



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION

November 27, 2017

Mr. Frank Kea  
Solutions IPEM  
303 North Bedford Street  
Georgetown, DE 19947

RE: PLUS review 2017-10-03; Hopkins Construction Relocation

Dear Frank:

Thank you for meeting with State agency planners on October 25, 2017 to discuss the Hopkins Construction Relocation project. According to the information received you are seeking review of a rezoning of 22.53 acres from AR-1 to CR-1 along Rt. 113 in Sussex County.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. **The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.**

**Strategies for State Policies and Spending**

This project is located in an Investment Level 4 area according to the *2015 Strategies for State Policies and Spending*. Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4 areas. These areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.

From a fiscal responsibility perspective, development of this site is likewise inappropriate. The cost of providing services to development in rural areas is an inefficient and wasteful use of the State's fiscal resources. Because the development is inconsistent with the *Strategies for State Policies and Spending*, the State is opposed to this proposed rezoning.

With that said, **the comments in this letter are technical, and are not intended to suggest that the State supports this development proposal. This letter does not in any way suggest or imply that you may receive or may be entitled to permits or other approvals necessary to build on this property, construct the development you indicate, or any subdivision thereof on these lands.**

## **Code Requirements/Agency Permitting Requirements**

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

- Because the subject property adjoins US Route 113, it is subject to DelDOT's Corridor Capacity Preservation Program (CCPP). See Section 1.2 of the Development Coordination Manual and Section 145, Title 17 of the Delaware Code. The goal of the Program is to maintain the capacity of the existing highway by managing access along it.

According to the Office of State Planning Coordination's Strategies for State Policies and Spending document, the property is located within a Level 4 Investment Area. In this area, State policies will encourage the preservation of a rural lifestyle.

In accordance with the CCPP policy (available at [http://www.deldot.gov/Publications/manuals/corr\\_cap/index.shtml](http://www.deldot.gov/Publications/manuals/corr_cap/index.shtml)) no new or expanded direct access to US Route 113 will be permitted in a Level 4 Investment Area. Access will be permitted to the existing secondary road. In this case, the property owner can develop a full access along East Redden Road (Sussex Road 565).

- Pursuant to Section P.3 of the Manual, a Pre-Submittal Meeting is required before plans are submitted for review. The form needed to request the meeting and guidance on what will be covered there and how to prepare for it is located at [http://www.deldot.gov/Business/subdivisions/pdfs/Meeting\\_Request\\_Form.pdf?08022017](http://www.deldot.gov/Business/subdivisions/pdfs/Meeting_Request_Form.pdf?08022017).
- Section P.5 of the Manual addresses fees that are assessed for the review of development proposals. DelDOT anticipates collecting the Initial Stage Fee when the record plan is submitted for review and the Construction Stage Fee when construction plans are submitted for review.
- Per Section 2.2.2.1 of the Manual, DelDOT recommends that the proposed rezoning be evaluated without a Traffic Impact Study (TIS). Having said that, Section 2.2.2.1 of the Manual further provides that Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day and from the PLUS application, DelDOT sees that the total daily trips are estimated at 100 vehicle trip ends per day for the proposed construction yard. Therefore DelDOT does not anticipate requiring a TIS for it. When a specific land development plan is proposed for the 5-acre outparcel, DelDOT will evaluate the need for a TIS for it.

- Section 3.2.4.2 of the Manual addresses the placement of right-of-way monuments (markers) along the roads on which a property fronts, in this case US Route 113 and East Redden Road. Monuments sufficient to re-establish the permanent rights-of-way after the dedication discussed below should be shown on the plan and provided in the field in accordance with this section.
- As necessary, in accordance with Section 3.2.5 and Figure 3.2.5-a of the Manual, DelDOT will require dedication of right-of-way along the site's frontage on US Route 113 and East Redden Road. By this regulation, this dedication is to provide a minimum of 30 feet of right-of-way from the outermost edge of the through lanes on US Route 113 and from the physical centerline of East Redden Road. The following right-of-way dedication note is required, **"An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat."**
- In accordance with Section 3.2.5.1.2 of the Manual, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage on US Route 113 and East Redden Road. The location of the easement shall be outside the limits of the ultimate right-of-way. The easement area can be used as part of the open space calculation for the site. The following note is required, **"A 15-foot wide permanent easement is hereby established for the State of Delaware, as per this plat."**
- In accordance with Section 3.4 of the Manual, a record plan shall be prepared prior to issuing "Letter of No Objection". The following information will be required for the "Letter of No Objection" review:
  - Initial Stage Fee Calculation Form
  - Initial Stage Review Fee
  - Gate-Keeping Checklist – Site Plan
  - Design Checklist - Record Plan
  - Sight Distance Spreadsheet
  - Owners and Engineers' name and e-mail address
  - Record Plan
  - Conceptual Entrance Plan
  - Submission of the Area-Wide Study Fee (If applicable)
- Referring to Section 3.4.2.1 of the Manual, the following items, among other things, are required on the Record Plan:
  - A Traffic Generation Diagram. See Figure 3.4.2-a for the required format and content.
  - Depiction of all existing entrances within 600 feet of each of the proposed entrances.

- Notes identifying the type of off-site improvements, agreements (signal, letter) contributions and when the off-site improvements are warranted.
- Section 3.5 of the Manual provides DelDOT's requirements with regard to connectivity. The requirements in Sections 3.5.1 through 3.5.3 shall be followed for all development projects having access to state roads or proposing DelDOT maintained public road for subdivisions. In that regard, the plan for the construction yard should provide for a possible shared entrance with the 5-acre outparcel. If it does not conflict with the construction yard entrance construction, the driveway for the existing house may remain as it is until the use of the 5-acre outparcel changes.
- As per the Delaware Strategies for State Policies and Spending, this development is in Investment Level 4. Referring to Section 3.5.4.2.A of the Manual, developments in Level 3 and 4 Areas are required to install a sidewalk or Shared Use Path if the project abuts to an existing facility. If the project does not abut an existing facility, which this one does not, it is at the Subdivision Engineer's discretion. No sidewalk or Shared Use Path is required for the construction yard. Depending on the use of the outparcel, DelDOT may revisit this decision.
- In accordance with Section 3.8 of the Manual, storm water facilities, excluding filter strips and bioswales, shall be located a minimum of 20 feet from the ultimate State right-of-way along Route 113 and East Redden Road.
- Referring to Section 4.3 of the Manual, an entrance plan shall be prepared prior to issuing entrance approval. The following information will be required for Entrance Plan review:
  - Construction Stage Fee Calculation Form
  - Construction Review Fee
  - Gate-Keeping Checklist – Entrance Plan
  - Design Checklist - Entrance Plan
  - Auxiliary Lane Spreadsheet
  - Entrance Plan
  - Pipe/Angle Spreadsheet (If applicable)
  - SWM Report and Calculations (If applicable)
- In accordance with Section 5.2.5.6 of the Manual, a separate turning template plan shall be provided to verify vehicles can safely enter and exit the site entrance. As per Section 5.2.3 of the Manual, the entrance shall be designed for the largest vehicle using the entrance.
- In accordance with Section 5.2.9 of the Manual, the Auxiliary Lane Worksheet should be used to determine whether auxiliary lanes are warranted at the site entrances and how long those lanes should be. The worksheet can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>.

- In accordance with Section 5.4 of the Manual, sight distance triangles are required and shall be established in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards. A spreadsheet has been developed to assist with this task. It can be found at <http://www.delldot.gov/Business/subdivisions/index.shtml>.
- In accordance with Section 5.14 of the Manual, all existing utilities must be shown on the plan and a utility relocation plan will be required for any utilities that need to be relocated.
- Section 6.4.3 of the Manual, which pertains to the inspection and acceptance of commercial entrances, applies. Construction inspection responsibilities shall be in accordance with Figure 6.4.3-a. DelDOT's preliminary reading of this figure is that the project requires Level I inspection and that a construction inspection agreement will not be needed.
- Section 7.7.2 of the Manual addresses the need to provide 20-foot wide drainage easements for all storm drainage systems, open or closed, that fall outside the existing right-of-way or the drainage/utility easement. In accordance with this section, metes and bounds and total areas need to be shown for any drainage easements. The easements should be shown and noted on the record plan.
- Because the proposed development is to be constructed in the proximity of a road with a functional classification of principal arterial, freeway or interstate, specifically US Route 113, the developer will be required to perform a noise analysis in accordance with DelDOT's Noise Policy, found in Section 3.6 of the Manual and may be required to provide noise abatement based on that analysis. There is an exception for commercial uses and DelDOT acknowledges the site's proposed commercial zoning but recognizing that commercial zoning allows for non-commercial uses, DelDOT will not make such an exception without knowing the use of the outparcel.

**Department of Natural Resources and Environmental Control – Contact Michael Tholstrup 735-3352**

**Executive Summary**

Development of this parcel will result in increased impervious surface and new sources of greenhouse gas emissions. Opportunities exist to preserve natural resources while reducing the environmental impact on-site. As discussed at the PLUS meeting, the Department recommends reducing the environmental impact on-site through appropriate consideration of the excellent groundwater recharge and using identified Pollution Control Strategies to protect natural resources and the overall health of the community. Including waste reduction and resource conservation measures will also improve long term regional sustainability.

The State of Delaware is threatened by climate change and has a goal of reducing greenhouse gas emissions by 30 percent by 2030. Appropriate development that provides access to public transportation, opportunities to walk and bike to shopping and recreation, and that employs energy efficient building standards are among key strategies to meet these goals. DNREC encourage the use of high performance building standards and consideration of alternative energy sources to promote clean sustainable energy and reduce greenhouse gas emissions. This could mean siting the buildings to take advantage of solar and geothermal systems, and/or including infrastructure for electric vehicle charging stations (funding assistance may be found at [www.de.gov/cleantransportation](http://www.de.gov/cleantransportation)). DNREC further recommends an abundant use of native vegetation and shade trees throughout the landscape, as well as green infrastructure, where practicable, to absorb carbon dioxide, protect water quality and provide relief to residents on hot days.

The following pages provide information about applicable regulations and detailed recommendations associated with this project, from various DNREC Divisions. DNREC would like to be a partner in creating appropriate development that protects and highlights the environment as a natural amenity of the landscape. The Department has resources and expertise that are available to help make this a reality, often at no expense to the landowner.

#### **Water Quality: TMDLs**

- The project is located in the greater Chesapeake Bay drainage area. In this drainage the EPA and the State of Delaware have developed specific Total Maximum Daily Load (TMDL) pollutant reduction targets for nutrients (e.g., nitrogen & phosphorus), and bacteria (under the auspices of Section 303(d) of the Clean Water Act). A TMDL is the maximum level of pollution allowed for a given pollutant below which a “water quality limited waterbody” can assimilate and still meet State water quality standards (e.g., dissolved oxygen, nutrients, and bacteria; State of Delaware Surface Water Quality Standards, as amended July 11, 2004) to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. The TMDL for nutrients and sediment in the Chesapeake Bay drainage have been recently revised and made more stringent by the EPA. The TMDL by EPA now requires a 60 percent reduction in nutrients (previously was 30 and 50 percent in N & P) and sediment from baseline conditions. The TMDL also calls for a 2 percent reduction in bacteria from baseline conditions.
- A Watershed Implementation Plan and 2-year progress milestones are being developed 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 in the Chesapeake Bay drainage. Moreover, efforts to develop the documents and assist in developing the required reductions will be provided through meetings and discussions with an interagency workgroup and various subcommittees recently convened by the State of Delaware. Included in the meetings and discussions are onsite wastewater disposal systems which are a known source of nutrient pollutants to groundwater. 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.

- The WIP is a multiphase process consisting of 3 phases. Phase I and II WIPs are currently available for review at:  
[http://www.wr.dnrec.delaware.gov/Information/Pages/Chesapeake\\_WIP.aspx](http://www.wr.dnrec.delaware.gov/Information/Pages/Chesapeake_WIP.aspx).
- A nutrient management plan is required under the *Delaware Nutrient Management Law (3 Del.C., Chapter 22)* for all persons or entities who apply nutrients to lands or areas of open space in excess of 10 acres. This project's open space may exceed this 10-acre threshold. Please contact the Delaware Nutrient Management Program at (302) 739-4811 for further information concerning compliance requirements or view additional information the following web link for: <http://dda.delaware.gov/nutrients/index.shtml>

### **Water Supply**

- The project information sheets state that individual on-site well(s) will be used to provide water for the proposed project. DNREC records indicate that the project is not located in an area where public water service is available. Should an on-site Industrial/Public well be needed, a minimum isolation distance of 150 feet is required between the well and any potential source of contamination, such as central sewer lines, septic tank and sewage disposal areas, stormwater management pond and at least 150 feet from the outermost boundaries of the project. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the current Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any well(s).
- Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications take approximately four weeks to process, which allows the necessary time for technical review and advertising. Should you have any questions concerning these comments, please contact Rick Rios, at (302) 739-9944.

### **Source Water Protection**

- The DNREC Ground Water Protection Branch (GPB) has reviewed the above referenced project. The northeastern portion of the project falls within an area of excellent ground-water recharge potential for Sussex County.

Excellent Ground-Water Recharge Potential Areas are those areas mapped by the Delaware Geological Survey where the first 20 feet of subsurface soils and geologic materials are exceptionally sandy. These soils are able to transmit water very quickly from the land surface to the water table. This map category (excellent) is an indicator of how fast contaminants will move and how much water may become contaminated (Andres, 2004). Land use activities or impervious cover on areas of excellent ground-water recharge potential may adversely affect ground water in these areas.

- The site plan shows a stormwater management facility within the excellent ground-water recharge potential area (see map below). Because this is an area of excellent recharge potential, there exists the potential for contaminants to directly enter the aquifer, compromise water quality and negatively impact drinking water supplies.

Green Technology best management practices address the particulate and nutrient components of stormwater runoff; they do not address the dissolved components of the pollutant load. Stormwater management facilities should not be located in within excellent groundwater recharge potential areas.

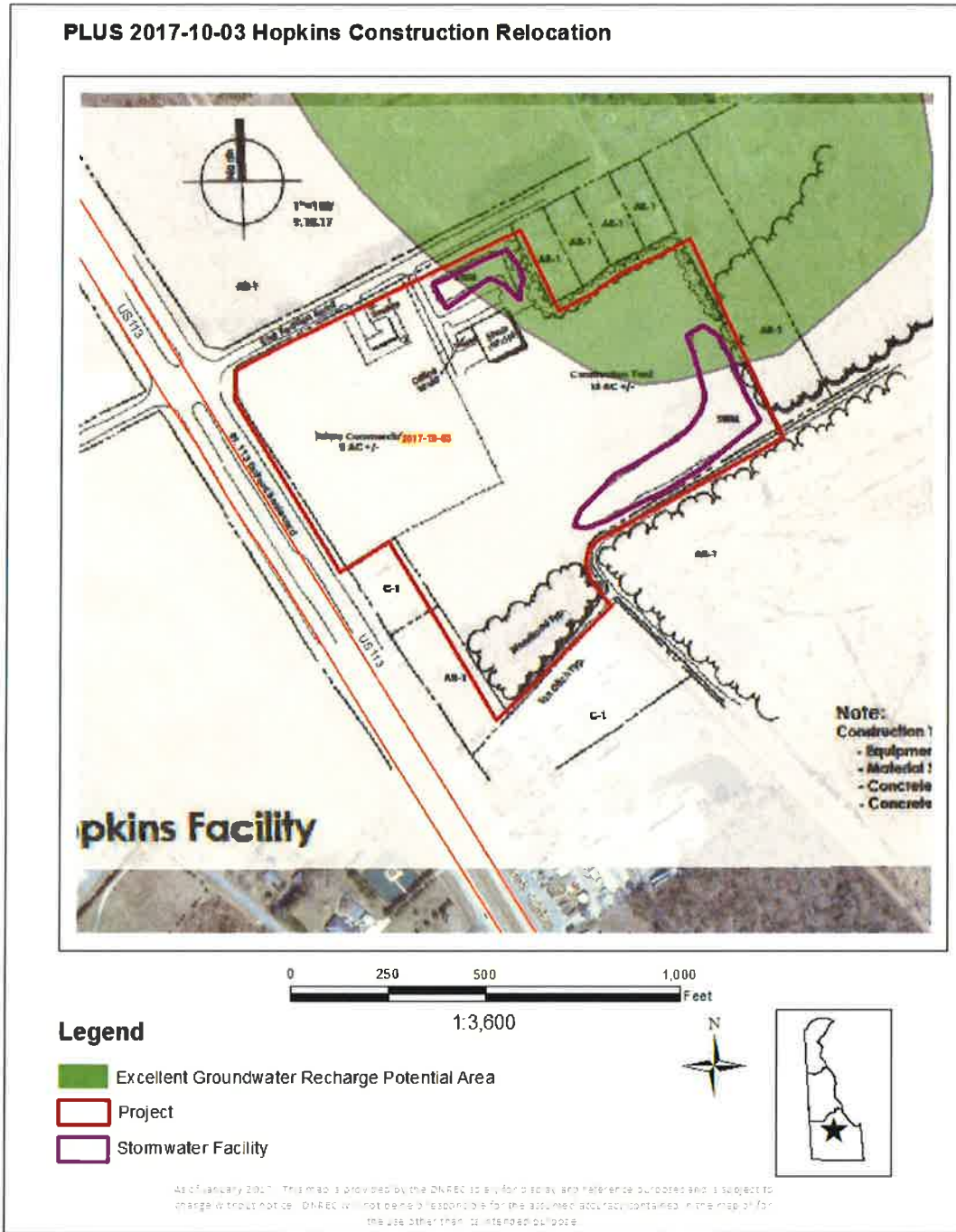
DNREC recommends:

- Remove Stormwater management facilities from the excellent groundwater recharge potential area.
- In addition, because the excellent ground water recharge area can readily affect the underlying aquifer if contaminants are spilled or discharged across the area, the storage of hazardous substances or wastes should not be allowed within the area unless specific approval is obtained from the relevant state, federal, or local program.

*References:*

Andres, A. Scott, 2004, Ground-Water Recharge Potential Mapping in Kent and Sussex Counties, Delaware: Delaware Geological Survey Report of Investigations No. 66, p. 14.  
<http://www.udel.edu/dgs/Publications/pubform.html#investigations>





### Sediment and Erosion Control/Stormwater Management

- A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. Contact the reviewing agency to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater

management components of the plan. The site topography, soils mapping, pre- and post-development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion. The plan review and approval as well as construction inspection will be coordinated through the Sussex Conservation District. Contact the Sussex Conservation District at (302) 856-7219 for details regarding submittal requirements and fees.

**Air Quality**

- The applicant shall comply with all applicable Delaware air quality regulations. Please note that the following construction-phase regulations in Table 1 – Potential Regulatory Requirements may apply to your project:

<b>Table 1: Potential Regulatory Requirements</b>	
<b>Regulation</b>	<b>Requirements</b>
<b>7 DE Admin. Code 1102 - Permits</b>	<ul style="list-style-type: none"> <li>• Permits are required to be obtained from the Department prior to the operation of certain equipment that has the potential to emit contaminants into the air.</li> </ul>
<b>7 DE Admin. Code 1106 - Particulate Emissions from Construction and Materials Handling</b>	<ul style="list-style-type: none"> <li>• Use dust suppressants and measures to prevent transport of dust off-site from material stockpile, material movement and use of unpaved roads.</li> <li>• Use covers on trucks that transport material to and from site to prevent visible emissions.</li> </ul>
<b>7 DE Admin. Code 1144 – Control of Stationary Generator Emissions</b>	<ul style="list-style-type: none"> <li>• Ensure that emissions of nitrogen oxides (NO<sub>x</sub>), non-methane hydrocarbons (NMHC), particulate matter (PM), sulfur dioxide (SO<sub>2</sub>), carbon monoxide (CO), and carbon dioxide (CO<sub>2</sub>) from emergency generators meet the emissions limits established. (See section 3.2).</li> <li>• Maintain recordkeeping and reporting requirements.</li> </ul>
<b>7 DE Admin. Code 1145 – Excessive Idling of Heavy Duty Vehicles</b>	<ul style="list-style-type: none"> <li>• Restrict idling time for trucks and buses having a gross vehicle weight of over 8,500 pounds to no more than three minutes.</li> </ul>

For a complete listing of all Delaware applicable regulations, please look at our website: <http://www.awm.delaware.gov/AQM/Pages/AirRegulations.aspx>

**Recycling**

- Delaware Law (7 *Del.C.*, §6053) and Regulations (7 *Del. Admin. C.* §1305) specify that the ‘commercial sector’ shall participate in a comprehensive recycling program. As such, all those involved with the planning of the clubhouse/office complex should give

consideration to space for collection of recyclables that would be typically generated. For example, space for a recycling dumpster should be provided adjacent to each trash dumpster.

- The Universal Recycling Law (7 *Del.C.*, §6053) requires all waste service providers to provide recycling collection to their residential customers including providing a recycling cart. Some higher density communities have expressed concerns about storage of trash and recycling containers. Those involved with the planning of new development should give consideration to space for collection of recyclables at each household.
- For more information or assistance related to recycling requirements, benefits, tools, and assistance, please call Don Long (302) 739-9403.
- Waste or Recyclables Processing – Persons who process solid waste (including recyclables) may need a permit from the DNREC-Solid and Hazardous Waste Management Section depending on their operation. Please contact Mindy Anthony (302) 739-9403.

**State Historic Preservation Office – Contact Terrence Burns 736-7404**

- The State Historic Preservation Office does not support any development or rezoning, for any proposed project in a Level-4 area. There is a known house (S11912) on the parcel, which was a part of the Route 113 Project Study Area (report # 1000112). According to aerial photographs, this house existed since before 1961. It was determined ineligible for the National Register of Historic Places. There are other dwellings (S03221, S11474, S11475) east of the parcel, south of East Redden Road, and southwest of the parcel, east of DuPont Blvd (Rt. 113). These dwellings were also part of the Route 113, Project Study Area, and determined ineligible for the National Register of Historic Places. If any project or development proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law.

Prior to demolition or ground-disturbing activities, the developer should hire an archaeological consultant, to examine the parcel for archaeological resources, including unmarked human burials or human skeletal remains, to avoid those sites or areas. There should be sufficient landscaping between the house (S11912), the dwellings (S11912, S03221, S11474, S11475), and the development as well, to block adverse noise or visual effects.

Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural or open space areas, within or near the boundary, of a historic farm site. Even a marked cemetery can frequently have unmarked graves or burials outside of the known boundary line or limit. Disturbing unmarked graves or burials triggers the Delaware's Unmarked Human Burials and Human Skeletal Remains Law (Del. C. Title 7, Ch. 54), and such remains or discoveries can result in substantial delays while the procedures required under this law are carried out. If there is a discovery of any

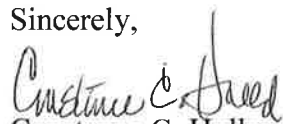
unmarked graves, burials or a cemetery, it is very costly to have them archaeologically excavated and the burials moved. The Division of Historical & Cultural Affairs recommends that owners and/or developers have a qualified archaeological consultant investigate their project area, to the full extent, to see if there is any unmarked cemetery, graves, or burial sites. In the event of such a discovery, the Division of Historical & Cultural Affairs also recommends that the plans be re-drawn to leave the full extent of the cemeteries or any burials on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with the landowner association or development. If you would like to see more information, please review the following websites: [www.history.delaware.gov/preservation/umhr.shtml](http://www.history.delaware.gov/preservation/umhr.shtml) and [www.history.delaware.gov/preservation/cemeteries.shtml](http://www.history.delaware.gov/preservation/cemeteries.shtml).

- If there is federal involvement, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. Owners and developers who may plan to apply for an Army Corps of Engineers permit or for federal funding, such as HUD or USDA grants, should be aware of the National Historic Preservation Act of 1966 (as amended). Regulations promulgated for Section 106 of this Act stipulate that no ground-disturbing or demolition activities should take place before the Corps or other involved federal agency determines the area of potential effect of the project undertaking. These stipulations are in place to allow for comment from the public, the Delaware State Historic Preservation Office, and the Advisory Council for Historic Preservation about the project's effects on historic properties. Furthermore, any preconstruction activities without adherence to these stipulations may jeopardize the issuance of any permit or funds. If you need further information or additional details pertaining to the Section 106 process and the Advisory Council's role; please review the Advisory Council's website at the following: [www.achp.gov](http://www.achp.gov).

**Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.**

Thank you for the opportunity to review this project. 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