



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION**

October 20, 2010

Sara Bynum-King
Town of Delmar
100 S. Pennsylvania
Delmar, MD 21875

RE: 2010-09-05; Town of Delmar Comprehensive Plan

Dear Ms. Bynum-King:

Thank you for meeting with State agency planners on September 22, 2010 to discuss the proposed Town of Delmar 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. Currently within the Residential Land Use (pg. 19) element of the document, there is some confusion on what is considered Medium and High densities, where these uses are permitted and to what levels of density. The Town should clarify the Residential Land Use element to clarify the difference between densities and the acceptable housing products within these areas.
2. The Town should expand the discussion of Public Participation even if any public meetings were poorly attended to document the public process for the Town to comment and discuss this document.

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: Bryan Hall 739-3090

The Office of State Planning Coordination wishes to extend its appreciation to the Town for its continued efforts to develop and implement its land use agenda through the comprehensive planning process. This office recognizes that this is often a difficult process and again the Town should be commended for its efforts.

After review this office offers the following recommendations:

- Where there are any reference to Maryland Code, with the exception of the Maryland Water Element Appendix, we ask that these be corrected and reflect the proper reference to Delaware Code.
- Should consider the additional recommendations provided by State agencies to further strengthen the document and to address any certification issues.

Once again thank you for your efforts and if you have any questions, please contact me.

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

The Town of Delmar (DE) Comprehensive Plan includes a strong historic section. It is an important part of the stated goals to preserve the traditional feel and heritage of Delmar. It mentions continuing identification efforts, use of tax incentives and easements, adaptive reuse, and identification of cemeteries and archaeological sites during development projects. The Division supports and applauds all of these recommendations, and will be happy to work with the Town in their efforts. However, historic preservation should be integrated into other sections of the plan, in particular the Central Business District and the housing sections. The Division has identified a potential historic district on Delmar's Delaware side (see attached), which includes most of the CBD and the older housing in the town.

If the Town pursues a nomination of this district for the National Register of Historic Places, business owners would be eligible for federal and state tax credits and homeowners would be eligible for state tax credits if they rehabilitate their properties to the Secretary of the Interior's Standards for Treatment. In addition, the Town may want to consider participating in the National Trust for Historic Preservation's Main Street program, which works with historic downtowns in rehabilitating and marketing. (Note for the history section: Delmar is not actually on the Mason-Dixon Line. It is on the 1750-1751 Trans-peninsular Line, run by a colonial survey team, made up of surveyors from Pennsylvania and Maryland, who established Middle Point and set up the boundary markers for that line. However, they ran into difficulties in trying to establish the Tangent Line north to the Twelve-mile Arc around New Castle. This resulted in the Penn and

Calvert families hiring Mason and Dixon in 1764 to run this line using the most up-to-date astronomical equipment available. They made a slight correction to Middle Point but accepted the Trans-peninsular Line as set.). If you would like to discuss these issues further, please contact Alice Guerrant at 302-736-7412.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- On page 3, DelDOT recommends that the section on Public Participation be expanded slightly, to say how many public meetings were held and, if possible, how many people attended them and how many people commented on the Plan. Such information can be useful in addressing future concerns regarding the Plan adoption process.
- On pages 10 and 11, the discussion of Employment and Industry seems somewhat narrowly focused on employers in Delmar. In many small towns, the majority of working residents commute to jobs outside the Town limits. In the case of Delmar, we note the proximity of Salisbury, Maryland which is a regional employment center. To the extent that information is available, DelDOT recommends that the Plan address the extent to which residents work elsewhere and where those places are. It can have significant implications for transportation.
- At the top of page 18, in the section on Annexation, there is a sentence that says “The cost of providing...services shall be borne by those people gaining the most value....” [Emphasis added]. Because the Plan is a legal document, DelDOT recommends caution in the use of the word “shall” and suggest that “should” appears to serve the desired purpose in this instance. “Shall” could require the Town to adopt more rigid and rigorous annexation requirements than it would like.
- On page 19, the section on the Residential Land Use Plan divides residential land use into three “classifications of intensity of development,” medium density, low density and rural agricultural.” Logically, if low density and medium density are defined, high density should also be defined. As appropriate, the Plan could say that high density development is not contemplated in this Plan, or that high density development presently exists only in downtown Delmar and is not proposed for future development elsewhere, but the term should be defined and the concept should be addressed.
- Again on page 19, in the section on the Residential Land Use Plan, the paragraph on Medium Density suggests that higher density development, on lots of 7,000 to 9,000 square feet or less should not be permitted and that those smaller lots should be systematically eliminated. DelDOT suggests that lot sizes of less than 7,000 square feet can be quite reasonable, especially for townhouses and semi-detached houses, and recommend that the Town reconsider its policy in this regard, especially for the downtown area.
- Further regarding the section on the Residential Land Use Plan, after identifying three “classifications of intensity of development” on page 19, a fourth classification is added on

page 20 to address apartments. While the discussion of apartment is sound as written, DelDOT has to wonder how the Town means to apply the term. Typically, apartment refers to a room or group of rooms where people live in a structure that also contains other apartments or rooms for other purposes. If that is the intent here, then the Plan leaves townhouses and semi-detached houses unaddressed and does not directly address mixed use developments where apartments share buildings with other uses, the most common being apartments over retail stores. DelDOT recommends that the Residential Land Use Plan be expanded slightly to better address the range of housing options that might be proposed for development.

- On page 25, in the section on Corridor Capacity Preservation, the Plan says that “The Town should work with DelDOT to define a Five-Year Capital Improvement Program for Transportation Projects.” Presently, DelDOT has a six-year statewide Capital Transportation Program. If there is not a particular reason for the Town to have a five-year program, it is suggested that a six-year program might be more convenient for meshing DelDOT planning and programming efforts.
- The discussion of the Local Transportation System on page 26 suggests that the Town is challenged by a lack of curbs, sidewalks and an engineered drainage system. DelDOT would recommend if the Town has not already begun to do so, that they develop a prioritized list of problem locations and include it in their Capital Improvement Program. While roll curb is appropriate under certain conditions, they recommend that the Town use it accordingly. There are locations where upright curb is a better choice.
- On page 27, transportation policies 2 and 3 deal with Levels of Service (LOS) and Traffic Impact Statements, or as DelDOT more commonly call them Traffic Impact Studies. The subject of LOS is discussed further on pages 29 and 30, where LOS D and C are specified for peak hour and non-peak hour conditions. We would welcome the opportunity to work with the Town in these regards. The Town or their representatives may contact me directly, at (302) 760-2109, or thomas.brockenbrough@state.de.us on these subjects. With that said, DelDOT recommends a more deliberate approach in setting standards for Levels of Service. As a concept, Level of Service is based on how the driver perceives the facility to be operating. Therefore it works well where automotive travel is the highest priority. It works less well on local streets, which primarily serve to provide access, rather than mobility. Also, many jurisdictions have found a focus on Level of Service to be counterproductive in central business districts, even on arterial streets where the LOS can often be found to be E or even F during peak travel periods. Often the need to move traffic efficiently needs to be balanced with creating or maintaining a pedestrian-friendly, and commerce-friendly streetscape.
- The discussion of Functional Classification Systems on pages 28 and 29 is oriented toward Maryland. As this is the Delaware plan, we recommend that it be revised to reflect that. DelDOT’s functional classification maps are available at http://www.deldot.gov/information/pubs_forms/func_maps/pdf/functional_classification.pdf.

- On page 30, in Table 11, Recommended Street Standards, the pavement widths specified are very wide for areas that will not have on-street parking all the time. DelDOT recommends that the Town consider narrower widths and/or traffic calming measures such as bulb outs on streets where off-street parking is available.
- Also on page 30, in Table 11, Recommended Street Standards, the recommended section for major collectors is too wide to fit in the recommended right-of-way.
- On pages 32 and 33, in the discussion of Greenways, DelDOT's Transportation Enhancement Program should be mentioned as a possible means of building some greenway projects. More information on this program is available from Mr. Jeff Niezgoda, a Planning Supervisor in our Statewide and Regional Planning Section. Mr. Niezgoda can be reached at (302) 760-2178.
- On page 34, in the section on Streams and Stream Buffers, there is a sentence that begins "Streams provide drinking water for local communities." DelDOT is not aware of any communities on the Delmarva Peninsula that use surface water for drinking water.
- On page 44, in the discussion on On-Site Septic Systems, the Plan states that there are 75 to 80 such systems within the Town limits in areas not served by the central collection system and that "There are no immediate plans to extend sewer service to these areas." DelDOT recommends that the Town begin planning now for the extension of sewer service to these areas. Eventually those systems will fail.
- On page 47, there is mention of a plan to improve Gordy Park by early summer 2009. DelDOT recommends that paragraph be updated.
- At the top of page 56, there is mention of a program that is said to be available only in Kent County. DelDOT recommends that that paragraph be removed.
- On page 58, two Section 8 programs are mentioned as being administered by the Maryland Community Development Authority (CDA). There is a similar reference on page 59 in the section on the Federal Low-Income Housing Tax Credit Program. Ordinarily in Sussex County, these programs would be administered by the Delaware State Housing Authority. Does the CDA cover all of Delmar by some arrangement, or does the text need to be updated?
- At the bottom of page 61, in the section on the Town Council and Commissioners, there is a reference to the 1992 Maryland Planning Act. A reference to similar legislation in Delaware should be included.

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

DNREC offers several comments and suggestions to improve conservation and protection of the Town's resources. While the cumulative impact of various program suggestions and concerns may sound negative, the intent is to improve the plan elements related to environmental protection, open space, recreation and water quality and supply. DNREC would welcome the opportunity to meet with the Town in a collaborative manner to discuss these recommendations and possible future ordinances.

Recommendations for Comprehensive Plan Revisions

Soils.

- On pages 6 and 7, the Matawan soil mapping unit has not been mapped in the vicinity of the Town of Delmar, and the Norfolk mapping unit has never been mapped in the State of Delaware.

Recommendation: It should be noted that an updated or revised soil survey has since been completed; it is recommend that the Town use the information in the updated or revised soil survey to correct the inaccurate information in the current soils narrative. The updated soil information can be retrieved via the following web link: <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>.

Total Maximum Daily Loads (TMDLs).

- Recommendation: On page 44, under the Chesapeake Bay Total Maximum Daily Loads (TMDL) and State Tributary Strategies section, please include information (may be paraphrased) about the Watershed Implementation Plan (WIP) in the Plan.

The applicant should be aware that EPA is requiring the State of Delaware to develop a Watershed Implementation Plan (WIP) and 2-year progress milestones for purposes of accelerating efforts to improve and restore waters of the Chesapeake Bay. The WIP and milestones will identify specific pollution reduction practices and programs to reduce nitrogen, phosphorus, and sediment from a variety of sources within the watershed. The WIP is being developed by an Interagency Workgroup, made up of representatives from DNREC, the Department of Agriculture, DelDOT, Office of State Planning Coordination, and other local, state, and federal partners and stakeholder groups. Delaware's Draft Phase 1 WIP is currently available for review at: http://www.wr.dnrec.delaware.gov/Information/Pages/Chesapeake_WIP.aspx.

The Final Phase I WIP will be provided to EPA by November 29, 2010, so that they may finalize the Chesapeake basin-wide TMDL by December 31, 2010. More detailed actions and strategies will be produced in the Phase 2 WIP, which will be completed in 2011.

DNREC and the Chesapeake Interagency Workgroup are eager to work with local governments to gather their input into this plan and determine a path forward for the most effective and efficient implementation of the WIP.

Stormwater Management and Drainage.

- Stormwater is not mentioned within the Plan, which makes it difficult to understand what role the Town has in providing stormwater management for the residents. There are currently three Tax Ditch Organizations within the Town boundary or mapped growth area (Meadow Branch Tax Ditch, Ward-Cordrey Tax Ditch, and Jackson Branch Tax Ditch). During rain events the Town and surrounding areas rely on the conveyance of stormwater through these tax ditches. Wetlands play a vital role in flood management and water quality but are not addressed in the Sensitive Areas Recommendations.

Recommendation: Develop a section that addresses stormwater management and drainage including, but not limited to, watersheds/sub-watersheds, tax ditches, floodplains/flood management, and future annexation areas.

The Land Use Plan, Page 18: The Drainage and Stormwater Section understand the approach the Town is taking by dividing land use into general categories. However, by utilizing the natural drainage pattern, the Town may be able to combine habitat protection, recreation, and storm water management.

Recommendation: The Drainage and Stormwater Section recommends first dividing the future annexation areas into sub-watershed planning areas. The Town would need to partner with Sussex County as the watersheds extend out of the potential expansion area identified by the Town.

Natural Heritage and Endangered Species.

Streams and stream habitat (pages 34-35)

DNREC strongly supports the Town's recommendation of 100-foot buffers for undeveloped land adjacent to streams. The Town should also consider that other wetlands, such as isolated wetlands, can support an array of plant and animal species and are in need of similar protection. Some isolated wetlands provide habitat for species of conservation concern. Isolated wetlands perform many of the same environmental functions as other wetlands, including filtering pollutants, recharging streams and aquifers, storing flood waters, and providing habitat for an array of plant and animal species. The lack of regulatory protection for this wetland type in Delaware is not based on science and does not reflect the ecological importance of this wetland type. Other states in the U.S. have state acts and regulations that make no distinction between isolated and non-isolated wetlands.

Recommendation: It is recommended that these wetlands be protected from direct impacts and provided with a 100-foot upland buffer.

Threatened and Endangered Species Habitat (page 35-36):

The Town should be recognized for taking a proactive approach to protect habitat that supports species of concern. The Town wants to discourage growth in outlying areas of the planning area primarily for financial considerations, but this objective may also result in the protection of habitat important for wildlife. Firstly, these areas should be identified prior to consideration of annexation or development. According to our database, potentially important wildlife habitat occurs within current Town boundaries as well as in “Growth Area.” These areas are mapped as Key Wildlife Habitat (KWH) in the Delaware Action Plan¹ (DEWAP). KWH are rare, have special significance in Delaware, are particularly sensitive to disturbance, support or are expected to support species of conservation concern, and/or are large blocks of unfragmented forest or wetlands. KWH can support an array of plant and animal species across the landscape. Maps in the DEWAP illustrate areas of the State where conservation efforts can be focused. Although designation as KWH is non-regulatory, the maps are intended to help guide site-specific conservation planning efforts.

Recommendation: As noted on page 35, the Town should coordinate with the Natural Heritage and Endangered Species Program (NHESP) to determine what areas are of most concern. NHESP can provide technical assistance regarding potential for state-rare, federally listed and Species of Greatest Conservation Need (SGCN²) and also work with developers on site specific protection measures. Most of the habitat within the planning area has not been surveyed and in some cases a site visit may be requested by NHESP in order to provide the necessary information.

Contact information:
c/o Environmental Review Coordinator
Natural Heritage and Endangered Species Program
DNREC-Division of Fish and Wildlife
4876 Hay Point Landing Rd

¹ The Delaware Wildlife Action 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. Congress challenged the states to demonstrate comprehensive wildlife conservation. Delaware, along with all of the other states and provinces throughout the country are working to implement their wildlife action plans. DEWAP can be viewed via the Natural Heritage and Endangered Species program website at <http://www.fw.delaware.gov/dwap/Pages/default.aspx>. This document also contains a list of species of greatest conservation need, Key Wildlife Habitat Maps, and species-habitat associations

² 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).

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Forest Preservation.

Forest blocks or large wetlands areas that are identified as Key Wildlife Habitat could also be considered for preservation as open space.

Recommendation: Contact Bill Jones, wildlife biologist, Division of Fish and Wildlife, (302) 284-4795, for additional information about incentive-based programs for wildlife management that are available to private landowners.

Parks and Recreation Facilities.

In May and June of 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 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 Delmar is located within SCORP Planning Region 4.

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 4 (western Sussex County), 87% of residents indicated that outdoor recreation had some importance in their lives, while 60% said it was very important to them personally.

Outdoor Recreation Needs/Priorities

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

High facility needs:

- Walking or Jogging Paths
- Swimming Pools
- Open Space/Passive Recreation
- Picnic Areas
- Playgrounds
- Fishing Areas
- Bicycle Paths
- Beach Access
- Access to Historic Sites

Moderate facilities needs:

- Hiking Trails
- Camping Areas
- Nature Programs
- Powerboat Access
- Baseball/Softball Fields
- Basketball Courts
- Kayak/Canoe Access
- Hunting Areas
- Football Fields
- Soccer Fields
- Golf Courses
- Volleyball Courts
- Skate Parks

Recommendation: The Town of Delmar is encouraged to work toward incorporating and/or continuing to offer some of these opportunities in the development of their Comprehensive Plan (pages 46-48).

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. Two of

Delmar's parks have received funding through the DTF program. They include: Delmar Park and West Delmar Tot Lot. The Town of Delmar could further benefit from this program when incorporating new outdoor recreational facilities or adding amenities to existing parks. For more information on the Delaware Land and Water Conservation Trust Fund, please contact: Robert Ehemann @ 302.739.9235.

Recommendation: The municipal parks in Delmar receiving funds through the DTF program are protected in perpetuity. To clarify this in the Comprehensive Plan, it is recommended that Delmar develop a 'Parks/Open Space' or 'Protected' land use zoning designation for these parcels.

Recommendations for Ordinances and Plan Implementation

- **Source Water Protection.** The DNREC Ground-Water Protection Branch has reviewed the Town's Source Water Protection Ordinance as part of the review of the Town's Plan. The Town is to be commended for its protection of the resource. The Town provides protection for Good Recharge Potential Areas. This exceeds the State requirement.

It should be noted on page 6, in Section 5 of the Source Water Protection Ordinance, it states that DNREC uses a two hundred foot radius to delineate low volume wells in unconfined aquifers. DNREC uses a one-hundred fifty foot radius. However, the Town provides wellhead protection using a 200-foot radius, providing additional protection.

- **Open Space:** We note that it might be helpful to have a consistent definition of "open space" in your comprehensive plan and/or Town ordinances. In a guidance document that DNREC is developing for the PLUS and other local technical review processes, we have defined open space as: those areas with public value in a predominantly natural state and undeveloped condition. Such areas may contain, but are not limited to, wildlife and native plant habitat, forest, farmland, meadows, wetlands, floodplains, shorelines, stream corridors, steep slopes, and other areas that have species or habitats of conservation concern.

Open Space may be preserved, enhanced and restored in order to maintain or improve the natural, ecological, hydrological, or geological values. An important design element to consider when incorporating Open Space in a development is to take maximum advantage of adjoining Open Space areas. This will advance the goal of an interconnected network of habitat corridors for wildlife and provide for future potential linkages.

Open Space is not:

- impervious surfaces (e.g., roads, parking lots, sidewalks, buildings)
- swimming pools or ponds that are lined or contain an impervious substrate
- stormwater management structures
- wastewater treatment systems

Types of Recreational Open Space:

Passive-Passive recreation areas include only low-impact activities having little or no disturbance on natural features.

Active-Active recreation areas (e.g., ball fields, playgrounds) should be placed only in Open Space areas that do not already contain natural habitat.

- **Total Maximum Daily Loads (TMDLs):** All open space land uses should be designed and managed in a manner that mitigates or reduces nutrient pollutant loading and its' damaging impacts to water quality. Since changes in land use often increase runoff of nutrient pollutants into nearby waterways (including wetlands) draining to a common watershed, these nutrient pollutant loading impacts should be assessed at the preliminary project design phase. To this end, the Watershed Assessment Section has developed a methodology known as the "Nutrient Load Assessment Protocol" to assess such impacts. The protocol is a tool used to assess changes in nutrient loading that result from the conversion of individual or combined land parcels to a different land use(s), and serves as a "benchmark indicator" of that project's likely impacts to water quality. It is the intention of this protocol to inform those relevant governmental entities (i.e., State, county, and municipal) how a given project will affect water quality in their jurisdictions, while informing/encouraging developers of the need to incorporate better conservation practices (i.e., BMPs) in their project designs to help improve water quality.

Recommendation: Require completion of a Nutrient Budget protocol before granting preliminary approval for any proposed projects/developments.

- **Wetlands Delineations:**

Recommendation: 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.

Recommendation: Include wetlands setbacks as part of the ordinances to protect environmental resources. Wetlands should be protected with setbacks of un-subdivided open space surrounding 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.

- **Freshwater Wetlands Protections:**

Recommendation: Implement ordinances to protect freshwater wetlands where regulatory gaps exist (i.e., isolated wetlands and headwater wetlands).

- **Impervious Surface Mitigation Plan:**

Recommendation: 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 storm water management structures.

Recommendation: To encourage compact development and redevelopment in the Town's central business area, require an impervious surface mitigation plan for all residential and commercial developments exceeding 20% imperviousness outside that area, or at least in excellent recharge areas outside that area. The impervious surface mitigation plan should demonstrate that the impervious cover in excess of 20% will not impact ground water recharge, surface water hydrology, and/or water quality of the site and/or adjacent properties. If impacts to groundwater recharge, surface water hydrology will occur, the plan should then demonstrate how these impacts will be mitigated. If the impacts cannot be mitigated, the site plan should then be modified to reduce the impacts from impervious cover.

- **Poorly Drained (Hydric) Soils:**

Recommendation: Prohibit development in poorly or very poorly-drained (hydric) soil mapping units. Building in such areas predictably leads to flooding and drainage concerns from homeowners, as well as significant expense for them and, often, taxpayers. 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.

- **Green Technology Stormwater Management:**

Recommendation: Require the applicant to use "green-technology" storm water management in lieu of "open-water" storm water management ponds whenever practicable.

- **Stormwater Utility:**

Recommendation: Explore the feasibility of a 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 Sussex Conservation District, Sussex

County and the Delaware Clean Water Advisory Council as partners in funding stormwater retrofits.

- **Drainage Easements:**

Recommendation: The Town should pursue drainage easements along waterways, ditches, and storm drains where currently there are none.

- **Tax Ditches.** Existing tax ditch rights-of-way should be protected from development encroachment to allow for routine maintenance and periodic reconstruction. Routine maintenance primarily consists of mowing ditch bank vegetation and the removal of small blockages. Periodic tax ditch reconstruction involves the removal of sediment from the ditch bottom to reestablish the original design grade. The removed sediment, referred to as spoil, is typically disposed of by spreading within the tax ditch right-of-way. The placement of permanent obstructions within tax ditch rights-of-way is prohibited. Any change to the location of the tax ditch, or the existing tax ditch rights-of-way, will require a change to the tax ditch court order.

Recommendation: The Drainage Program recommends 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 development 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.

- **Stormwater Management, overall:** The Drainage and Stormwater Section would like the Town to consider the following, to the extent that Town ordinances do not already do so. Please be advised that the Sediment and Stormwater Program is currently revising the Delaware sediment and stormwater regulations. It is unclear at this time when the new regulations will be promulgated.

- The Division of Watershed Stewardship is requesting that the Town incorporate a requirement for a stormwater and drainage review in the Town's pre-approval requirements for new development requests. Proposed development projects should hold a project 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 project 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 project application meeting, the applicant must forward a completed Stormwater Assessment Report (SAR) 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 Stormwater Assessment Report will also be provided through that process.

- As the Town of Delmar updates any land use or subdivision codes, the Sediment and Stormwater Program requests that the Town make a note of the Sediment and Stormwater requirements on any construction-related project application checklists, etc.
 - Lines and grades: If the Town does not have a lines and grades requirement for new construction, the Division recommends 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.
 - Consider adding upgrades to stormwater infrastructure when developing a Capital Improvements Program.
 - Consider addressing stormwater when developing an adequate public facilities ordinance. Ensure adequate stormwater outlets, easements, and infrastructure is available at time of subdivision.
 - Evaluate the existing drainage patterns within the future annexation area to ensure adequate drainage for the cumulative stormwater impact upon full build out of the annexation area. The Town should be mindful of potential stormwater impacts from the Town onto county residents.
- **Redevelopment of Brownfield Sites:**

Recommendation: DNREC's Site Investigation and Restoration Branch (SIRB) encourage the development of Brown fields 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.

Department of Agriculture - Contact: Scott Blaier 739-4811

- Map 4 shows the town's projected growth area within the next five to ten years. At both the western and eastern edge of that boundary are properties enrolled in the state's Agricultural Lands Preservation program (Map 5). If the town does eventually grow to meet those properties, or any new properties added to the program, the Department of Agriculture asks that the town require (preferably by ordinance) a 50 foot forested buffer be included in the developer's subdivision plan where it borders farms preserved in the Delaware Agricultural Lands Preservation program. Sussex County currently requires such a buffer. A buffer would help separate the two disparate land uses, residential and agriculture, and help mitigate any conflict that may arise.
- The Delaware Forest Service encourages the town to develop a formal urban forestry management plan that addresses a tree canopy goal if it has not already. 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 businesses 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.

Delaware State Housing Authority – Contact Karen Horton 739-4263

- On page 14, Delaware State Housing Authority (DSHA) recommends including high density in the listed classifications of residential use in addition to medium density and low density, as apartments are addressed on the following page.
- The Delaware State Housing Authority is encouraged to see the Town proactively delineate appropriate areas for apartments as it is extremely difficult to rezone to higher density later when coming through the development process.
- The recommendations listed on page 53 and 54 are separated into two separate sections when they are all recommendations for housing. The Town may want to combine them into one housing recommendations section.

- The first recommendation listed at the bottom of page 54 discusses encouraging higher densities in undeveloped areas in order to reduce land cost per dwelling unit. While they applaud the intent of the Town to provide higher densities, it is important to encourage higher densities in areas that have close proximity to jobs, services, and retail.
- All of DSHA's programs are listed on pages 55 through 59. There are many federal, state, local, and non-profit resources available to address affordable housing issues. It is suggested that the Town reference them only if the town is actively planning to use them in their housing strategies and recommendations.
- Finally, DSHA has developed a website, **Affordable Housing Resource Center**, to assist communities in learning about resources and tools to help create housing for households earning 100% of median income or below. This website can be found at: www.destatehousing.com "Affordable Housing Resource Center" under "Services".

Department of Education – Contact: John Marinucci 735-4055

The DOE supports the State Strategies for Policies and Spending within the limits of the Federal and State mandates under which the Department operates.

- In its review of Comprehensive Plans, Comprehensive Plan Updates 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.

- 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.

- 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.
- 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 Compressive Plan update progresses.

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 town/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
Office of State Planning Coordination Director