (*Terrapene Carolina*) population. Because this habitat is contiguous with the project parcel, it is possible that box turtle occur within the project parcels as well. Box turtles are land-based turtles that use forests, forest edges and wetlands as primary habitat. Females use open, sunny areas from May until late June to lay eggs and both males and females often use open areas along or near woodlands for basking. Although box turtles are generally considered a common species, they are recognized by many herpetologists as a species highly susceptible to extirpation (local extinctions). There are laws restricting collection and possession of box turtles; however, supporting habitat receives minimal protection in Delaware. The Natural Heritage and Endangered Species Program recommends a proactive approach to species protection by minimizing impacts to box turtle habitats.

Forested Wildlife Habitat

There is no mention in the plan of existing forested areas or desire to provide protection for this resource. Cumulative forest loss 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. Tree clearing is planned or has already occurred for Saratoga (69 out of 80 acres according to PLUS 2007-05-06), the adjacent Airpark Property, Cheswold Village, Villages of Nobles Pond, and possibly other areas along streams.

- The Town should include action items that pertain to forest protection in their land-use plan.
- On page 31, the need for the Town to consider establishing buffers along waterways is noted, but there are no recommendations or action items in the plan that address this issue. Forested riparian areas within current town boundaries as well as those to be annexed should be afforded protection from clearing and degradation. In addition to water quality protection, forested riparian areas are critical to many species of wildlife, providing travel corridors, foraging, resting, and nesting areas.
- Forest blocks or forested wetlands could be considered for preservation. Incentive-based programs for wildlife management are available to private landowners through our agency. Please contact Shelly Tovell for more information (302-735-3600).

Coastal Plain Ponds

On page 7, the importance of leaving wetlands undisturbed is mentioned. The first goal listed on page 11 includes the need to protect wetlands. However, there are no recommendations or action items in the Plan that address how the Town is going to provide wetland protection.

According to our GIS database and State wetland maps, there are wetlands known as Coastal Plain ponds, or Delmarva bays, within current Town boundaries (Saratoga development) and in areas to be annexed (Area #1 and long range planning areas). These unique wetlands provide breeding habitat for a variety of animals, including amphibians and invertebrates, and often support a unique and rare assemblage of plants. Coastal Plain ponds are usually small in size, but typically support a high diversity of species, many of which are considered rare. Upland forest buffers around these ponds are critical, protecting the wetland from excess nutrients and invasion by non-native species. Forest buffers also provide critical habitat for wetland dependent species (such as salamanders) during most of their annual life cycle.

At least one Coastal Plain Pond occurs on property slated for development (PLUS 2007-05-06 Saratoga). The site plan that was submitted during the State's Preliminary Land Use review (PLUS) didn't include adequate buffers to protect this unique wetland.

During our PLUS review, we recommended that a cul-de-sac be removed from the site plan because of close proximity to this coastal plain pond; however, we are unaware of any changes made to protect this wetland.

The Town should identify coastal plain pond wetlands within its current boundaries as well as those in Area #1 and in long-range planning areas and develop a strategy that would protect these unique wetlands. In most cases, a buffer of at least 300 feet should be left intact around coastal plain ponds.

Parks and Recreation

With an increasing population and planned annexations, the Town of Cheswold should consider creating an ordinance that would require new developments to incorporate publicly accessible open space and park areas. The following is an overview of updated information to keep in mind when planning various park facilities:

In May and June 2008, the Delaware Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information and trends on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2009-2011 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities. The SCORP can be a useful document when addressing parks and recreation facilities and needs within county and municipal comprehensive plans. For the purpose of refining data and research findings, Delaware was divided into five planning regions. The Town of Cheswold is located within SCORP Planning Region 3.

Importance of Outdoor Recreation

When looking at the findings from the 2008 telephone survey, it is apparent that Delawareans place a high importance on outdoor recreation. Statewide, 91% of Delaware residents indicated that outdoor recreation had some importance in their lives, while 64% said it was very important to them personally. These findings are very close to the results of the same question asked in the 2002 public opinion telephone survey, indicating a continued demand for outdoor recreation opportunities throughout the state.

Placing high importance on outdoor recreation resonates throughout the five SCORP regions. In Region 3 (Kent County), 88% of residents indicated that outdoor recreation had some importance in their lives, while 61% said it was very important to them personally.

Participation in Outdoor Recreation

In SCORP Region 3 (Kent County), walking and jogging (83%) was the most participated in household activity followed by visiting historic sites (67%), swimming at

the beach (67%), swimming in a pool (65%), picnicking and passive recreation in the outdoors (both 64%).

Reasons for Participating in Outdoor Recreation

In Region 3, 52% of the residents said that they participate in outdoor recreation for their physical fitness. This is a 10% increase from the same question asked in 2002. This increase is a clear indication of a growing demand for walking paths and trails. Other top reasons for participating in outdoor recreation in Region 3 include; for relaxation, to be close to nature, and to be with family and friends

Outdoor Recreation Needs/Priorities

Based on the public opinion survey, the most needed outdoor recreation facilities in Cheswold include:

High facility needs:

- Walking and jogging paths
- Swimming Pools
- Bicycle paths
- Open Space and Passive Recreation Areas
- Fishing Areas
- Playgrounds
- Picnic Areas
- Hiking Trails
- Camping Areas
- Nature Programs

Moderate facilities needs:

- Public Golf Courses
- Basketball Courts
- Baseball/Softball Fields
- Access for Boating (kayak/canoe/powerboat)
- Soccer Fields
- Football Fields
- Tennis Courts
- Volleyball Courts
- Hunting Areas
- Skate Park
- Equestrian Trails

The Town of Cheswold is encouraged to work toward incorporating and/or continuing to offer some of these opportunities in the development of their Comprehensive Plan.

Town of Cheswold Parks and Recreation Facility Inventory

There is one Park and Recreation facility in the Town of Cheswold:

School Lane Park - Located south of School Lane and West of Commerce Street.

Delaware Land and Water Conservation Trust Fund (DTF)

The Division of Parks and Recreation provides matching grant assistance through the Delaware Land and Water Conservation Trust Fund (DTF) to local governments for land acquisition and for park development. Lands that have received DTF assistance must remain as open space for conservation or recreation purposes in perpetuity. The Town of Cheswold could benefit from this program when incorporating new outdoor recreational facilities or adding amenities to their existing park. For more information on the Delaware Land and Water Conservation Trust Fund, please contact: Robert Ehemann @ 302.739.9235.

Brownfields

DNREC's 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.

Plan Implementation

The Plan should offer more specific “actionable” environmental protection strategies than currently offered. Within the Environmental Concerns section, we strongly recommend proposing an ordinance or ordinances which would:

- a) Require all applicants to submit to the City 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 such as the aforementioned coastal plain ponds and headwater wetlands).
- c) Require a 100-foot upland buffer width from all wetlands or water bodies (including ditches) to protect water quality; however, larger protective zones may be required to safeguard certain species, such as those that depend on the coastal plain ponds.

Based on a review of existing buffer research by Castelle et al. (1994), 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 an impervious surface mitigation plan for all residential and commercial developments exceeding 20% imperviousness. In commercial developments, it is strongly recommended that pervious paving materials be required on at least 50% of the total paved surface area(s).
- e) Require the calculation for surface imperviousness (for both commercial and residential development) take in to account 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 natural areas containing 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 Natural Resources Conservation Service 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.

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

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

Department of Agriculture - Contact: Scott Blaier 739-4811

The Department would like to congratulate the Town of Cheswold on a thoughtful, well-written comprehensive plan. The Department offers the following comments and suggestions for consideration in the plan.

The Delaware Forest Service encourages the town to develop a formal urban forestry management plan that addresses a tree canopy goal. Trees are a vital part of any community and the Delaware Forest Service recommends that trees be preserved during the development process. A tree ordinance protecting existing woodlands in future development as well as existing street trees can be developed and implemented to address this issue. The Delaware Urban & Community Forestry Program would be glad to offer assistance. Please contact the Delaware Forest Service for more information at (302) 659-6705 or 698-4547.

The Department encourages the town to develop and promote agricultural business whenever possible, especially farm markets. The Department has a fully staffed marketing section, and we encourage the town to contact them at (302) 698-4535 to see how they can help. Please contact Kelli Steele of the Department's marketing section to explore agricultural economic development activities. Food safety, nutrition, and wholesomeness are consumer priorities these days, and many people are turning to local sources of food supply. As a result, there are a number of agricultural development opportunities.

Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Delaware Economic Development Office – Contact: Jeff Stone 672-6849

No comments received regarding this plan.

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

The Delaware Division of Public Health, Health Promotion Bureau aims to encourage municipalities to address strategies that promote a healthy community. This includes addressing opportunities to promote physical activity, access to healthy eating, and reduce tobacco use. These behaviors strongly affect the prevalence and mortality of chronic diseases (e.g. heart disease, diabetes, cancer, etc). While specific, individual-based programs can influence healthy behaviors, environmental and policy change strategies have a larger impact in fostering healthy behaviors.

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. Further, developments that include open space for active recreation offer an opportunity to engage in physical activity. 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.

Over 90% of adult Delawareans feel that people should be protected from second-hand smoke. About 18% of adult Delawareans are exposed to second-hand smoke at work. The vast majority of exposure is in outdoor worksites and entry-ways, although some exposure at indoor settings is still occurring, despite the state law.⁵ According to the Public Health Service's National Toxicology Program, secondhand smoke is listed as a known carcinogen, or cancer-causing agent. In the 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, secondhand tobacco smoke causes diseases and premature death in children and adults who do not smoke. The report also concluded that exposure to secondhand smoke has immediate adverse effects on the cardiovascular system and causes heart disease and lung cancer; there is no risk-free level of exposure to secondhand smoke; and evidence from peer-reviewed studies show that smokefree policies and laws do not have an adverse economic impact on the hospitality industry.⁶

As a way to promote healthy communities, we recommend that the following be included in the Town of Cheswold Comprehensive Plan:

Identify opportunities for physical activity and active transportation

The draft comprehensive plan offered an excellent plan to address active transportation through walking trails and bike paths.

- Address efforts to support and ensure inter-/intra-connectivity with residential and commercial properties through sidewalks, crosswalks and walking/bicycling paths. Consider a plan to install bike racks within commercial properties and in residential communities. There was concern on the funding. It is suggested that the town planner review the "Healthy Communities: A Resource Guide to

Delaware Municipalities.” This document addresses strategies and funding support to incorporate amenities (e.g. tree canopy, 5’ sidewalks, walking/bicycling paths, etc) that facilitate a healthy community.

- Residents indicated interest in having opportunities for active and passive recreation. Consider including a plan to enhance existing parks or designate open spaces for active and passive recreation. This may include park benches around ponds, playgrounds, tennis and basketball courts, etc. To address active recreation during inclement weather, explore opportunities to incorporate a community center or joint use agreements with churches to be used by members of the community.

Increase opportunities for healthy eating

- Designate an area for a community garden. Community gardens in undeveloped/vacant lots or in the town center would be an approach to improve attractiveness. They also provide opportunities for physical activity and community cohesiveness.⁷ In addition, community gardens, that are vegetable gardens, provide residents access to healthy nutrition.

Tobacco Control

- Delaware’s Clean Indoor Air Act is not preemptive, which allows for local governments to make the law stronger in their municipalities. As such, explore the possibility to develop an ordinance that restrict smoking outside the entrances of public places or ban smoking in local parks, which are not included in the current law. The Americans for Nonsmokers Rights offer model ordinances that may assist local governments in establishing. These can be found at <http://no-smoke.org>.

Other Comments

- Under the Healthcare section of the plan, on page 30, please include the Smyrna State Service Center as a facility offering health/clinical services to the community. The Smyrna State Service Center is operated under the Delaware Department of Health and Social Services.

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 Delaware Health and Social Services (2008), *Adult Tobacco Survey*, Division of Public Health, Tobacco Prevention and Control Program.

⁶ U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion,

Office on Smoking and Health (2006). The health consequences of involuntary exposure to tobacco smoke : a report of the Surgeon General. Atlanta, GA:

⁷Hancock, T. (2001). People, partnerships and human progress: building community capital. *Health Promotion International*, 16(3), 275-80.

Delaware State Housing Authority – Contact Valerie Miller 739-4263

DSHA has reviewed the Municipal Comprehensive Plan for the Town of Cheswold to determine how the Municipality has incorporated the State's goals, policies, and strategies as they relate to affordable housing. Since the Town of Cheswold population is less than 2,000, the Comprehensive Plan is required to state their position on housing growth. DSHA supports the Plan's position on housing growth.

DSHA has developed a website, **Affordable Housing Resource Center**, to learn about resources and tools to help create housing for households earning 100% of median income or below. Our website can be found at: www.destatehousing.com "Affordable Housing Resource Center" under our new initiatives.

If you have any questions, please feel free to call me at (302)739-4263 ext. 260 or via e-mail at valerie@destatehousing.com.

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 this Comp plan update progresses.
5. DOE has no 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, the 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 his consideration.
5. At his 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

CC: Kent County