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

April 22, 2014

Mandy Slody
Town of Frederica
P.O. Box 294
Milton, DE 19946

RE: PLUS review 2014-03-01; Town of Frederica Pre-update Review

Dear Mandy:

Thank you for meeting with State agency planners on March 26, 2014 to discuss the update of Frederica's comprehensive plan. State agencies have reviewed the documents submitted and have asked that the following be considered when you update your plan for certification.

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

Our office is pleased to have the opportunity to work with the Town of Frederica as the Town prepares the required 10 year update of the comprehensive plan. The plan, and subsequent amendments to the plan, has served the Town well for the last 10 years. The following are some ideas, comments, and issues to keep in mind as the plan is updated:

- We have received the Town's letter dated February 6th, 2014 requesting a one year extension to complete the comprehensive plan update. Our office responded to the town by letter on February 21, 2014. To summarize from that letter, comprehensive plan extensions are reviewed and granted by the Cabinet Committee on State Planning Issues. The Town will be scheduled on the next available agenda, and our office will notify the Town so that a representative can attend to address any questions.

- We have received the letter from Ryan Mahwinney of URS Corporation, Frederica's Planning Consultant, dated April 8, 2014. On behalf of the Town, Ryan requests assistance from our office for Census Data and workshop facilitation. We will be pleased to provide the requested assistance. David Edgell will work with the Town and URS to provide the requested assistance.

- We note that Frederica has received a Coastal Management Assistance Grant to improve the Town's resiliency to Sea Level Rise and Coastal Storms. DNREC's comments found

later in this letter indicate that the agency is eager to assist with this process. Our office looks forward to working with the Town and DNREC as you consider ways to integrate Sea Level Rise into the comprehensive plan.

- It is recommended that through this planning process the Town coordinate with Kent County and DelDOT on regional land use and transportation issues that may affect Frederica. Here are some, but probably not all, of the issues that may affect the Town:
    - The proposed regional sports complex to be located adjacent to the County sewer treatment plant south of Frederica;
    - The proposed South Frederica Grade Separated Intersection;
    - Approved but unbuilt subdivisions located north and west of Frederica that could generate traffic through the Town.

Our office is looking forward to assisting the Town with the plan update process, so do not hesitate to contact David Edgell if you have any questions or need information about who to contact in the various State agencies.

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

- DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access include their regulations on Transportation Improvement Districts (TIDs). Specifically see Sections 2.3.4 and 2.13 (available at http://www.deldot.gov/information/pubs_forms/revisions_to_ASR/TrafficImpactStudies DraftRegulationAmendment130214.pdf). These Districts are formed by agreement between DelDOT and the relevant local governments. Their purpose is to plan comprehensively, to expedite the development approval process and to provide adequate infrastructure in areas where development is to be encouraged. These regulations, among other things, require that the Districts be identified in local governments' comprehensive plans. If the Town is planning for significant growth on its west side, it may want to consider creating a TID.

  With regard to locating the regulations cited above, the Town should be aware that we expect to advertise an update of our Standards and Regulations in the May 2014 Register of Regulations. While changes to the content of our TID regulations are not contemplated, the section numbers cited above are likely to change.

**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**

- **Preparing for a Changing Climate.** The Town of Frederica has received a Coastal Management Assistance Planning Grant from the Delaware Coastal Program for the purpose of improving the Town's resiliency to sea level rise and coastal storms. Sea level rise is one of several climate change impacts that can affect communities, the others being variable precipitation and increasing temperatures. Together, precipitation and accelerated sea level rise contribute to increased flooding. Under Governor Markell's Executive Order 41, directing Delaware State agencies to prepare for emerging climate impacts and seizing economic opportunities from reducing emissions, DNREC and the Office Of State Planning Coordination are tasked with identifying actions local governments can take to improve community resiliency, including an assessment of infrastructure vulnerabilities, land use policies, and other adaptation strategies that may be integrated into comprehensive land use plans. With that in mind, DNREC requests the opportunity to work with the Town and their consultants to develop language for the comprehensive plan that addresses climate change impacts, as well as adaptation and mitigation strategies for the Town to pursue through implementing ordinances.

- **Utilities, Community Facilities and Services, and Transportation**

  *Recommendation*: In this chapter, we would expect the Town to discuss water supply (to include water allocation projections based on population/employment projections, as well as source water protection), wastewater, and stormwater management (to include, possibly, a discussion of the creation of a stormwater utility; please be advised that the new sediment and stormwater regulations went into effect in January 2014).

- **Source Water Protection.** No discussion of source water protection was found within the document.

  The Town adopted Article 12, Environmental Protection Standards (EPS), to address source water protection, although the Town was not required under Title 7, Del. C., Chap. 60 VI § 6082 (c) to adopt source water protection ordinances. We applaud the Town's adoption of Article 12, Environmental Standards. However, the ordinance was not prepared with the assistance of the Department, as required, and is not protective of the resource.

The ordinance offers wellhead protection by requiring open space within a 300-foot radius of their public wells. However, neither of the Town's two wells conforms to this standard. There are no provisions in the ordinance that would protect the wellhead area of an unconfined well. In addition, the wellhead protection areas found within the municipal boundaries of the Town are not shown on a map that should be included in the Plan.

Section 12-1 B (5) of the ordinance uses nomenclature that is outdated. Section 12-1, B (6) allows for hazardous waste treatment and storage within the wellhead protection area. This practice poses a threat to the Town's sources drinking water and is in contradiction with the 2004 comprehensive plan (page 40) and 2006 amendment (page 29) expressing the Town's intent to prohibit such land use.
In addition, the ordinance does not provide limits to impervious cover in areas of excellent ground-water recharge potential. Impervious cover prevents precipitation from infiltrating through the soil to the water table aquifer. Impervious cover refers to structures including but not limited to roads, sidewalks, parking lots, and buildings. Any impervious cover within a wellhead protection area or an area of excellent ground-water recharge has the potential to have a negative effect the quality and quantity of drinking water available to the Town. Additionally, impervious cover in areas of excellent ground-water recharge may contribute to flooding.

> *Recommendation*: DNREC strongly recommends that the Town to revise their ordinance so that it provides protection to the resource. Please refer to the *Draft Model Ordinance for Smaller Municipalities of Kent and Sussex Counties*: http://www.wr.udel.edu/swaphome/Publications/SWPOrdinances/FinalDraftModelOrdinance_KnS_041408.pdf

In addition, the comprehensive Plan must contain the following elements per the Memorandum of Understanding between the Office of State Planning and Division of Water dated July 2011.
*Municipalities Under 2,000 Population* (as reported in the most recent decennial Census):

- Text of the comprehensive plan may include description of source water requirements in 7 Del. C. 6082(c), and include goals and objectives related to the protection of the resource. This text shall be placed within the water and sewer element of the local government's comprehensive plan, as prescribed by Title 22 of the Delaware Code.

- A map of source water resources (excellent recharge areas, wellhead protection areas) may be included in the plan. This map must be derived from the most current datasets[1] provided by the Department of Natural Resources and Environmental Control (DNREC).

- If included, the map and plan text must clearly include the note that the regulatory provisions of any source water ordinance will refer to the most current source water protection datasets[1].

- The local government may adopt, after consultation with DNREC, an ordinance that is protective of the resource. If adopted, the ordinance shall refer to the most current official source water map and relevant data, as provided in the current Comprehensive Plan and as amended from time to time or include a map update procedure.

1. **http://www.nav.dnrec.delaware.gov/DEN3/DataDownload.aspx**

- **Stormwater Management.** The Department recommends that the Town of Frederica incorporate a requirement for a stormwater review into the Town of Frederica's preliminary approval requirements for new development requests. The *Delaware Sediment and Stormwater Regulations* have been revised and became effective January 1, 2014. A three-step plan review process is now prescribed in the regulations. Proposed development projects must submit a Stormwater Assessment Study for the project limits of disturbance and hold a project application meeting with the reviewing delegated agency as the first step, prior to submitting stormwater calculations or construction drawings, which are steps two and three. Resulting from the project application meeting a Stormwater Assessment Report will be completed by the reviewing agency and the developer and forwarded to the Town of Frederica. This Stormwater Assessment Report will rate the anticipated engineering effort necessary to overcome certain stormwater assessment items such as soils, drainage outlets, and impervious cover. The Sediment and Stormwater Program recommends that the Town of Frederica consider the ratings from the Stormwater Assessment Report in making a decision to issue preliminary approval for any development request by incorporating the Stormwater Assessment Report as a required element when a plan is submitted into the municipal preliminary plan approval process.

  The revised *Delaware Sediment and Stormwater Regulations*, effective January 1, 2014, have a goal of reducing stormwater runoff for the rainfall events up to the equivalent one-year storm, 2.7 inches of rainfall in 24 hours. Runoff reduction encourages runoff to

infiltrate back into the soil as in the natural pre-development system and results in pollutant removal and stream protection. Best management practices (BMPs) that encourage infiltration or reuse of runoff, such as porous pavements, rain gardens, rain barrels and cisterns, green roofs, open vegetated swales, and infiltration systems should be allowed for new development sites within the Town of Frederica. Furthermore, limiting land disturbance on new development projects and limiting impervious surfaces by allowing narrower street widths, reducing parking requirements, and allowing pervious sidewalk materials will be necessary to help achieve the runoff reduction goals in the revised regulations.

- **Wastewater.** The Municipal Development Strategy Checklist for Towns and Cities with a population of less than 2000 persons states:

  The Land Use Plan must include *policies, statements, goals, planning components and a map* which serve to define and critical infrastructure issues and describe the future enhancements and expansion of these systems to serve current and future growth areas. The ability of these systems to serve undeveloped areas in the town and any land desirable for annexation should be considered.

  The Checklist further recommends that "(f)or water and sewer systems, treatment methods, capacities, and allocations should be considered."

  > *Recommendation*: Develop an inventory of the Town's wastewater infrastructure, to include treatment methods, capacities, and allocations.

- **Natural Resources**

  > *Recommendation*: In this chapter, we would expect the Town to discuss issues like Total Maximum Daily Loads (TMDLs) and water quality, wetlands/water bodies/buffers, air quality, floodplains (please be advised that new Flood Insurance Rate Maps are available), wildlife habitat (how the Town intends to preserve and enhance), and urban forestry.

- **Total Maximum Daily Loads.** Under Section 303(d) of the 1972 Federal Clean Water Act (CWA), states are required to identify all impaired waters and establish total maximum daily loads to restore their beneficial uses (e.g., swimming, fishing, drinking water, and shellfish harvesting). A TMDL defines the amount a given pollutant (i.e., or the pollutant loading rate reduction for a given pollutant) that may be discharged to a water body from all point, nonpoint, and natural background sources; thus enabling that

water body to meet or attain all applicable narrative and numerical water quality criterion (e.g., nutrient/bacteria concentrations, dissolved oxygen, and temperature) in the State of Delaware's Water Quality Standards. A TMDL may also include a reasonable margin of safety (MOS) to account for uncertainties regarding the relationship between mass loading and resulting water quality.

In simplistic terms, a TMDL matches the strength, location and timing of pollution sources within a watershed with the inherent ability of the receiving water to assimilate that pollutant without adverse impact. The nutrient (Nitrogen and Phosphorous) and bacteria TMDL reduction requirements for the Murderkill watershed are listed in Table 1. The realization of these TMDL pollutant load reductions will be through implementation of a Pollution Control Strategy (PCS). A PCS identifies the specific strategies and actions (e.g., best management practices) necessary for reducing pollutants in a given water body (or watershed); thus realizing the water quality criterion or standards set forth in the State of Delaware's Water Quality Standards, ultimately leading to the restoration of a given water body's (or watersheds) designated beneficial use(s). Specifically, a PCS is a combination of best management practices that will reduce nutrient and bacterial pollutant runoff loading by optimizing BMPs. The PCS for the Murderkill River watershed consists of recommendations from the following three areas: agriculture, stormwater, and wastewater. Currently, the PCS for the Murderkill River watershed, the watershed in which the Town of Frederica is located, contains only non-regulatory recommendations.

| **Delaware River & Bay drainage** | **N** | **P** | **Bacteria** |
|---|---|---|---|
| Murderkill River | 30% | 50% | 50% |

Table 1: TMDL reduction requirements for nutrients (N & P) and bacteria in the Murderkill River watershed

- **Air Quality.** The Town of Frederica shall comply with all applicable Delaware air quality regulations. For a complete listing of all Delaware applicable regulations, please look at our website: http://regulations.delaware.gov/AdminCode/title7/1000/1100/index.shtml.

  DNREC encourages sustainable growth practices that:

  - Control sprawl;
  - Preserve rural and forested areas;
  - Identify conflicting land use priorities;

- Encourage growth on previously developed sites and denser communities while at the same time protect our diminishing land base;
- Coordinate transportation, housing, environment, and climate protection plans with land use plans; and
- Demonstrate that communities can achieve the qualities of privacy, community, and contact with nature without degrading the natural environment or generating unacceptable environmental costs in terms of congestion, use of natural resources, or pollution.

- **Parks, Recreation, and Open Space**

In August of 2011, 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 2013-2018 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 Frederica is located within SCORP Planning Region 3.

When looking at the findings from the 2011 telephone survey, it is apparent that Delawareans place a high importance on outdoor recreation. Statewide, 93% of Delaware residents indicated that outdoor recreation had some importance in their lives, while 67% said it was very important to them personally. These findings are very close to the results of the same question asked in the 2008 public opinion telephone survey, indicating a continued demand for outdoor recreation opportunities throughout the state.

Placing high importance on outdoor recreation resonates throughout the five SCORP regions. In Region 3 (Kent County), 63% said it was very important to them personally.

<u>Outdoor Recreation Needs/Priorities</u>

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

High facility needs:

- Walking and Jogging Paths
- Public Swimming Pools

- Bicycle Paths
- Fishing Areas
- Playgrounds
- Community Gardens
- Picnic Areas
- Off-Leash Dog Areas

Moderate facility needs:

- Hiking Trails
- Camping Areas
- Ball Fields
- Basketball Courts
- Football Fields
- Public Golf Courses
- Soccer fields
- Boat Access
- Canoe/Kayak Launches
- Tennis Courts

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

**Recommendations for Ordinances and Plan Implementation**

- **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.

- **Freshwater Wetlands Protections:**

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

- **100 Foot Upland Buffer:** 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: 878-882.), an adequately-sized buffer that effectively protects water quality in 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 all water bodies (including ditches) and wetlands.

  *Recommendation*: Require a 100-foot upland buffer width from all delineated wetlands (approved by the USACE and DNREC) or water bodies (including ditches).

- **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 New Castle Conservation District, New Castle 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 and storm drains where currently there is none.

**State Housing Authority – Contact: Karen Horton 739-4263**

- Incorporate demographic trends into the Housing Analysis. A growing body of research indicates that Delaware, like the rest of the nation, is in the midst of a significant market shift. Baby boomers that once drove suburban development are now aging and are looking to downsize into something more manageable. The Delaware Population Consortium (DPC) projections for the next ten years indicate that not only will there be a large amount of suburban homes placed on the market by baby boomers, but that there will be a *decline* in households in age ranges that typically seek large homes. These same DPC projections show growth in the younger age ranges most likely at stages in their life and income to support entry level homes.

  In addition, many families did not recover from the national economic crisis unscathed. Many families lost their homes, or suffered significant credit damage making it difficult to return quickly to homeownership. As households reverted from ownership to renting, or postponed purchasing a home, both nationally and in Delaware the 2000s marked the highest decade-long growth in renter households in the last 60 years. This trend is only expected to continue. This is resulting in a tighter rental market pushing rents up. Median gross rent in Delaware rose 49% from 2000 to 2010, while median family income in the state rose only 24%. Cost-burden among renter households also remains high in Delaware. There are an estimated 25,600 cost-burdened very low-income renter

households in Delaware. These stressors are compounded for persons with disabilities and other vulnerable households. At the same time, development is more complex than ever, resources to reduce costs remain scarce, and bridging affordability gaps using existing programs is a perpetual challenge.

All of these factors indicate that it is *critical* that communities *proactively* provide a variety of housing options to meet the needs of their residents.

- DSHA encourages municipalities receiving federal funds for housing to be aware of their Civil Rights obligations at the U.S. Department of Housing and Urban Development (HUD). Specifically, federal fund recipients are obligated to Affirmatively Further Fair Housing (AFFH) by taking proactive steps to promote racially, ethnically, and socioeconomically diverse communities. To assist with this obligation, in July 2011, DSHA collaborated with the Cities of Wilmington and Dover, and New Castle County to conduct the *Statewide Analysis of Impediments to Fair Housing Choice.* (http://www.destatehousing.com/FormsAndInformation/pubs.php). The Analysis contains several recommendations for local jurisdictions. These include the following:

  - Local government entities throughout the State of Delaware should reduce and/or waive their respective sewer, water, and/or public facilities and services impact fees for area developers and non-profit organizations seeking to build affordable housing units, both renter and owner units.

  - Ease zoning and other regulatory barriers to affordable rental housing for families.

  - Area localities should encourage members of appointed boards and commissions, elected officials, real estate agents, and municipal and county staff that deal with housing, community development, zoning, and code enforcement issues to attend an annual fair housing training.

- DSHA offers technical assistance to the Town in reviewing tools and strategies to increase affordable housing opportunities within the Town.

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

If you have any questions or would like more information on the above recommendations, please feel free to call me at (302) 739-4263 ext. 251 or via e-mail at karenh@destatehousing.com.

**State Historic Preservation Office – Contact: Terence Burns 7367404**

The Division of Historical and Cultural Affairs would like to encourage the town to continue to emphasize the protection of its historic district and its small-town character central to the town's goals. This also includes. This also includes town's historic district boundaries or proposed boundaries correspond with the National Register-listed boundaries and the National Parks Services as well. We do continue to support the goal of keeping the Town Center strong and viable, along with the protection of trees and maintenance of sidewalks also help to protect the overall setting and the pedestrian-friendly nature of this small town. If you have any questions, concerns, or issues, please contact Alice Guerrant at 302-736-7412.

Since this was a Pre-update meeting for your plan update, we will need to see the completed document at a regular PLUS meeting once your Planning Commission has approved the draft plan for public review. Thank you for the opportunity to review this update. If you have any questions, please contact me at 302-739-3090.

Sincerely,

Constance C. Holland, AICP
Director, Office of State Planning Coordination

cc: Ryan Mahwinney, URS Corporation