



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

July 22, 2009

Conway Gregory  
Town of Ocean View  
P.O. Box 03  
32 West Avenue  
Ocean View, DE 19970

RE: PLUS review –2009-06-01; Town of Ocean View

Dear Mr. Gregory:

Thank you for meeting with State agency planners on June 24, 2009 to discuss the proposed Town of Ocean View 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. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

***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.

- **The Town should modify Map 7 to identify future possible land uses (e.g., mixed-use, residential, commercial, etc.) within the annexation/growth area.**

***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: Herb Inden 739-3090**

As with our pre-PLUS comments (PLUS 2008-08-02), we want to again compliment the Town for your willingness to work with state agencies in putting this well thought out plan together.

As we noted in those comments, first, with regard to annexation, to the South where the town could grow through annexation, there is a concern with Millville and Ocean View developing overlapping growth and annexation areas as well as parcel boundary issues. Included in this plan, which we fully support, is a requirement to partner with Millville to address areas of joint confusion between the two Towns with regards to these issues that are within mixed jurisdictions and the Town has already begun to implement this policy to clarify concerns between both Millville and Ocean View. Secondly, the Town has added additional language to address drainage concerns and TMDL's for the area. The Town has also clarified several DelDOT concerns within the plan and has gone as far as to propose a new town center area within the community to define the center of the community while addressing DelDOT concerns along Route 26.

Other comments for you consideration includes:

- The Town should pay close attention to desired densities as the densities currently expressed in the plan may encourage a sprawl-type of development pattern that would be costly to maintain and incompatible with the town's character;
- As the Town will address improved working relations between Millville, the Town should also consider developing this type of relationship with Sussex County and work to put this relationship in writing as a contractual agreement. This will help with future annexations and address the potential for significant enclave potential that is within this extensive growth area; and,
- The Town should consider developing a master plan for the large growth and annexation area to address the fiscal impacts as well as the natural and cultural constraints that may limit the development of this area.

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

The Town of Ocean View's comprehensive plan makes a strong commitment to historic preservation in retaining its community character, a primary goal of this plan. It includes a Town history and a description of the area of the proposed historic district. It would be helpful if this were mapped as well. The State Historic Preservation Office (SHPO) applauds the goal for developing community design standards, which will play an important part in ensuring that nearby development, both residential and commercial, stays in scale and feel with the historic district. They would be happy to provide technical assistance in this effort. They will also continue to work with the Town on its historic survey and designation of a historic district. In addition, SHPO would be happy to discuss ways to protect archaeological sites and historic properties outside of the designated district.

The institution of a local museum and a historical society provides a new venue for the Town to explore ways to remember and celebrate its history. This may become a public forum to bring up and discuss historic preservation issues in and with the Town, which we strongly encourage. Another way to achieve this in the future may be through a Historic Review Committee for the historic district. If you would like to discuss this issue further or need technical assistance, please contact Alice Guerrant at 302-736-7412 or by email at [Alice.Guerrant@state.de.us](mailto:Alice.Guerrant@state.de.us)

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

The Town of Ocean View has submitted their draft update of their comprehensive plan for review. Briefly, the Transportation chapter of the update is adequate as written. DelDOT has no comments regarding it. They did offer the following suggestions as to how other parts of the update might be improved.

- 1) On page 8, in the Vision chapter, there is a statement that less than a dozen residents attended the public workshops held on May 31 and June 3, 2008. While such low attendance is not unusual for this sort of event, it contrasts sharply with the 52 percent response rate that the Town obtained on a questionnaire in 2002. DelDOT recommends adding some discussion of how public interest in the Town's land use planning has changed since 2002. If people were concerned about specific issues in 2002 and adoption of the 2004 land use plan addressed those concerns, then that should be explained.
- 2) On page 13, in the Population chapter, DelDOT recommends adding columns to Table 1 to show the percentage change from one census to another. Also, while it may be obvious, there should be some text to explain that the population growth from 1990 to 2006 was fueled by several large annexations.
- 3) On page 16, in the Housing chapter, DelDOT notes that the house values cited seem low. Are these assessed values?
- 4) Again on page 16, in the Housing chapter, DelDOT found Table 6, housing age, confusing. It appears that the percentage of housing built from 2000 to 2008 is calculated based on 1,034 houses, while the percentages for the other ranges are calculated based on 754 houses.
- 5) On page 18, in the Land Use chapter, it appears that the second and third columns of Table 7 refer to current land uses and the fourth and fifth columns refer to future land uses, but they are not labeled as such. Also, there should be some indication in the text as to how the future acreages were determined and what year they represent.
- 6) On page 21, in the Land Use chapter, the Agricultural/Residential section mentions "allowing for...the continued growth and prosperity of the agricultural industry." These words appear to conflict with the line in Table 7 that shows zero

- agricultural land in the Town’s future land uses. These facts should be reconciled.
- 7) Again on page 21, in the Land Use chapter, the second paragraph under the Agricultural/Residential heading begins a discussion of annexations. It appears that a section heading is missing. Later in that second paragraph, after it carries over to page 22, the requirement to submit a plan of services to the State Planning Office with each annexation application is mentioned in detail twice. This repetition seems unnecessary.
  - 8) On page 24, again in the Land use chapter, there is a sentence that reads “Since the Town does not have any stubbed streets the issue of placement of short and long-term barricades is not a concern for the community and is addressed in the current regulations.” Please clarify this statement. Is the placement of barricades not a concern only at present? DelDOT understands that recent changes to the municipal code would permit stub streets. This change is a significant improvement that will enable the Town to plan for future connections between developments. However, if stub streets are permitted, the municipal code should also address the placement of barricades at the ends of those streets.

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

### **Water Quality**

**Page 39, Environment** - Please replace the narrative and table on pages 39-40 with the following updated information:

The Town of Ocean View is located within the greater Inland Bays drainage. 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 (TMDLs) 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 for point sources and Load Allocations for nonpoint sources and natural background sources of pollution. A TMDL may include a reasonable margin of safety 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. Moreover, reducing the pollutants to the level specified by the TMDL(s) will ensure that a water body meets the water quality criteria and goals in the State Water Quality Standards.

A Pollution Control Strategy (PCS) is an implementation strategy that identifies the actions necessary to systematically reduce the pollutant loading rate for a given water body, and meet the TMDL reduction requirements specified for that water body. A variety of site-specific best management practices (BMPs) will be the primary actions required by the PCS to reduce pollutant loadings. The pollutants specifically targeted for reduction in the Inland Bays watershed are nutrients (e.g., nitrogen and phosphorus) and bacteria. The PCS for the Inland Bays was approved on November 11, 2008, and is now a regulatory directive containing enforceable provisions.

The pollutants targeted for reduction in the Indian River Bay watershed are nutrients (e.g., nitrogen and phosphorus) and bacteria (Table 1). As mentioned previously, the PCS will require specific actions that reduce nutrient and bacterial loads to levels consistent with the goals and criteria specified in the State Water Quality Standards. The PCS for the Inland Bays was approved on November 11, 2008, and is now an enforceable regulatory directive.

<b>Inland Bays/Atlantic Ocean Drainage (low reduction area)</b>	<b>N- reduction requirements</b>	<b>P-reduction requirements</b>	<b>Bacteria-reduction requirements</b>
Indian River Bay watershed	40%	40%	40% Fresh; 17% Marine

Table 1: TMDL nutrient (nitrogen and phosphorus) and bacteria reduction requirements for the Inland Bays (low reduction zone).

**Water Allocation**

The Water Allocation Program regulates water use by the Town through Tidewater Utilities’ Ocean View District, which serves 15,739 customers. Tidewater produces the water, delivers it to the Town through its distribution network, and even bills the customers. Although the Town states in its plan that it has had a Town-owned water distribution system since March 1, 2008, this system does not provide any of the functions of a water system.

The Water Allocation Program is currently working with Tidewater to increase its allocation to serve an additional 8,600 customers by 2014. This increase takes into account the additional 300 residents projected by the Town. The water conservation program for the district as a whole is working well, and we have no further concerns for the proposed Town water use.

### **Water Resource Protection Areas**

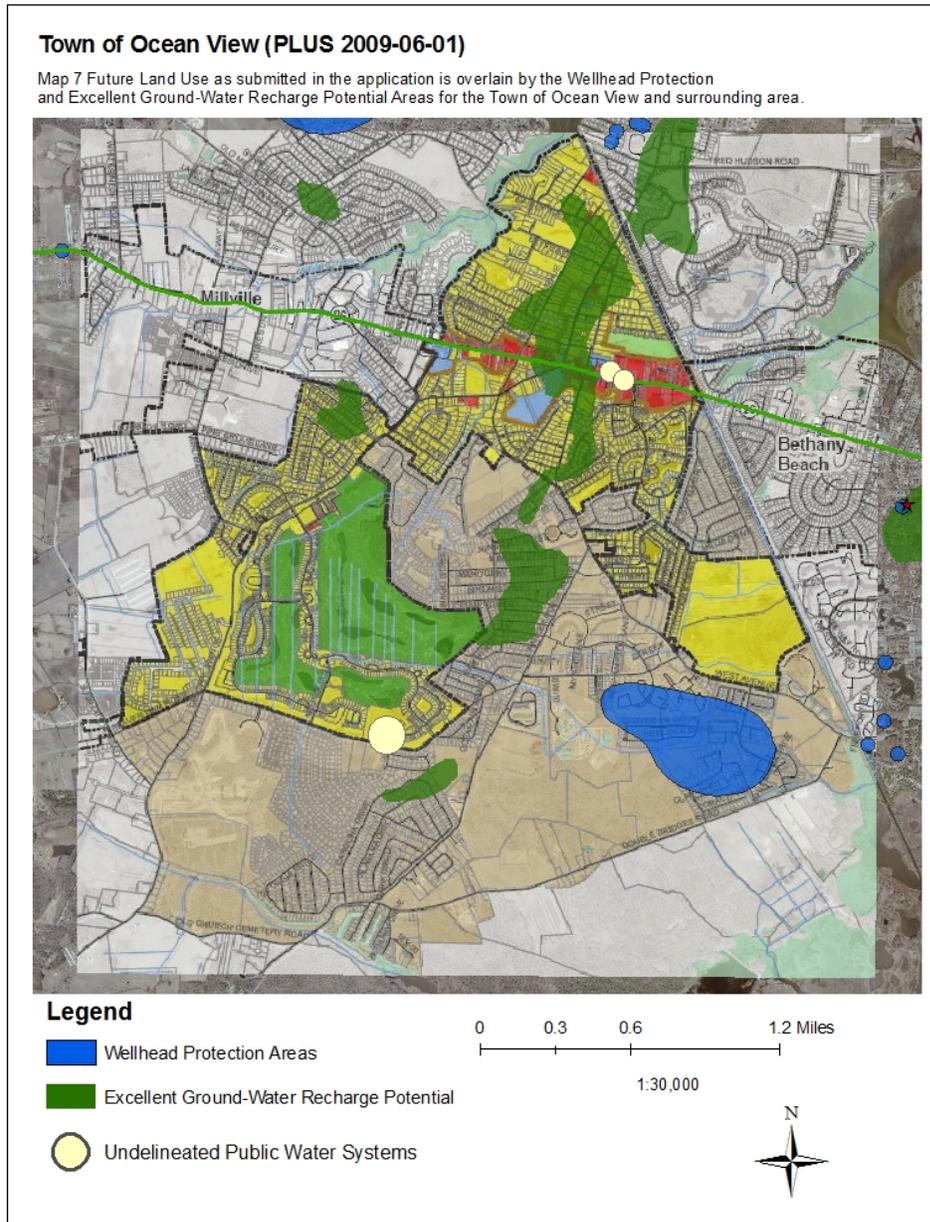
The Water Supply Section, Ground-Water Protection Branch (GPB) is pleased that the Town intends to adopt a source water protection ordinance. However, the plan lacks a few key elements.

- 1) There is a brief discussion on excellent and good ground-water recharge potential on page 40. The discussion only addresses that these areas warrant special protect.

In the second paragraph on page 41, the plan discusses impervious cover and mitigation of groundwater recharge. It does not specifically address the excellent ground-water recharge potential areas. The discussion on page 41 is interpreted to apply to all lands within the municipal boundaries.

- GPB recommends that the Town address Source Water Protection in a separate section of the Plan. The section should convey an understanding of the resource and the need for protection.
  - GPB recommends referring to the DNREC *Draft Model Ordinance for Smaller Municipalities of Kent and Sussex Counties* found at [http://www.wr.udel.edu/swaphome/Publications/SWPOrdinances/FinalDraftModelOrdinance\\_KnS\\_041408.pdf](http://www.wr.udel.edu/swaphome/Publications/SWPOrdinances/FinalDraftModelOrdinance_KnS_041408.pdf). This publication will provide language for inclusion in the Plan and aid in the development of Ordinances.
- 2) The expressed intent to adopt an ordinance to protect the resource should include a statement to adopt the source water protection area maps as delineated by DNREC.
    - GPB recommends inclusion of language as to how this intent will be implemented.
  - 3) Map 4 shows wellhead protection areas for wells operated by Tidewater Utilities (TWU). It does not show public water systems that are privately owned. The Town is required to protect all public well fields as defined by DHSS-Office of Drinking Water under Del. Admin. Code Title 16 §§ 4000- 4400 – 4462.
    - GPB recommends contact DNREC for updates to the wellhead protection overlay.

GPB recommends using the DNREC *Draft Model Ordinance for Smaller Municipalities of Kent and Sussex Counties* found at [http://www.wr.udel.edu/swaphome/Publications/SWPOrdinances/FinalDraftModelOrdinance\\_KnS\\_041408.pdf](http://www.wr.udel.edu/swaphome/Publications/SWPOrdinances/FinalDraftModelOrdinance_KnS_041408.pdf). This publication will provide language for inclusion in the Plan and for development of Ordinances.



**Drainage/Stormwater**

The Division of Soil and Water Conservation makes the following recommendations:

- The Town should 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 Sussex 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.

- **Lines and grades:** If the Town does not have a lines and grades requirement for new construction, the Division recommends 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 Drainage Program recommends that each parcel have a tax ditch right-of-way review conducted on the parcel prior to annexation by the Town. Please contact our Georgetown office at (302) 855-1930 to request a review tax ditch rights-of-way on a parcel.
- When a project involves a tax ditch, or tax ditch right-of-way, include the Drainage Program in the pre-application meeting with the Sussex Conservation District to discuss drainage, stormwater management, tax ditch maintenance, and the release of stormwater into the tax ditch.
- Contact the Drainage Program concerning technical assistance for the maintenance and upgrade of private drainage ways within the town or future annexation area.
- Streams, tax ditches, and private 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 re-establish a design grade. The removed sediment, referred to as spoil, is typically disposed of by spreading or piling alongside the ditch. On a Tax

Ditch this is done within the tax ditch right-of-way which is why Tax Ditch rights-of-way need to be unobstructed. 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.

Page 43, Item 2

- The Drainage Program agrees that streams and 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. Remove invasive vegetation prior to the planting of native species. The construction of pedestrian and bicycle paths within the buffer should be encouraged.

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- The Drainage Program is pleased with the Town's plan to implement an ordinance that would require buffer zones along wetlands. Please consider designating the wetland buffers as un-subdivided open space. During prolonged wet periods, the wetland buffers may become too wet for normal residential use. No portion of any building lot should be within the buffers. Designation as open space will reduce nuisance drainage complaints.

Intergovernmental Coordination Efforts

- Coordinate with Sussex County and surrounding municipalities for a dredge spoil disposal site for future White Creek dredging.

### **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.

### **Parks and Recreation**

Map 5, 2007 Land Use/ Land Cover: John T. West Park is currently represented in yellow as residential.

This designation needs to be changed to green or 'recreational'.

John T. West Park is located North of Oakwood Drive in between Central and West Avenues.

Map 7, Future Land Use: John T. West Park is currently represented in yellow as residential. This designation needs to be changed to green or 'recreational'. John T. West Park is located North of Oakwood Drive in between Central and West Avenues.

### **Delaware Wildlife Action Plan: Annexations and Open Space**

Map 7, Future Land Use Map: Tax parcel #s 134-16.00-39.01, 134-19.00-76.00, 134-17.00-36.00, and 134-19.00-72.00 are part of the Assawoman Wildlife Area and should not be designated as a 'Growth and Annexation Area'. These parcels should be omitted from the map or designated as "Open Space." The landowner (i.e. DNREC- Division of Fish and Wildlife) did not apply for annexation of the Wildlife Area into the Town of Ocean View.

To identify priorities for open space protection, we recommend the County refer to the Delaware Wildlife Action Plan (DEWAP). Several parcels designated for 'Growth and Annexation' are mapped as Key Wildlife Habitat in the plan. DEWAP 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. Key wildlife habitat areas depicted in DEWAP can guide site-specific conservation planning efforts. DEWAP also contains a list of Species of Greatest Conservation Need (SGCN<sup>1</sup>) as well as species-habitat associations. This document can be viewed via DNREC's Natural Heritage and Endangered Species Program website at <http://www.dnrec.state.de.us/nhp>.

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<sup>1</sup> Species of Greatest Conservation Need (SGCN) are identified in the Delaware Wildlife Action Plan (DEWAP). In a broad sense, SGCN, as defined for DEWAP, 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.

### **Rare, Threatened and Endangered Species**

Pages 46-47 describe the importance of coordination between the Town and Federal, State, County and neighboring communities. The Town should also include coordination with the Natural Heritage and Endangered Species Program (NHESP) of DNREC's Division of Fish and Wildlife to ensure that land-use changes do not impact habitat that supports SGCN. The town should also require developers, or applicants of development projects, to contact the NHESP to determine if their project activities will impact a SGCN. In some cases a site survey 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 ext. 101  
[Edna.Stetzar@state.de.us](mailto:Edna.Stetzar@state.de.us)

### **Wildlife Habitat Preservation**

Residential Land-use, Page 20 includes the following bulleted item:

- Tree and natural resource preservation will be encouraged.

Encouraging voluntary efforts to preserve natural resources, especially trees, may not provide adequate protection for those resources. Preservation is more likely to be accomplished if the Town develops zoning ordinances, subdivision regulations or codes that include specific actions or requirements.

Several items in the plan pertain to the Town's efforts to work with the Delaware Forestry Service on issues such as urban forestry, riparian buffers, etc. The Town should include coordination with NHESP in their efforts to develop ordinances or codes that target forest preservation. The NHESP can offer technical assistance regarding habitat restoration or enhancement in areas that support SGCN. In areas where SGCN occur, the NHESP coordinates with the Forestry Service in the development of their stewardship plans. Recommendations made by the NHESP are often incorporated into the stewardship plans and provide landowners with the option of protecting or managing their habitat for SGCN.

Page 21 (Agricultural/Residential) contains the following text *“Through the development of the revised zoning code for the Town, this future land use will be further defined to describe acceptable agricultural activities, encourage and provide incentives to protect*

*and establish natural resources and allow for residential development that is in keeping with the historic and rural characteristic of the community*. What types of incentives are going to be offered to landowners to protect natural resources? What is meant by ‘establish natural resources’?

Pages 42-43 contain text that is an excerpt from previous comments made by the NHESP for PLUS 2008-08-02 (Town of Ocean View pre-plan update). These comments were specific just to Delmarva Fox Squirrel habitat, but in this 2009 plan the Town used the comments to include habitat preservation for wildlife in general. This change deviates from the original intent of the comments and is not necessarily beneficial to wildlife the way they are being used.

To more accurately reflect the Town’s intent to provide for wildlife habitat preservation, we recommend the following changes to the text:

- Our GIS database indicates that mature forest blocks do not exist in the Ocean View area, so it is important that reference to “*mature forest*” in the text be changed to “*forested habitat*.” Otherwise, the recommendations will provide very little protection for existing forested areas. Retention of existing forested areas that are not presently mature will provide habitat for species that require early-mid successional habitat, and if left intact, will eventually become mature.
- Reference to the US Fish and Wildlife Service (USFWS) should be omitted. The USFWS doesn’t regulate wildlife habitat unless a federally protected species is involved. Since this text is now being used for wildlife habitat preservation in general and not specifically to Delmarva Fox Squirrel, reference to the USFWS is not accurate. In addition, the UFWS no longer regulates habitat for the Assawoman DFS in this area. Please see the Section below pertaining to this issue.
- Page 43, Item 1: This item pertains specifically to forest restoration. Leaving existing trees intact is preferred, but plantings of species indigenous to Delaware such as oaks, hickories, loblolly, shortleaf pine and pond pine would benefit native wildlife. Plant species indigenous to Delaware that are food sources for wildlife, including plants that host beneficial pollinators and butterflies should be part of any restoration plan. The Town should not limit restoration efforts only to forested habitat and should consider restoration of other habitat types such as wetlands, grasslands and shrublands. The NHESP can provide technical assistance in restoration efforts and can recommend plant species that support a variety of wildlife species including SGCN.
- Page 43, Item 2: First, the following needs to be omitted from this item because it is specific to the Delmarva Fox Squirrel: “*preserving the opportunity for wildlife to disperse from the experimental release site.*” Also, any reference to “*the Service*” should be omitted. Secondly, a suggested minimum buffer width should be included; otherwise, the forest could be cleared and reduced to widths that are

not viable for wildlife use or adequate for water quality protection. Thirdly, this recommendation should also include wetlands, not just riparian areas. We suggest the current text be replaced with: “Forested riparian corridors and uplands surrounding wetlands should be retained to a minimum width of 100 feet, and in sensitive areas, a minimum of 300 feet in width. Riparian buffers are utilized by wildlife as a travel corridor, for breeding, feeding and resting and protect water quality. Upland buffers around wetlands not only protect the function and integrity of the wetland, but also provide critical breeding habitat for wetland dependent species during a portion of their life cycle.”

- Page 43, Item 3: Reference to DFS should be omitted. Also, this time of year restriction on tree clearing would not protect a majority of birds and other wildlife that utilize forests for breeding because this recommendation was specific to DFS only. All clearing of trees should be avoided as much as possible during the breeding season, not just those that are greater than 12 inches in diameter. Ground nesting species or those that utilize the understory would be impacted by clearing and by heavy equipment. We suggest this item be replaced with the following text:

“To reduce impacts to nesting birds and other wildlife species that utilize forests for breeding, clearing in forested areas should not occur April 1 to July 31.” This clearing recommendation would only protect those species during one breeding season; once trees are cleared, the result is an overall loss of habitat.

- Page 43, Item 4: The last sentence, “*To avoid these potential effects, the Service recommends placing structures and roads 150 feet or more from forested habitat*” is a recommendation specific for the Delmarva Fox Squirrel. Leaving open space adjacent to forested areas is desirable and beneficial to wildlife; however, if the open space is an area of maintained lawn it will not provide the same benefits or support the number of species as an area of open space with natural vegetation. If the Town wants to implement this type of open space requirement, it should be specified that the open space be comprised on natural vegetation, not maintained lawn.
- Page 43, Item 5: This item is not necessarily an action that will result in habitat preservation and would be more appropriate in sections of this plan that address solid waste or air quality. This recommendation was originally specific to the Delmarva Fox Squirrel with the purpose of minimizing predator activity in areas where the squirrel occurs because they are an endangered species. While it is important to minimize trash dumping, the real issue with improper trash disposal in natural areas is one of human-animal conflicts rather than predator/prey relationships. Predators are part of the food chain and don’t necessarily cause adverse affects to prey populations, especially if prey species are common. Some predatory species, such as Short-eared Owl (*Asio flammeus*) and Cooper’s Hawk (*Accipiter cooperii*) are state endangered. We recommend that the following sentence be omitted: “*Controlling the availability of trash and other wastes*

*possibly attractive to potential predators of wildlife (e.g., foxes, owls feeding on rodents at trash sites), will reduce the likelihood of indirect adverse affects on wildlife.”*

### **Delmarva Fox Squirrel (*Sciurus niger cinereus*)**

The US Fish and Wildlife Service have declared the Assawoman Delmarva Fox Squirrel population as failed and no longer regulates habitat in the area for the species. However, if any of the Assawoman squirrels are still in the vicinity, the habitat preservation recommendations outlined above would still be beneficial to them.

### **Plan Implementation**

Overall, the Plan should offer more specific “actionable” environmental protection strategies than currently offered. We strongly recommend adopting 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 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 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.

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

No comments were received regarding the plan

**Department of Agriculture - Contact: Scott Blaier 739-4811**

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

- The Department urges the town to work with the State Forest Service to address the town's tree canopy goal. Trees are a vital part of any community, and the 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, including 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**

No comments were received regarding the plan.

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

No comments were received regarding the 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.<sup>1</sup> 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.<sup>2</sup> This is particularly important considering about 65% of adult Delawareans are either overweight or obese.<sup>3</sup> This current obesity crisis is also affecting children. Approximately 37% of Delaware's children are overweight or obese<sup>4</sup>, 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.<sup>1</sup>

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.<sup>5</sup> 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.<sup>6</sup>

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

### **Identify opportunities for physical activity and active transportation**

The draft comprehensive plan offered an excellent plan to promote physical activity through recreational amenities and active transportation.

- Consider a plan to install bike racks within commercial properties and in residential communities.
- Explore opportunities to incorporate a joint use agreements with Lord Baltimore Elementary School (once annexed) to be used by members of the community. This would provide an opportunity for active recreation during inclement weather.

### **Increase opportunities for healthy eating**

- Designate an area for a community garden. Community gardens in undeveloped/vacant lots would be an approach to improve attractiveness. They also provide opportunities for physical activity and community cohesiveness.<sup>7</sup> In addition, community gardens, that are vegetable gardens, provide residents access to healthy nutrition.
- Explore the opportunity of designating an area for a farmer's market. This not only provides access to healthy nutrition, but also is a strategy to promote agriculture sustainability in Delaware.

### **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>.

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

<sup>2</sup> Active Living by Design. *Transportation Fact Sheet*. Retrieved May 17, 2007, from [http://www.activelivingbydesign.org/fileadmin/template/documents/factsheets/Transportation\\_Factsheet.pdf](http://www.activelivingbydesign.org/fileadmin/template/documents/factsheets/Transportation_Factsheet.pdf).

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

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

<sup>5</sup> Delaware Health and Social Services (2008), *Adult Tobacco Survey*, Division of Public Health, Tobacco Prevention and Control Program.

<sup>6</sup> 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:

<sup>7</sup> Hancock, 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 Town of Ocean View Comprehensive Plan. Since the Town of Ocean View 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.

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](http://www.destatehousing.com) "Affordable Housing Resource Center" under our new initiatives.

If you have any questions, please feel free to call Valerie Miller at (302)739-4263 ext. 260 or via e-mail at [valerie@destatehousing.com](mailto:valerie@destatehousing.com). Thank you.

### **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 progresses.

DOE has no comments regarding the Comprehensive Plan 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: Sussex County