



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

March 22, 2016

Mr. Kyle Gulbranson
AECOM, Inc.
28485 DuPont Boulevard
Millsboro, DE 19966

RE: PLUS review 2016-02-08; Town of Fenwick Island Pre-update Review

Dear Kyle:

Thank you for meeting with State agency planners on February 24, 2016 to discuss the update of Fenwick'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: Dorothy Morris 739-3090

Our office would like to commend the Town of Fenwick Island for taking advantage of our Pre-Update Review Process. As you are aware, the current plan was certified by the Governor as of November 2007 and was reviewed with minor amendments in 2012. With this in mind, the town should work to have the update completed and certified on or before November 2017. After meeting with the town Planning Commission, I am certain the town will have no issues meeting this deadline.

Fenwick Island's certified plan currently meets all of the requirements of a "Municipal Development Strategy" for towns of 2000 or fewer residents. In some ways the plan is much more detailed than required, which reflects the town's willingness to address the important environmental issues that are present around your community and use proper planning to respond to growth pressures and redevelopment concerns.

After a review of the plan by this office and State agencies, it has been determined that there are no regulatory requirements that must be included in the new plan. However, I urge you to consider the State agency comments listed below to help strengthen the new plan and will help create a new plan that will continue to address important environmental and social concerns.

In addition, the town should meet with Sussex County and other neighboring jurisdictions during this process to coordinate land use planning and infrastructure needs. Our office looks forward

to working with you regarding the update and offers our assistance with coordination between state agencies when needed.

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

- **Page 3-19, Storm Drainage.** The Department recommends that the Town of Fenwick Island incorporate a requirement for a stormwater review into the Town'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:

1. Submit a Stormwater Assessment Study for the project limits of disturbance and hold a project application meeting with the reviewing delegated agency,
2. Submit stormwater calculations, and
3. Submit construction drawings

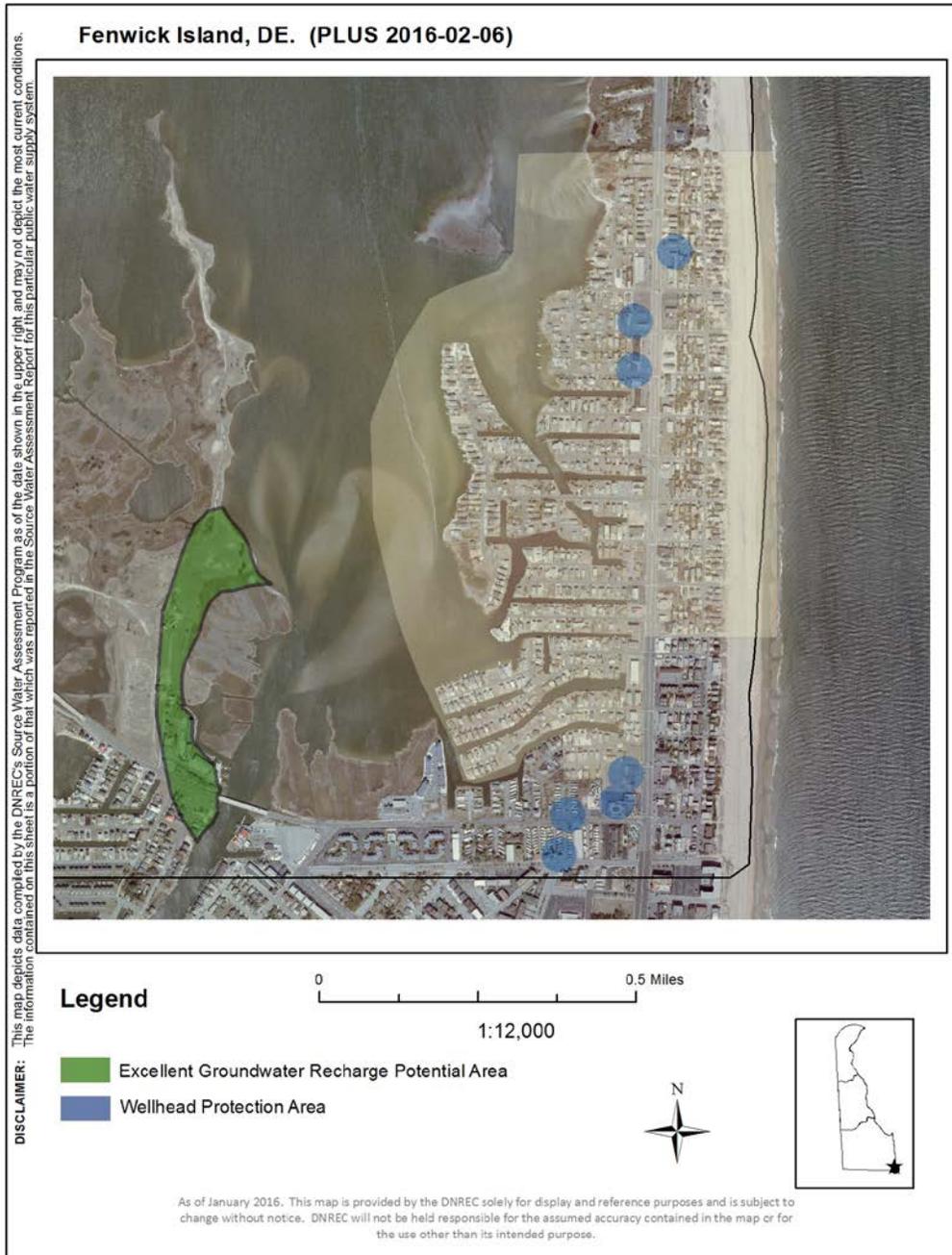
Following the project application meeting, a Stormwater Assessment Report will be completed by the reviewing agency and the developer and forwarded to the Town. This Stormwater Assessment Report will rate the anticipated engineering effort necessary to overcome certain stormwater assessment items such as soils, drainage outlets, and impervious cover. The Sediment and Stormwater Program recommends that the Town consider the ratings from the Stormwater Assessment Report in making a decision to issue preliminary approval for any development request. Further, the Sediment and Stormwater Program recommends that the Town incorporate the Stormwater Assessment Report as a required element when a plan is submitted to the Town's 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. 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.

- **Page 3-20, Water.** The DNREC Groundwater Protection Branch (GPB) has found wellhead protection areas within the Town's municipal boundaries (see map). These wellhead protection areas are for public water systems as defined by the Source Water Assessment and Protection Program. No excellent ground-water recharge potential areas are located within the municipal boundary. DNREC applauds that the Town's residents have agreed that protecting the community's water supply is an important consideration (Sec 3-20). The Town has acknowledged that because their population is less than 2,000 persons they are not required to implement a source water protection ordinance.

GPB encourages the Town to develop an ordinance and notes that the Department is available for assistance.



- **Page 3-20, Wastewater.** The 2007 Plan speaks about certain sewer lines being at or over capacity as well as certain sewer line upgrades. DNREC recommends that the Town develop an inventory of their wastewater infrastructure, to include treatment methods, capacities, and allocations.

- **Pages 34-35, Flood Plain and Storm Threats.** Please ensure that the Plan maps reflect the new Flood Insurance Rate Maps (FIRMs) for the Town, which became effective on March 2, 2015.
- **Preparing for a Changing Climate.** 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. The Climate Framework for Delaware recommends that DNREC, through the Division of Energy and Climate, provide technical support to local governments, in coordination with the Office of State Planning Coordination (OSPC), to enhance focus on climate impacts (including the reduction of greenhouse gas emissions) and long-term sustainability (through adaptation and mitigation) in the comprehensive plan and in implementing ordinances. 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.
- **Delaware Sea Level Rise Advisory Committee**

To adapt to sea level rise the Delaware Sea Level Rise Advisory Committee published the Preparing for Tomorrow's High Tide: Recommendations for Adapting to Sea Level Rise in Delaware, (September 2013)

<http://www.dnrec.delaware.gov/coastal/Documents/SeaLevelRise/FinalAdaptationPlanasPublished.pdf>

Executive Order Number Forty-One "Preparing Delaware for Emerging Climate Impacts and Seizing Economic Opportunities from Reducing Emissions" was signed on September 12, 2013.

The Delaware Geological Survey will review recent scientific literature and assessments of sea-level change in Delaware and identify appropriate scenarios to use for planning purposes throughout the state. The release of the International Panel on Climate Change (IPCC) Fifth Assessment Report (AR5) in 2013 and the NOAA National Climate Assessment indicates that the rate of sea level rise is likely to increase. This project will also develop new inundation maps along Delaware's coast that correspond to the identified projections. It is not clear if this project will be completed in time for the town's new plan but it should be helpful for the Town of Fenwick to have the information when it is available. <http://www.dgs.udel.edu/projects/determination-future-sea-level-rise-planning-scenarios-delaware>

- **Resilient Community Partnership**

The Delaware Coastal Programs (DCP) intends to repeat implementation of its "Resilient Community Partnership" program to assist a community with improving its resilience to hazardous weather and climate change. Resilience planning improves a community's

capacity to prepare for and recover from coastal and inland flooding, erosion, sea level rise and other impacts.

Through the partnership, DCP offers direct staff support, policy expertise, technical assistance and funding to help a community through the resilience planning process. Recognizing communities may just be starting the process or several steps along the way, the DCP will provide the support necessary to further a community's efforts through the stages of assessment, planning and implementation.

Typical eligible communities are any incorporated municipality or county within the State of Delaware. An unincorporated area may also apply with an expressed commitment by the county in which it is located to serve as a project sponsor and support its efforts throughout the process.

If you have questions or would like additional information about the partnership, please contact the Delaware Coastal Programs at (302) 739-9283 to speak with (or email) Danielle Swallow or Dr. Bob Scarborough.

- **Sea Level Rise Inundation Maps**

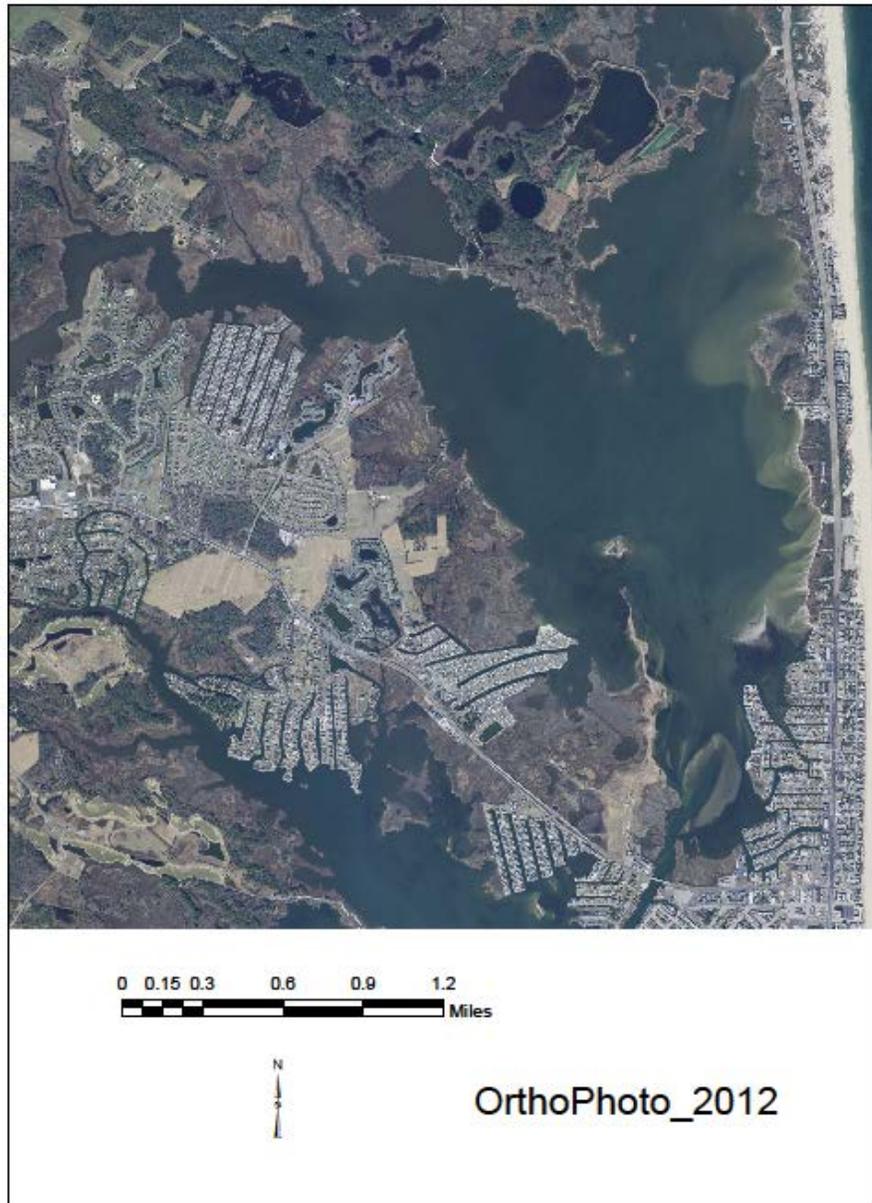
Portions of Fenwick Island and its surroundings will be subject to direct and permanent inundation from sea level rise. For more information on the Sea Level Rise Inundation Maps please see: (<http://www.dnrec.delaware.gov/Pages/SLRMaps.aspx>).

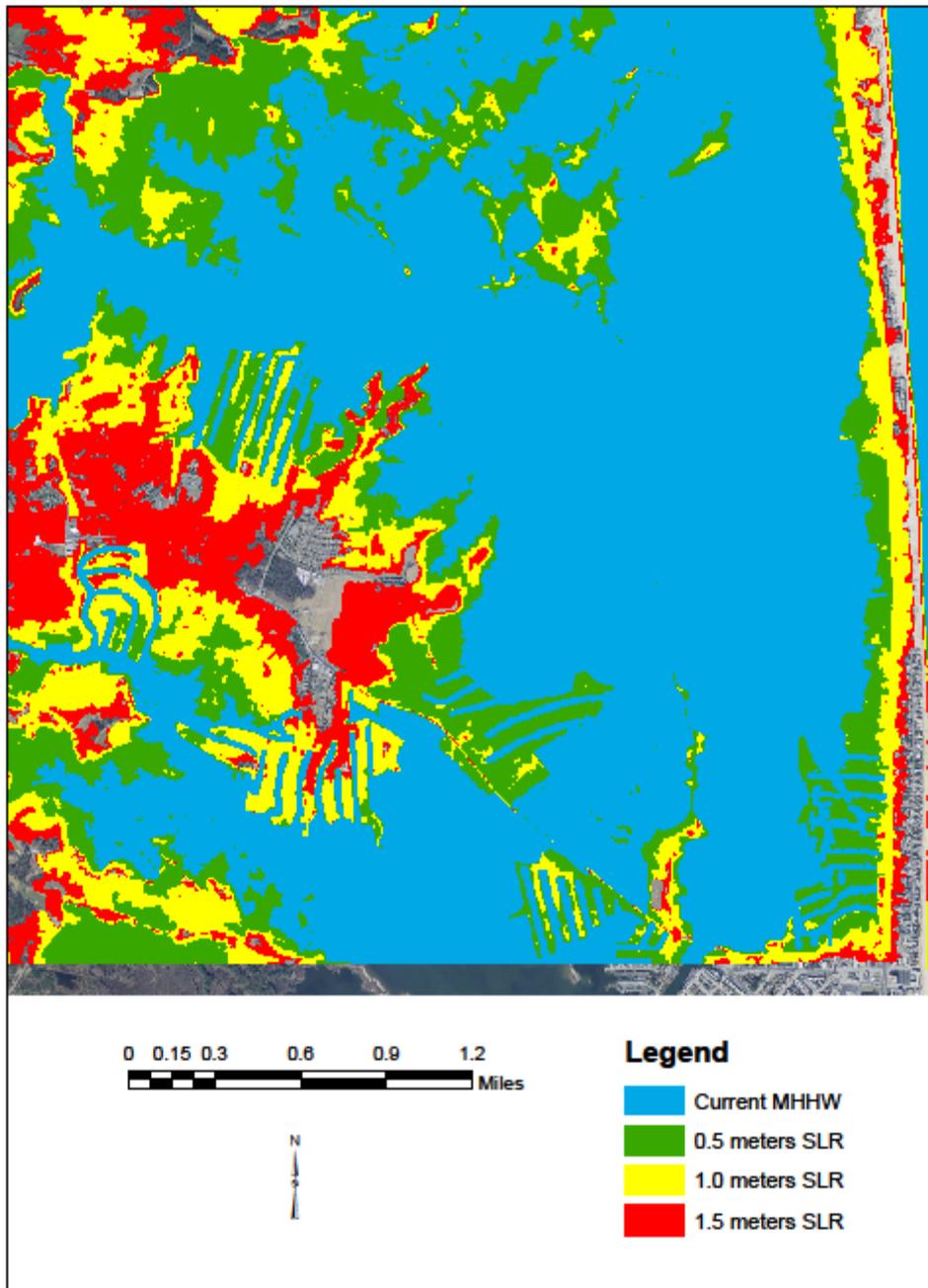
Sea levels in Delaware have risen by about a foot over the past century (NOAA, 2014). This rate of sea level rise is likely to accelerate in the coming decades as a result of global climate change and local subsidence. Accelerated sea level rise will result in permanent flooding of low-lying coastal areas and increased risk of flood damage during storms (DNREC, 2012).

Recommendations:

1. The City should consider additional land use controls for the areas subject to 1.5 meter of sea level rise.
2. To reduce the costs of providing infrastructure the City should consider not permitting roads, sewer or water to be extended into areas subject to 1.5 meter of sea level rise.
3. The City should consider avoiding new structures within a mapped Sea Level Rise Area. Where such development cannot be avoided, new structures should be built with an additional 18 inches of freeboard to protect the health, safety and general welfare of people occupying and using the structures.

If you would like any additional information please contact Delaware Coastal Programs at (302) 739-9283.





References:

NOAA (National Oceanic and Atmospheric Administration). (2014). Mean Sea Level Trend, Lewes, DE. Retrieved from http://tidesandcurrents.noaa.gov/sltrends/sltrends_station.shtml?stnid=8557380.

DNREC Delaware Coastal Programs. (2012). Preparing for Tomorrow's High Tide: Sea Level Rise Vulnerability Assessment for the State of Delaware. Dover, DE: Department of Natural Resources and Environmental Control. Retrieved from <http://www.dnrec.delaware.gov/coastal/Pages/DESLRAdvisoryCommittee.aspx>.

- **Air Quality.**

Sussex County, Delaware is classified as non-attainment for not meeting federal and state 8-hour ozone standards. Fenwick Island is encouraged to implement transportation alternatives and land use measures that will substantially enhance air quality and reduce air emissions. For instance, DNREC is in full support of efforts that improve traffic flow and reduce vehicle emissions. DNREC also supports efforts to provide “tie-ins” to the nearest bike paths and “links” to any nearby mass transport systems.

There are additional things that can be done to reduce the impact of growth and development on air quality in the Town of Fenwick Island. The Town should submit a plan to the Division of Air Quality (DAQ) that details all of the specific emission mitigation measures that will be incorporated into the Town of Fenwick Island Comprehensive Plan Update. The DAQ point of contact is Deanna Cuccinello, and she may be reached at (302) 739-9402.

- **Parks and Recreation.**

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 Fenwick Island is located within SCORP Planning Region 5.

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 5 (Eastern Sussex County), 65% 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 Region 5 include:

High facility needs:

- Walking and Jogging Paths

- Bicycle Paths
- Public Swimming Pools
- Community Gardens
- Fishing Areas
- Off-Leash Dog Areas
- Picnic Areas
- Basketball Courts
- Playgrounds

Moderate facility needs:

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

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 Sussex County, the

Conservation District, 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 are none.

State Historic Preservation Office – Contact: Terence Burns 736-7404

- The State Historic Preservation Office appreciates that the plan reflects the Town's interest in its history and cultural resources. There was a survey of the Town completed long ago, but the information may need to be updated or revised. The survey should include buildings constructed through 1966, and potentially eligible for the National Register of Historic Places. It is suggested that the Town consider including this survey as a goal in the historic section of the plan.

The Sussex County Preservation Planner led an architectural survey of the area in 1981, which recorded seven properties (S02570 to S02576) within the Town's limits. They can provide copies of the survey forms to the Town; it is unclear if all of these buildings are still extant. As mentioned in the plan, there is a pattern of tearing down and building new in our beach communities and some of these may have been lost. The SHPO has two reports done by the University of Delaware Center for Historic Architecture and Design that include consideration of these properties: National Register of Historic Places Eligibility Evaluation: Baltimore Hundred, Sussex County, Delaware, 1990, which is available on-line at <http://dspace.udel.edu:8080/dspace/handle/19716/2283>; and Threatened Buildings Needs Assessment for Baltimore Hundred, Sussex County, Delaware, 1998. Both of these reports are available in our Research Center. If you have any questions or concerns please contact Alice Guerrant at 302-736-7412.

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

Title 22, Section 702 Del C., requires towns with populations less than 2,000 to state their position on housing growth.

- DSHA encourages the Town of Fenwick Island to continue exploring ways to facilitate attractive attainable housing for the many people that work at the Town's service and retail establishments. The following are examples of strategies that could be particularly helpful in a coastal resort town:
 - Innovative zoning techniques to provide additional affordable housing opportunities within the existing housing stock such as permitting accessory dwelling units in residential areas as a matter of right. This would help address some of the seasonal housing issues.

- Require, as part of all annexation agreements for parcels being annexed, that some of the units be set aside to be affordable for low- and moderate-income persons via long term affordability restrictions
- Consider long-affordability programs and tools to preserve public investment and to ensure a sustainable affordable housing stock. One way to do this is by partnering with the Diamond State Community Land Trust (DSCLT). This can be done by donating land to the DSCLT, within the Town, or through contractual agreements for monitoring long-term affordability restrictions on units that have been set aside to be affordable.
- Encourage the provision of employee-occupied rental units within commercial and public facilities.
- Coordinate with other area beach towns to identify and implement regional strategies for addressing affordable housing needs.
- The Town can also ensure that some of the housing units attained, through the above mechanisms, be targeted for employees of the Town, local businesses or local emergency service providers.
- 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.
- 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.

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 document. The State agencies and I look forward to working with you during the update process. If you have any questions, please contact me at 302-739-3090.

Sincerely,



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

CC: Sussex County