



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

June 19, 2013

Mr. Mike Wigley
Davis, Bowen & Friedel
P.O. Box 93
Salisbury, MD 21801

RE: PLUS review – 2013-05-01; Lynch Farm

Dear Mr. Wigley:

Thank you for meeting with State agency planners on May 22, 2013 to discuss the proposed plans for the Lynch Farm project to be located on Lighthouse Road, Between Hudson Road and Marlyn Lane.

According to the information received, you are seeking a rezoning of 135 acres from R-4 to RPC Overlay through the Town of Selbyville for a 297 single and multi-family residential subdivision.

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 The Town of Selbyville 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 Investment Levels 2 and 3 according to the *Strategies for State Policies and Spending*. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near term future. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. State investments will support growth in these areas.

The proposed project is within Selbyville's Town limits and will provide growth in an area supported by the State and the Town Comprehensive plans.

Code Requirements/Agency Permitting Requirements

State Historic Preservation Office – Contact Terrence Burns 736-7404

- There is a couple of early 20th-century dwellings (S-2054 and S-8097) on this parcel, towards the northeast side, near Old Lighthouse Road (Rt. 54), and a couple of more near the parcel, towards the northwest side, along Old Lighthouse Road (Rt. 54) as well. In addition, according to the Pomeroy and Beers Atlas of 1868 (a 19th-century historic map), it appears that there were a couple of dwellings or structures on this parcel, towards the northeast side that were associated with a J. L. B. R. Curey. With these observations in mind, it is also important that the developer be aware of the Delaware Unmarked Human Burials and Human Skeletal Remains Law, which is outlined in Chapter 54 of Title 7 of the Delaware Code.

Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural or open space areas, and sometimes near or within the boundary of an 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 (Delaware Code Title 7, Chapter 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 know more information that pertains to unmarked human remains or cemeteries, please check the following websites for additional information: www.history.delaware.gov/preservation/umhr.shtml and www.history.delaware.gov/preservation/cemeteries.shtml.

- Prior to any demolition or ground-disturbing activities, the developer should consider hiring an archaeological consultant to examine the parcel for potential historic or cultural resources, such as a potential archaeological site, a cemetery or unmarked human remains. In addition, the developer should also include a barrier or sufficient landscaping between the proposed development and the early 20th-century dwellings that were mentioned, in order to protect them from the noise or visual effects that may affect or impact them in an adverse way.
- If there is any federal involvement with the project, 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 www.achp.gov.

The developer appreciates the advice provided concerning unmarked human remains and Section 106 of the National Historic Preservation Act. The developer is aware of the respective regulations pertaining to these topics and will comply as necessary and required.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The site access must be designed in accordance with DeIDOT's Standards and Regulations for Subdivision Streets and State Highway Access, which is available at http://www.deldot.gov/information/pubs_forms/manuals/subdivisions/pdf/Subdivision_Mannual_Revision_1_proposed_060110.pdf. Plan submissions to obtain a Letter of No Objection (LONO) and an entrance permit will be necessary.

Site access will be designed in accordance with DeIDOT's standards and submitted to DeIDOT for their approval.

- The proposed development generates enough traffic to warrant a Traffic Impact Study (TIS) per Section 2.3.1 of the Standards and Regulations, and we met with the developer and their engineer to set a scope of work for that study on May 8, 2013. DeIDOT anticipates having comments on the need for off-site and entrance improvements following their review of that study. Per Section 3.1.2 of the Standards and Regulations, any needed off-site improvements will need to be addressed on the record plan.

The developer will continue to work with DeIDOT in determining the need for off-site and entrance improvements based on the Traffic Impact Study.

- Also on May 8, 2013, a Pre-Submittal Meeting was held regarding the proposed development. The following comments follow from that meeting. As necessary, the developer's engineer should contact before Mr. John Fiori with any questions or concerns regarding these comments. He can be reached at (302) 760-2260.
- In accordance with Section 9.2.1 of the Standards and Regulations, any sub-station and/or wastewater facilities will be required to have access from the

internal subdivision street with no direct access on Delaware Route 54.

Placement of any sub-station and/or wastewater facilities will take into consideration that access cannot be from Route 54.

- In accordance with Section 3.6.5 and Figure 3-3 of the Standards and Regulations, DelDOT will require dedication of right-of-way along the site's frontage on Route 54 to provide a minimum of 40 feet of right-of-way from the road centerline. Please be advised that the right-of-way dedication note in this regard has been revised to the following, **"An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat."**

Developer will dedicate additional Right-of-Way as necessary to fulfill DelDOT's requirements. Development record plans will include DelDOT's revised note, if necessary.

- Further in accordance with Section 3.6.5 of the Standards and Regulations, a 15-foot wide permanent easement will need to be established across the property frontage. The location of the easement shall be outside the right-of-way line established by the dedication mentioned above. 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 is hereby established to the State of Delaware, as per this plat."**

Appropriate easements and locations will be noted on the Record plans and submitted to DelDOT as part of their entrance plan approval process. The appropriate note will also be used in the dedication of this easement.

- In accordance with Section 4.8 of the Standards and Regulations, a 20-foot wide buffer will be required from the edge of the stormwater management pond to the right-of-way line established by the dedication mentioned above.

Stormwater ponds will be placed at the appropriate distance from the DelDOT right-of-way.

- In accordance with Section 5.7.2.5 of the Standards and Regulations, a minimum 20-foot wide drainage easement must be provided for storm drainage systems, open or closed, that fall outside the existing right-of-way or the drainage/utility easement. These easements shall be shown on record plan rather than referred to by a note. Metes and bounds and total areas need to be shown for any drainage easements.

Appropriate easements will be dedicated for the storm drainage system and easements will be annotated on the Record plan.

- In accordance with Section 3.4.1 of the Standards and Regulations, a traffic generation diagram is required.

A traffic generation diagram will be provided.

- In accordance with Section 3.4.1.2 of the Standards and Regulations, Show all existing entrances (residential/commercial) within 400-feet of the proposed entrances.

Adjacent entrances will be picked up by survey and shown on the plans.

- Needed entrance improvements include but are not limited to the following;
 - f* A protected left turn lane along Route 54 at the site entrance (Standards and Regulations Section 5.2.2.1).
 - f* A right-turn deceleration lane along Route 54 for the site entrance (Standards and Regulations Section 5.2.2.2).
 - f* An overlay along Route 54, in which the overlay thickness will be determined at a later date. The limits of the overlay shall be along the property limits. (Standards and Regulations Section 5.2).
 - f* Widen Route 54 to 12-foot wide travel lanes and 8-foot wide shoulder. The limits of the widening shall be along the property limits. (Standards and Regulations Section 5.2).
 - f* Installation of a 10' wide multi use path along Route 54. (Standards and Regulations Section 5.1.6).

The developer will continue to work with DelDOT to provide the required improvements

- Please check to determine if any utilities will need to be relocated as part of this project. Any utility relocation shall follow current DelDOT clear zone requirements as found in Section 5.5.5 of the Standards and Regulations.

Utility relocation, if needed, will follow DelDOT's clear zone requirements.

- In accordance with Sections 4.3, 4.4 and 4.5 of the Standards and Regulations, submission of the relevant checklists from Appendix D will be required with plan submittals.

Appendix D checklists will be completed and submitted as required.

- In accordance with Section 1.4 of the Standards and Regulations, the Initial Stage Review fee will be assessed to this project.

The initial stage review fee form will be completed and the appropriate fee paid.

- In accordance with Section 3.4 of the Standards and Regulations, a site plan shall be prepared prior to issuing "Letter of No Objection". The following information will be required for the "Letter of No Objection" review:

- f* Copy Initial Stage Fee Calculation Form
- f* Copy Initial Stage Review Fee
- f* Gate-Keeping Checklist – Site Plan
- f* Design Checklist – Record Plan

- f* Site Distance Spreadsheet
- f* Owners and Engineer's name and e-mail address
- f* Three (3) paper sets of the Site/Record Plan
- f* Conceptual Entrance Plan
- f* CD with a pdf of the Site/Record Plan

The developer's engineer will provide all the required information and forms when submitting to DelDOT.

- In accordance with Section 1.4 of the Standards and Regulations, the Construction Stage review fee shall be assessed to this project.

A construction stage review fee will be paid at the time of entrance plan submission.

- In accordance with Section 4.4 of the Standards and Regulations, an entrance plan shall be prepared prior to issuing subdivision/entrance approval. The following information will be required for Entrance Plan review:

- f* Copy Construction Stage Fee Calculation Form
- f* Copy Construction Review Fee
- f* Gate-Keeping Checklist – Entrance Plan
- f* Design Checklist – Entrance Plan
- f* Auxiliary Lane Spreadsheet
- f* Pipe Angle Spreadsheet (If applicable)
- f* Three (3) paper sets of the Entrance Plan
- f* Storm Water Management (SWM) Report and Calculations (If applicable)
- f* CD with a pdf of the Entrance Plan

The developer's engineer will provide all the required information, checklists, forms and fees when entrance plans are submitted to DelDOT.

Department of Natural Resources and Environmental Control – Contact Bahareh van Boekhold
735-3495

Wetlands

- State regulated wetlands ARE NOT located on this property based on a review of the State wetland maps. State regulated wetlands are those wetlands identified on the State's official State Regulated Wetland Maps. Additional information about State regulated wetlands is available by contacting the Wetlands and Subaqueous Lands Section at (302) 739-9943 or on line at <http://www.dnrec.delaware.gov/wr/Services/Pages/WetlandsAndSubaqueousLands.aspx>.
- State regulated subaqueous lands ARE located on this property based on a review of aerial photographs, photographs, State Wetland Mapping Project (SWMP) maps, Soil Surveys and/or USGS topographic maps. Several blue lines are indicated on the maps. White Oak Swamp Ditch runs through the middle of the larger parcel of land. A jurisdictional determination was done for this property. The plans provided do show the main water feature through the development with open space surrounding it. Any

activity that impacts this water way, including road or culvert crossings would likely be subject to permit requirements and possible mitigation. State subaqueous lands include all tidal waters (up to the mean high water line), most non-tidal rivers, streams, lakes, ponds, bays and inlets (up to the ordinary high water line), most perennial streams and ditches and many intermittent streams and ditches. Additional information about State regulated subaqueous lands is available by contacting the Wetlands and Subaqueous Lands Section at (302) 739-9943 or on line at <http://www.dnrec.delaware.gov/wr/Services/Pages/WetlandsAndSubaqueousLands.aspx>.

- Waters of the U.S. regulated by the U.S. Army Corps of Engineers ARE likely to be located on this property based on a review of aerial photographs, SWMP maps, Soil Surveys and/or USGS topographic maps. According to our GIS SWMP maps, there may be considerable wetlands regulated by the U.S. Army Corps of Engineers. Based on the USDA's Web Soil Survey, a large portion of this property may consist of hydric soils. We suggest an on-site inspection by an environmental consultant.

Waters of the United States include the following: navigable waters of the United States; wetlands; tributaries to navigable waters of the United States, including adjacent wetlands and lakes and ponds; interstate waters and their tributaries, including adjacent wetlands; and all other waters of the United States not identified above, such as isolated wetlands, intermittent streams, and other waters that are not part of a tributary system to interstate waters or to navigable waters of the United States, where the use, degradation or destruction of these waters could affect interstate or foreign commerce.

The extent of Federal jurisdiction over Waters of the United States is determined by the U.S. Army Corps of Engineers and is based on site specific conditions. Therefore, an on-site inspection by an environmental consultant is recommended to determine if Waters of the U.S. are located on the property and the limits of Federal jurisdictional. The U.S. Army Corps of Engineers can be contacted at (215) 656-6728 or online at <http://www.nap.usace.army.mil/cenap-op/regulatory/regulatory.htm>.

The developer has obtained approved jurisdictional determinations from the U.S. Army Corps of Engineers (Corps) and DNREC's Wetlands & Subaqueous Lands Section (WSLS) verifying the extent of regulated wetlands or waters on this property. No State of federally regulated wetlands occur on the property.

Corps regulated waters of the U.S. and DNREC regulated subaqueous lands occur on several main tax ditch channels associated with the Bunting Tax Ditch which includes the White Oak Swamp Ditch.

The developer will obtain a Department of the Army Permit from the Corps for all regulated work within waters of the U.S. prior to construction involving any regulated streams or ditches. The developer will also obtain a Subaqueous Lands Permit from DNREC WSLS prior to construction involving any regulated subaqueous lands.

TMDLs

- The project is partially located in the *low nutrient reduction* zone of the greater Inland Bays watershed (See green area in figure 1). In this watershed, Total Maximum Daily Load (TMDL) pollutant reduction targets have been developed by the State of Delaware (under the auspices of Section 303(d) of the 1972 Federal Clean Water Act) for nutrients (e.g., nitrogen, phosphorus), and bacteria. A TMDL is the maximum level of pollution allowed for a given pollutant below which a “water quality limited water body” 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 the *low reduction* zone of the Inland Bays watershed calls for 40 percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for a 40 percent reduction in bacteria from baseline conditions.

Plans will be submitted to Sussex Conservation District and the developer will work with the Conservation District to meet the TMDL reductions through stormwater management practices, as required.

- Most of the parcel’s land area is contained within the Assawoman Bay watershed. This watershed requires a 40% reduction in bacteria (in freshwaters) from baseline conditions (See brown-colored area in figure 1). Although Delaware has no specific requirements for nutrient reduction in the Assawoman watershed, we strongly suggest that the applicant contact the Maryland Department of the Environment since most this watershed is located in that State.

Thank you for your comments regarding the Assawoman Bay watershed.



Figure 1: Watershed mapping in vicinity of parcel

- A nutrient management plan is required under the *Delaware Nutrient Management law (3 Del. 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 739-4811 for further information concerning compliance requirement or view the following web link for additional information: <http://dda.delaware.gov/nutrients/index.shtml>

The developer is aware that if nutrients are applied to areas in excess of 10 acres a nutrient management plan will be required.

- The adopted Inland Bays Pollution Control Strategy regulation was published in the Delaware Register of Regulations on November 11, 2008 and is now an enforceable regulatory directive. A Pollution Control Strategy (PCS) is an implementation strategy that identifies the actions necessary (regulatory and non-regulatory) to systematically reduce the pollutant loading to a given water body, and meet the TMDL reduction requirements specified for that water body. These regulations can be reviewed at <http://regulations.delaware.gov/documents/November2008c.pdf> and background information, guidance documents, and mapping tools can be retrieved from http://www.dnrec.state.de.us/water2000/Sections/Watershed/ws/ib_pcs.htm.

The Developer will review the Inland Bays Pollution Control Strategy.

Water Supply

- The project information sheets state water will be provided to the project by the Town of Selbyville via a public water system. Our records indicate that part of the project (parcel 533-18.00-34.00 & 533-18.00-35.00) is located within the public water service area granted to Town of Selbyville under Certificate of Public Convenience and Necessity 05-CPCN-37, parcel 533-18.00-40.00 is not located within the boundaries of this CPCN. They will need to file an application for a CPCN with the Public Service Commission, if they have not done so already. Information on CPCN requirements and applications can be obtained by contacting the Public Service Commission at 302-736-7547.

The town is aware that a CPCN would be needed to provide water service.

- 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.

Should dewatering be needed a construction permit will be obtained from the Water Supply Section.

- 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 typically take approximately four weeks to process,

which allows the necessary time for technical review and advertising.

Permits will be prepared and signed by licensed personnel.

- Potential contamination sources exist in the area, and any well permit applications will undergo a detailed review that may increase turnaround time and may require site specific conditions/recommendations. In this case there is an Underground Storage Tank associated with the Buntings Nursery located within 1000 feet of the proposed project.

Contamination sources will be taken into account should a well permit be needed.

Sediment and Stormwater Program

- 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 project application meeting to discuss the sediment and erosion control and stormwater management components of the plan as soon as practicable. 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 Jessica Watson at the Sussex Conservation District at (302) 856-2105 for details regarding submittal requirements and fees. (Title 7, Delaware Code, Chapter 40 and Delaware Regulations, Title 7, Administrative Code, 5101)

The developer will work with the Sussex conservation district and submit a detailed sediment and stormwater plan for their review and approval.

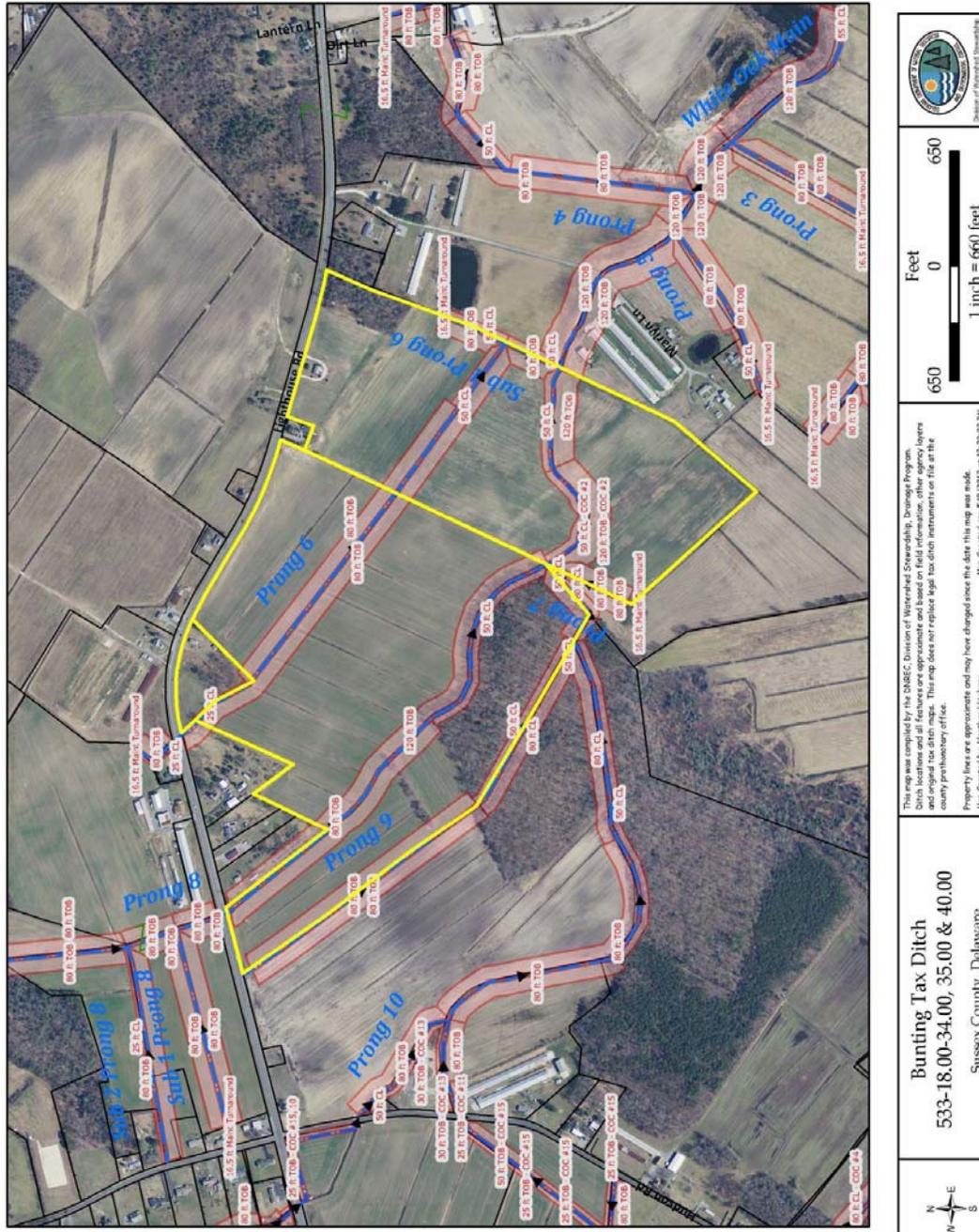
Drainage Program

- This property is located in the **Bunting Tax Ditch** and is affected by tax ditch rights-of-way. Any change to the location of the tax ditch or existing tax ditch rights-of-way will require a change to the Bunting Tax Ditch court order. The placement of permanent obstructions within tax ditch rights-of-ways is prohibited (Title 7, Delaware Code, Chapter 41).
- The following bullets will need to be addressed and as current proposed will require a court order change to the original court order plans for Bunting Tax Ditch. This will involve coordination with DNREC, Drainage Program and the Bunting Tax Ditch officers.
 - Relocation of Prong 6 of the Bunting Tax Ditch
 - Relocation of Sub Prong 1 of Prong 6 of the Bunting Tax Ditch
 - Prong 8 of the Bunting Tax Ditch rights of way appear to impact several lots, proposed roads, and open space areas. Rights of way along this section vary from 120 feet from top of ditch bank to 50 feet from center line.
 - The White Oak Main of the Bunting Tax Ditch rights of way appear to impact several lots, proposed roads, open space areas, and stormwater ponds. Rights of way along this section vary from 120 feet from top of ditch bank to 50 feet from center line.

Please contact Matthew Grabowski, Environmental Program Manager with the Drainage Program in Georgetown at (302) 855-1930 to discuss the tax ditch rights-of-way on this property.

The developer acknowledges comments provided by DNREC's Drainage Section and agrees with the list of modifications and actions involving drainage ditches under control of the Drainage Section which are required to facilitate this project.

The developer has been in ongoing pre-planning discussions with the Drainage Section about plans for the project for several years. On July 8, 2013, the developer and his engineering consultants met with Matthew Grabowski of the Drainage Section and the managers of the Bunting Tax Ditch to discuss and agree upon plans for the project and agree upon plans for the project, future maintenance needs and rights of way, and court-ordered changes acceptable to the Drainage Section needed for development of this project. Currently, engineering information and preparation of court-ordered changes are proceeding in accordance with the agreements made at that meeting. As this process is finalized, the developer will be in a position to prepare applications to the Corps and WSLS for improvements which will occur in tax ditches subject to the jurisdiction of these agencies as well as discussed earlier herein.



Hazardous Waste Sites

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del.C. Chapter 91, Delaware Hazardous

Substance Cleanup Act and the Delaware *Regulations Governing Hazardous Substance Cleanup* shall be followed.”

- There is one SIRS site within a ½ miles radius of the property in question. Coleman Bunting Pit (DE-0237) is located 0.20 miles to the east of the property. The Site operated as an above ground dumping pit from approximately 1978 and lasted for 10 years. The pit only accepted wood debris, cardboard and paper. Site workers said the debris would be burned bi-weekly, and the ashes were shipped to a Sussex County Waste facility. A Preliminary Assessment was conducted on the Site in January of 1990. There was no evidence of continued operations and the pits were covered with soil. The Site was given a No Further Action designation in February of 1990.

Thank you for making us aware of the hazardous substance release requirements and the information provided on the property within ½ mile of this site.

Tank Management Branch

Please be aware:

- If a release of a Regulated Substance occurs at the proposed project site, compliance of 7 Del.C., Chapter 60, 7 Del.C., Chapter 74 and DE Admin. Code 1351, State of Delaware *Regulations Governing Underground Storage Tank Systems* (the UST Regulations) is required.
- The following confirmed leaking underground storage tanks (LUST) projects are located within a quarter mile of the project boundary:
 - Bunting’s Nursery, Facility: 5-000522, Project: S9205142 (Inactive)
 - Warrington’s Airport Selbyville, Facility: 5-000843, Projects: S9705081 (Inactive)
- No environmental impacts are anticipated; however, per the **UST Regulations: Part E, § 1. Reporting Requirements:**
 - Any indication of a Release of a Regulated Substance that is discovered by any Person, including but not limited to environmental consultants, contractors, utility companies, financial institutions, real estate transfer companies, UST Owners or Operators, or Responsible Parties shall be reported within 24 hours to:
 - f* The Department’s 24-hour Release Hot Line by calling 800-662-8802; and
 - f* The DNREC, Tank Management Branch by calling 302-395-2500

Thank you for the locations of adjacent LUST sites. No environmental impacts are anticipated; however, if an incident does occur proper authorities will be contacted.

Air Quality

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

Table 1: Potential Regulatory Requirements	
Regulation	Requirements
7 DE Admin. Code 1106 - Particulate Emissions from Construction and Materials Handling	<ul style="list-style-type: none"> • Use dust suppressants and measures to prevent transport of dust off-site from material stockpile, material movement and use of unpaved roads. • Use covers on trucks that transport material to and from site to prevent visible emissions.
7 DE Admin. Code 1113 – Open Burning	<ul style="list-style-type: none"> • Prohibit open burns statewide during the Ozone Season from May 1-Sept. 30 each year. • Prohibit the burning of land clearing debris. • Prohibit the burning of trash or building materials/debris.
7 DE Admin. Code 1135 – Conformity of General Federal Actions to the State Implementation Plan	<ul style="list-style-type: none"> • Require, for any “federal action,” a conformity determination for each pollutant where the total of direct and indirect emissions would equal or exceed any of the de minimus levels (See Section 3.2.1)
7 DE Admin. Code 1141 – Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products	<ul style="list-style-type: none"> • Use structural/ paint coatings that are low in Volatile Organic Compounds. • Use covers on paint containers when paint containers are not in use.
7 DE Admin. Code 1144 – Control of Stationary Generator Emissions	<ul style="list-style-type: none"> • Ensure that emissions of nitrogen oxides (NO_x), non-methane hydrocarbons (NMHC), particulate matter (PM), sulfur dioxide (SO₂), carbon monoxide (CO), and carbon dioxide (CO₂) from emergency generators meet the emissions limits established. (See section 3.2). • Maintain recordkeeping and reporting requirements.
7 DE Admin. Code 1145 – Excessive Idling of Heavy Duty Vehicles	<ul style="list-style-type: none"> • Restrict idling time for trucks and buses having a gross vehicle weight of over 8,500 pounds to no more than three minutes.

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

The Developer will comply with Delaware air quality regulations as required.

Delaware State Fire Marshall's Office – Contact Duane Fox 739-4394

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation:

Fire Protection Water Requirements:

- Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
- Where a water distribution system is proposed for townhouse type dwelling sites, the infrastructure for fire protection water shall be provided, including the size of water mains.

The Town of Selbyville will provide a capable water system. The developer will work with the Fire Marshall and submit plans to meet the Fire Marshal's regulations.

Fire Protection Features:

- For townhouse buildings, provide a section / detail and the UL design number of the 2-hour fire rated separation wall on the Site plan

Accessibility:

- All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Route 54 must be constructed so fire department apparatus may negotiate it. . If a "center island" is placed at an entrance into the subdivision, it shall be arranged in such a manner that it will not adversely affect quick and unimpeded travel of fire apparatus into the subdivision.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

- The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

The developer's engineer will work the Fire Marshall's to ensure these requirements are fulfilled.

Gas Piping and System Information:

- Provide type of fuel proposed, and show locations of bulk containers on plan.

The fire marshal will be made aware of the type of fuel proposed.

Required Notes:

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Townhouse 2-hr separation wall details shall be shown on site plans
- Provide Road Names, even for County Roads.

The required notes and information will be provided on the plans.

Recommendations/Additional Information

This section includes a list of site specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. **These suggestions do not represent State code requirements.** They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (**but in no way required**) that the applicant will open a dialogue with the relevant agencies to discuss how these suggestions can benefit the project.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- On page 35 of Selbyville's Comprehensive Plan there is a statement that “the Town should work with developers to provide road interconnections between existing and planned developments.” DelDOT supports the creation of such interconnections, properly designed, and offer the following suggestion in that regard, referring to Conceptual Site Plan 5C.
- DelDOT recommends that the following changes to the plan be made with the goal of providing for east-west local traffic through the subject development when the parcels on either side are developed:

- 1) Extend the street that presently would stop opposite Lot 40 to create a stub street at the west property line.
- 2) Where that same street presently would stop opposite Lot 225, realign the intersection to create a continuous east-west street and have southbound traffic stop opposite Lot 77.
- 3) Extend the street that presently would stop opposite Lot 148 to create a stub street at the east property line.
- 4) To the extent that the Town's street standards provide for different classifications of residential street, require a wider cross-section and a deeper pavement section on the east-west street just described from the west property line at Lot 40 to the east property line at Lot 148. Based on DelDOT's subdivision street standards, we recommend a 32-wide paved surface and sidewalks on both sides of the street, but they recognize that the Town may have a different standard.

Thank you for the additional recommendations.

- Please expect a requirement that all PLUS comments be addressed prior to submitting the plans for review.

The developer will address all PLUS comments as required.

- A letter dated June 27, 2012 was sent out explaining the changes in the way checks are received. This letter can be found on the DelDOT's website at: <http://www.deldot.gov/information/business/subdivisions/PaymentProcedure.pdf>

The developer will follow DelDOT's check process.

- The standard general notes have been updated and posted to the DelDOT website. Please begin using the new versions and look for the revision date of April 22, 2013 for the Record/Site Plan and Construction Plan general notes. The Temporary Traffic Control Notes (TTCN) still have the revision date of August 14, 2012. The notes can be found at the following website: <http://www.deldot.gov/information/business/>

New versions of DelDOT's notes will be used.

- In accordance with Section 3.6.4 of the Standards and Regulations, right-of-way monuments are recommended to be furnished and placed along the dedicated subdivision streets.

Monuments will be furnished and placed in accordance with DelDOT's regulations.

Soils Assessment

- Based on NRCS soils survey mapping update, a significant portion of the parcel is comprised of hydric soil mapping units such as Hurlock and Mullica. Hurlock (HuA; red color in map) and Mullica Berryland complex (MuA; blue color in map) are poorly to very poorly-drained wetland associated (hydric) that have severe limitations for development (considered unsuitable for development; Figure 2).

The Statewide Wetland Mapping Project (SWMP) often uses the soil survey as the basis for mapping and delineating wetlands. The presence of a hydric soil is one of three key parameters that must be met in order to meet jurisdictional wetland requirements (as specified by the USACOE). The other parameters are hydrophytic vegetation and hydrology. Hence the presence of hydric soils is a correlate with wetland presence. Although the removal of hydrophytic vegetation may change the jurisdictional status of a wetland, it still does not change the environmental consequences of such actions. Building on hydric soils (i.e., Hurlock & Mullica-Berryland complex) is likely to increase future on-site and off-site flooding potentials (See figure 3), while increasing the amount of pollutant-laden surface water runoff in surface water bodies (streams, ponds, and ocean) and groundwater.

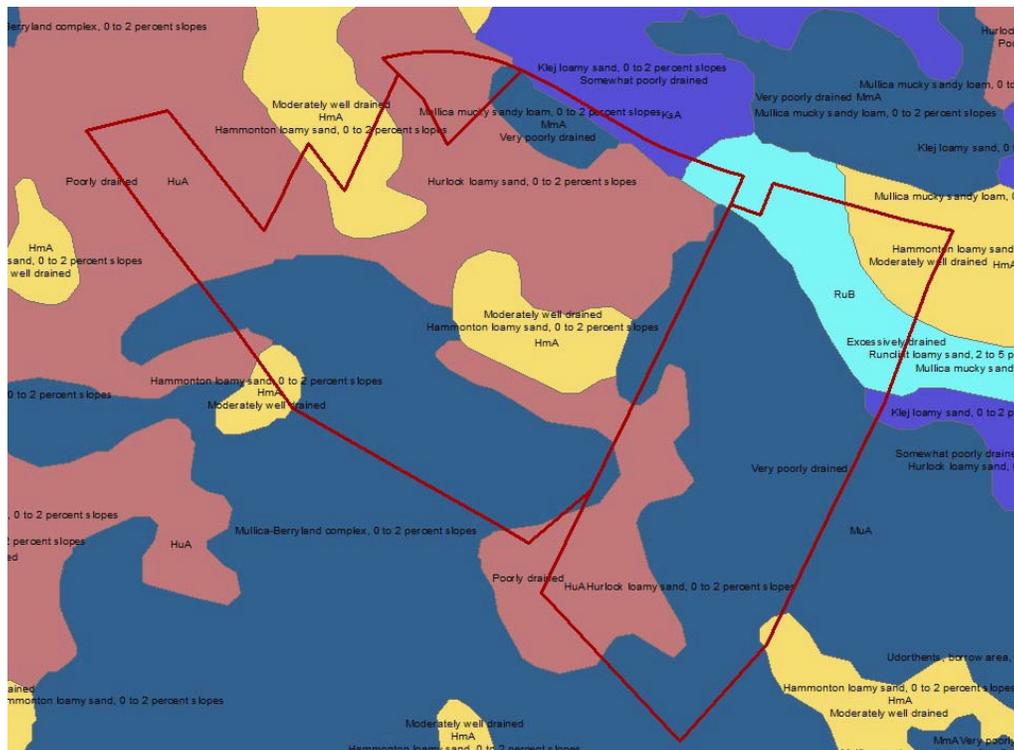


Figure 2: NRCS soil survey mapping update in the vicinity of the proposed construction.

The developer has obtained approved jurisdictional determinations for this property from the Corps and DNREC WSLs. There are no State or federally regulated wetlands on this property.

The developer acknowledges that the USDA *Soil Survey for Sussex County* identifies hydric soils Hurlock and Mullica-Berryland Series on this property. However, as a result of historic agricultural drainage practices, the property has been drained by the components of the Bunting Tax Ditch system previously described in these comments. This drainage system consists of deeply-excavated, well-engineered channels which effectively drain this property and direct current stormwater to downstream locations. As part of developing this project for residential development, stormwater management practices will be put in place which will now manage for water quality and more effectively retain and manage the flow of stormwater from the property at a controlled pace.

Additional information on TMDLs and water quality

- In further support of the nutrient and bacterial reduction requirements in the Inland PCS, and the bacteria reduction requirements in the Assawoman Bay, DNREC strongly recommends implementation of the following recommended BMPs:
 - A United States Corps of Engineers (USACE) approved wetlands delineation is strongly recommended. According to information presented in the PLUS application, an approved USACE wetlands delineation has not been conducted.
 - 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 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 (field delineated and approved by the USACE).
 - Much of this parcel contains hydric soil mapping units (e.g., Hurlock & Mullica Berryland complex) which are not suitable for development; therefore, DNREC strongly recommends avoiding these mapping units. Building on such soils is likely to contribute to an increased probability of future flooding problems.
 - According to the conceptual plot plan, the applicant intends to install 4 ponds in this parcel. DNREC strongly advise against the installation of any new additional ponds because they will contribute to increases in nuisance algae, geese and mosquitoes. Also since the seasonal high water table is at or near the soil surface (i.e., in areas containing hydric soil mapping units), surface water pollutant runoff may contribute to subsurface water contamination.
 - Calculate post-construction surface imperviousness with all forms of created (or constructed) surface imperviousness (e.g., rooftops, driveways, parking lots,

- sidewalks, open-water storm water management structures, ponds, and roads) included in the calculation.
- Wherever practicable, we strongly advise the use of pervious paving materials (instead of conventional asphalt and concrete) as a BMP(s) to reduce the impacts from all forms of created surface imperviousness.
 - DNREC strongly recommends the use of rain gardens, and green-technology storm water management structures (in lieu of open-water management structures) as BMPs to mitigate or reduce nutrient and bacterial pollutant impacts via runoff from impervious surfaces.
 - The applicant should voluntarily assess nutrient and bacterial pollutant loading at the preliminary project design phase. To this end, the Watershed Assessment Section has developed a methodology known as the “Nutrient Load Assessment protocol.” The protocol is a tool used to assess changes in nutrient loading (e.g., nitrogen and phosphorus) that result from the conversion of individual or combined land parcels to a different land use(s), while providing applicants with quantitative information about their project’s impact(s) on baseline water quality. We strongly encourage the applicant/developer use this protocol to help them design and implement the most effective BMPs. Please contact Jen Walls or John Martin at (Division of Watershed Stewardship) at 302-739-9939 for more information on the protocol.

The developer has obtained approved jurisdictional determinations from the Corps and DNREC for this property. No State or federally regulated wetlands occur on this site.

As previously discussed, hydric soils on the site have been historically and effectively drained by the Bunting Tax Ditch system. The developer has coordinated with DNREC’s Drainage Section to maintain and protect the integrity of this system. The developer will incorporate and maintain buffers to waterways on the property in accordance with code requirements and to the maximum extent possible within the project purpose. Stormwater management in accordance with county and State standards will be provided prior to discharge into any watercourse.

Species of Concern

- DNREC scientists have not surveyed this project area; therefore, we are unable to provide information pertaining to the existence of state-rare or federally listed plants, animals or natural communities at this project site. It is not likely that these species would be supported by habitat in those areas that have been actively used for agriculture; however, the forested portion of the parcel could support an array of plant and animal species especially if there are wetlands present.

In order to provide more informed comments, DNREC requests the opportunity to conduct a survey to evaluate habitat and determine the potential for species of conservation concern. Please note that our scientists have extensive knowledge of the flora and fauna of the State. The survey will be conducted at no expense to the landowner. In the event that authorizations will be needed from DNREC's Coastal

Management Program and/or Wetlands and Subaqueous Lands Section, they will require complete and up to date info from the Species Conservation and Research Program as part of their review. Therefore, allowing access to the site will increase the efficiency of the State authorization process. Please contact me at (302) 735-8654 or at Edna.Stetzar@state.de.us if the landowner will grant a site visit.

The developer anticipates the need to obtain a subaqueous lands permit from DNREC WSLS. As stated in these comments, representatives from DNREC's Natural Heritage Program will have the opportunity to visit the site at that time.

Forest Preservation

- Cumulative forest loss throughout the State is of utmost concern to DNREC which is responsible for conserving and managing the State's wildlife (see www.fw.delaware.gov and the Delaware State Code, Title 7). The forest on this site occurs on 1937 aerial imagery and is at least 75 years old. The site plan as designed will essentially remove most of this mature forest and fragment the remainder into smaller, disconnected spaces. Forest fragmentation separates wildlife populations, increases road mortality, and increases "edge effects" that leave many forest dwelling species vulnerable to predation and allows the infiltration of invasive species. The site plan should have been designed with consideration for the natural resources of this site, especially this forested area. We highly recommend the following changes be implemented to minimize forest loss and the potential to impact wildlife:
 1. Reconfigure the site plan to preserve the existing forest and leave it as open space for the development. It is difficult to determine from the site plan how many lots would need to be relocated. Perhaps the proposed ponds could be reduced in size and/or number and this would provide additional space to relocate lots out of the forest. It is unlikely that all of these ponds are necessary for stormwater management purposes.
 2. To prevent future clearing by residents who have lots that abut the forest, the open space would need to be clearly delineated and posted with signage and/or placed into a conservation easement.
 3. If this forest is cleared and fragmented despite our recommendations, it would be best not to conduct these activities when wildlife that utilize forests are most vulnerable, such as during breeding and nesting periods. Many species of forest dependent birds breed and nest from April 1st to July 31st. Although this recommendation would minimize impacts during one breeding season, there is still an overall impact of habitat loss.

Thank you for your recommendations regarding forest retention and the time of year that would be best for performing clearing activities.

Wetland Buffers

- Upland buffers along wetlands and water bodies provide essential habitat for wetland dependent species that utilize these areas for a major part of their breeding cycle. Some

species reside in the surrounding forest most of the year and only use wetlands for brief periods during the breeding season. Buffers are also an integral component of aquatic and wetland habitats, reducing the amount of sediments, pollutants, and other non-point source material that may affect the function and integrity of habitat and the condition and survivability of aquatic organisms.

The forest on this site is forming a portion of the buffer to one of the watercourses within the project area. As noted above, we highly recommend that the existing forest be left intact. The area of this watercourse with little to no buffer should be planted with Delaware native plant species (trees, shrubs, wildflowers and/or grasses) to a width of at least 100 feet. This buffer width is considered necessary in most cases to protect water quality, but buffers needed to support wildlife can be much wider.

The developer has obtained approved jurisdictional determinations from the Corps and DNREC for this property. No State or federally regulated wetlands occur on this site. Hydric soil areas occurring on this site have been historically and effectively drained by agricultural practices.

Additional information on hazardous waste site

- DNREC strongly recommends that the land owner perform environmental due diligence of the property by performing a Phase I Environmental Site Assessment (including a title search to identify environmental covenants) in accordance to Section 9105(c) (2) of the Delaware Hazardous Substance Cleanup Act (HSCA). While this is not a requirement under HSCA, it is good business practice and failure to do so will prevent a person from being able to qualify for a potential affirmative defense under Section 9105(c) (2) of HSCA.

Thank you for bringing up the environmental concerns. The developer will consider looking into performing a Phase I Site Assessment.

- Additional remediation may be required if the project property or site is re-zoned by the county.
- Should a release or imminent threat of a release of hazardous substances be discovered during the course of 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). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions.

Should an incident occur appropriate authorities will be contacted.

Additional information on tank management.

- When contamination is encountered, PVC pipe materials should be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.
- If any aboveground storage tanks (ASTs) less than 12,500 gallons are installed, they must be registered with the TMS. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMS.

The proper pipe material will be used. If ASTs greater than 12,500 gallons are installed, Those ASTs will be registered with the TMS.

Additional information on air quality

- DNREC encourages developers and builders to consider all sustainable growth practices in their design, but we believe, however, that the air quality impacts associated with the project should be completely considered. New homes may emit, or cause to be emitted, air contaminants into Delaware’s air, which will negatively impact public health, safety and welfare. These negative impacts are attributable to:
 - Emissions that form ozone and fine particulate matter; two pollutants relative to which Delaware currently violates federal health-based air quality standards,
 - The emission of greenhouse gases which are associated with climate change, and
 - The emission of air toxics.

- Air emissions generated from new homes include emissions from the following activities:
 - Area sources such as painting, maintenance equipment and the use of consumer products like roof coatings and roof primers.
 - The generation of electricity needed to support the new homes, and
 - All transportation activity.

- Based on the information provided, the three air emissions components (i.e., area, electric power generation, and mobile sources) for this project were quantified. Table 2 – Projected Air Quality Emissions represents the actual impact the Del-Mar Subdivision may have on air quality.

Emissions Attributable to Lynch Farm (Tons per Year)	Volatile Organic Compounds (VOC)	Nitrogen Oxides (NOx)	Sulfur Dioxide (SO ₂)	Fine Particulate Matter (PM _{2.5})	Carbon Dioxide (CO ₂)
Area Source Emissions	9.2	1.0	0.8	1.1	37.3
Power Source Emissions	*	3.6	12.7	*	1,869.4
Mobile Emissions	13.6	14.2	0.4	0.2	8,777.8
Total Emissions	22.8	18.8	13.9	1.3	10,684.5

() Indicates data is not available.*

- Note that emissions associated with the actual construction of the road, including

automobile and truck traffic from working in, or delivering products to the site, as well as site preparation, earth moving activities, road paving and other miscellaneous air emissions, are not reflected in the table above.

- 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.
- Additional measures may be taken to substantially reduce the air emissions identified above. These measures include:
 - **Constructing with only energy efficient products.** Energy Star qualified products are up to 30% more energy efficient. Savings come from building envelope upgrades, high performance windows, controlled air infiltration, upgraded heating and air conditioning systems, tight duct systems and upgraded water-heating equipment. Every percentage of energy efficiency translates into a percent reduction in pollution. The Energy Star Program is excellent way to save on energy costs and reduce air pollution.
 - **Offering geothermal and/or photo voltaic energy options.** These systems can significantly reduce emissions from electrical generation, and from the use of oil or gas heating equipment.
 - **Providing tie-ins to the nearest bike paths and links to any nearby mass transport system.** These measures can significantly reduce mobile source emissions. **For every vehicle trip that is replaced by the use of a sidewalk, a bike path or mass transit, 7 pounds of VOC and 11.5 pounds of NOx are reduced each year.**
 - **Using retrofitted diesel engines during construction.** This includes equipment that are on-site as well as equipment used to transport materials to and from site.
 - **Using pre-painted/pre-coated flooring, cabinets, fencing, etc.** These measures can significantly reduce the emission of VOCs from typical architectural coating operations.
 - **Planting trees in vegetative buffer areas.** Trees reduce energy emissions by cooling during the summer and by providing wind breaks in the winter, thereby reducing air conditioning needs by up to 30 percent and saving 20 to 50 percent on fuel costs.

This is a partial list, and there are additional things that can be done to reduce the impact of the development. The applicant should submit a plan to the DNREC DAQ which address the above listed measures, and that details all of the specific emission mitigation measures that will be incorporated into the Lynch Farm project.

The developer will take consider the suggested ways to reduce Air Quality impact when designing the site, choosing a contractor, and in the housing options (energy efficient appliances/geothermal energy options).

Delaware State Fire Marshall's Office – Contact Duane Fox 739-4394

- Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.statefiremarshal.delaware.gov, technical services link, plan review, applications or brochures.

The developer's engineer will work closely with the State Fire Marshall and if necessary set up a pre-application meeting prior to the formal submittal.

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: Town of Selbyville