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ARCHITECTS
ENGINEERS

206 WEST MAIN STREET
SALISBURY, MD 21801
PH: 410.742.3115
PH: 800.769.4462
FAX: 410.548.5790

SALISBURY
BALTIMORE
SEAFORD

www.gmbnet.com

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January 16, 2014

Delaware Office of State Planning
122 Martin Luther King Jr. Blvd. South
3rd Floor
Dover, DE 19901

Attn: Ms. Constance C. Holland, AICP
Director

Re: Response to PLUS Review Comments
Bayside – Knox Property
PLUS Review – 2013-08-03

Dear Ms. Holland:

Please accept this letter as the formal response to the Office of State Planning Coordination PLUS review comments dated September 25, 2013 for the above referenced project. The original State Agency comments are included below with our responses highlighted in red and italicized.

Sincerely,



Stephen L. Marsh, P. E., LEED AP, CPSWQ
Senior Vice President

SLM/cl

cc: Carl M. Freeman Communities
Attn: Lawton Myrick (w/ encl.)
Sussex County Planning & Zoning
Attn: Lawrence Lank (w/encl.)

JAMES H. WILLEY, JR., PE
PETER A. BOZICK, JR., PE
JUDY A. SCHWARTZ, PE
CHARLES M. O'DONNELL, III, PE
W. BRICE FOXWELL, PE
A. REGGIE MARINER, JR., PE
JAMES C. HOAGESON, PE
STEPHEN L. MARSH, PE
MICHAEL D. MCARTHUR, AIA
DAVID A. VANDERBEEK, PE
ROLAND E. HOLLAND, PE
JASON M. LYTLE, PE

JOHN E. BURNSWORTH, PE
MICHAEL G. KOBIN, PE
CHRIS B. DERBYSHIRE, PE
W. MARK GARDOCKY, PE
MORGAN H. HELFRICH, AIA
VINCENT A. LUCIANI, PE
JERRY KOTRA

September 25, 2013

Mr. Lawton Myrick
George, Miles & Buhr, LLC
206 West Main Street
Salisbury, MD 21801

RE: PLUS review 2013-08-03, Americana Bayside-Knox Property

Dear Mr. Myrick:

Thank you for meeting with State agency planners on August 28, 2013 to discuss the proposed plans for the American Bayside-Knox Property. According to the information received, you are seeking a rezoning of 28 acres from AR-1 to MR-RPC through Sussex County for the development of a 93 unit residential community.

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 Investment Level 3 according to the Strategies for State Policies and Spending. 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 may support future growth in these areas, but please be advised that the State has other priorities for the near future. We encourage you to design the site with respect for the environmental features which are present.

We agree that the proposed site plan complies with the State Spending Level designation as well as the Sussex County Comprehensive Plan. We will work closely with Sussex County and other reviewing agencies to achieve the requirements set forth during the rezoning process.

Code Requirements/Agency Permitting Requirements

State Historic Preservation Office – Contact Terrence Burns 736-7404

- There are no known cultural or historic resources, such as a National Register-listed

property or an Archaeological Site, on this parcel. However, if there will be any development or construction activity on the parcel, it is still important that the developer be aware of the Delaware's Unmarked Human Burials and Human Skeletal Remains Law, which is outlined in Chapter 54 of Title 7 of the Delaware Code.

Comment noted.

- 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
www.history.delaware.gov/preservation/cemeteries.shtml .

Therefore, 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.

- 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.

During construction, if any unmarked human remains are discovered, construction will be halted and the State Historic Preservation Office will be contacted immediately.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- Per Section 2.3.1 of the Standards and Regulations for Subdivision Streets and State Highway Access, Traffic Impact Studies (TIS) are warranted for developments generating more than 400 vehicle trip ends per day or 50 vehicle trip ends per hour. However, Section 2.3.2 provides that for developments generating less than 2,000 vehicle trip ends per day and less than 200 vehicle trip ends per hour, DelDOT may accept an Area Wide Study Fee of \$10 per daily trip in lieu of a TIS. To obtain a scope of work for a TIS, the developer may have their engineer contact Mr. Troy Brestel of this office. Mr. Brestel may be reached at (302) 760-2167.

Preliminarily, DelDOT believes that payment of the Area Wide Study Fee would be acceptable. If the developer chooses this option, payment would be due when the site plan is submitted for review. Payment of the fee would not relieve the developer of responsibility for making off-site improvements or contributing to DelDOT capital projects. In accordance with Section 3.10.2 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access, needed off-site improvements or contributions would need to be shown on the record plan by illustration or note.

Payment of the Area Wide Study fee will be made in January 2014, as we finalize the "Letter of No Objection" (LONO) to Entrance Location documentation.

- Because the site would generate more than 200 vehicle trip ends per day, a Traffic Operational Analysis may be required as part of the site plan review, in accordance with Section 2.14 (formerly 3.9) of the Standards and Regulations. If the developer performs a TIS, the work involved in a TOA would be included therein. Payment of the Area Wide Study Fee does not exempt the developer from providing a TOA if one is found to be necessary.

A TOA dated August 21, 2013 has been completed and submitted to DelDOT.

- The site entrance must be designed in accordance with DelDOT'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_Manual_Revision_1_proposed_060110.pdf. If the subdivision streets are to be built for State maintenance, they too must be designed in accordance with DelDOT's Standards and Regulations. From the concept plan presented, there appears to be at least one curve in the proposed streets that does not meet our minimum standards for curve radii.

The entrance will be designed to meet DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access. An initial design has been submitted for DelDOT's review. The street's will be privately maintained by the HOA and will be designed to meet Sussex County Ordinance 99 standards.

- Metes and bounds and total areas need to be shown for any drainage easements. Section 5.7.2.5 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access requires, in part, a minimum 20-foot wide drainage easement for storm drainage systems that fall outside the existing right-of-way or the drainage/utility easement. These easements must be shown on the record plan, not referenced by a note.

Comment noted. An initial design has been submitted for DelDOT's review that complies with this requirement

- In accordance with Section 3.4.1.2 of the Standards and Regulations for Subdivision Streets and State Highway Access, the Record Plan should show all existing entrances (residential/commercial) within 400 feet of the proposed site entrance.

Comment noted. An initial design has been submitted for DelDOT's review that complies with this requirement

- In accordance with Section 3.10 of the Standards and Regulations for Subdivision Streets and State Highway Access, the required off-site improvements and when they are warranted will need to be shown on the Record plan by note or illustration.

No off-site improvements are anticipated.

- In accordance with Section 3.6.5 and Figure 3-3 of the Standards and Regulations for Subdivision Streets and State Highway Access, DelDOT will require dedication of right-of-way along the site's frontage, on both Sand Cove Road (Sussex Road 394) and Williamsville Road (Sussex Road 395), to provide a minimum of 30 feet of right-of-way from the road centerlines. The right-of-way dedication note 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."**

Comment noted. An initial design has been submitted for DelDOT's review that complies with this requirement.

- In accordance with Section 3.6.5 of the Standards and Regulations for Subdivision Streets and State Highway Access, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage, on both Sand Cove Road (Sussex Road 394) and Williamsville Road (Sussex Road 395), for a future 10-foot wide pedestrian/bike path. 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 for a future 10-foot wide multi-use path is hereby established, as per this plat."**

Comment noted. An initial design has been submitted for DelDOT's review that complies with this requirement.

- In accordance with Section 4.8 of the Standards and Regulations for Subdivision Streets and State Highway Access, a 20-foot wide buffer will be required from the edge of any storm water management pond to the ultimate right-of-way of the nearest State- maintained road. The ultimate right-of-way is based on the functional classification of the road. From the concept plan presented, we do not see a problem in this regard.

Any SWM areas parallel to Sand Cove Road and Williamsville Road will likely be green technology BMPs such as bioretention areas or bioswales with gentle slopes, and not traditional SWM ponds. All SWM facilities will be set 50' off the existing centerline (30' ROW requirement plus twenty foot offset).

- As specified in Section 3.4.1.1 of the Standards and Regulations for Subdivision Streets and State Highway Access, a traffic generation diagram is required on the Record Plan.

Comment Noted.

- In accordance with Section 3.5.5.5 of the Standards and Regulations for Subdivision Streets and State Highway Access, it will need to be determined whether a bus stop will be required for this project and, if so, what if any amenities it may need to have. As necessary, the developer may contact Mr. Wayne Henderson, a Senior Planner at DTC in this regard. Mr. Henderson may be reached at (302) 576-6063.

Comment Noted.

- Referring to the Standards and Regulations for Subdivision Streets and State Highway Access, Chapter 1 – Introduction, Section 1.4: Review Fees, page 1-8, the Initial Stage review fee shall be assessed to this project.

Comment Noted.

- In accordance with Section 3.4 of the Standards and Regulations for Subdivision Streets and State Highway Access, 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:

Copy of the Initial Stage Fee Calculation Form
Copy of the Initial Stage Review
Fee Gate-Keeping Checklist – Site
Plan Design Checklist – Record
Plan*
Owners and Engineer’s name and e-mail address
Sight Distance Spreadsheet
Auxiliary Lane Spreadsheet
Three (3) paper sets of the Record Plan

Conceptual Entrance Plan
CD with a pdf of the Site Plan
Submission of the Area-Wide Study Fee (if applicable)

*For the design checklist for the site plan, please refer to the Standards and Regulations for Subdivision Streets and State Highway Access, Appendix D, Plan Review Checklist, page D-2 and D-3.

Comment noted. The LONO submittal is currently under review by DelDOT.

- Referring to the Standards and Regulations for Subdivision Streets and State Highway Access, Chapter 1 – Introduction, Section 1.4: Review Fees, page 1-8, the Construction Stage review fee shall be assessed to this project.

Comment Noted.

- Referring to the Standards and Regulations for Subdivision Streets and State Highway Access, Chapter 4 – Construction Plans, Section 4.3: Subdivision Construction Plan Checklist or Section 4.4: Commercial Entrance Plan Checklist, an entrance plan shall be prepared prior to issuing entrance approval. The following information will be required for Subdivision/Entrance Plan review;

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

**For the design checklist for the entrance plan, please refer to the Standards and Regulations for Subdivision Streets and State Highway Access, Appendix D, Plan Review Checklist, page D-9 and D-13.

Comment Noted.

Department of Natural Resources and Environmental Control – Contact Kevin Coyle 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 likely to be located on this property based on a review of aerial photographs, State Wetland Mapping Project (SWMP) maps, Soil Surveys and/or USGS topographic maps. This area of subaqueous lands appears to be incorporated into the plan drawings. Caution should be taken to keep county setbacks and to prevent construction material from entering the waterway. 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>.

Only man-made agricultural drainage ditches border some of the site perimeter. These ditches exhibit only ephemeral or infrequent, intermittent flow. The ditches were identified as Waters of the U.S. Current development plans do not anticipate filling, excavating or otherwise modifying these ditches. In the event any regulated activities are proposed within these ditches, the developer will consult with the DNREC Wetlands and Subaqueous Lands Section and the U.S. Army Corps of Engineers.

- 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. The application states that these were delineated but not signed off on by the U.S. Army Corps. 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 jurisdiction. 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>.

Environmental Resources, Inc. (ERI) performed a delineation of Waters of the United States including wetlands subject to the Corps of Engineers' Regulation Program. The investigation was in accordance with three-parameter approach evaluating soils, hydrology, and vegetation outlined in the 1987 Corps of Engineers Wetlands Delineation Manual and associated guidance. In accordance with Delaware Department of Natural Resources and Environmental Control (DNREC) wetlands maps, no State regulated wetlands occur on or in the vicinity of the Knox property.

In regard to federally regulated or waters subject to the Corps of Engineer's

Regulatory Program, approximately 0.2 acres of the 27.9 acre property is regulated area. Man-made drainage ditches found along and bordering the east and part of the south property lines are regulated waters of the United States. The presence of these drainage features should not be impacted by anticipated development. These drainage features only exhibit ephemeral flow or infrequent, intermittent flow. They are not perennial streams. No buffers are required from these features.

A manmade ornamental pond is also on the site. This manmade feature executed from uplands is not subject to the Corps of Engineer's Regulatory Program.

ERI has submitted a jurisdictional determination request to the Philadelphia District Corps of Engineers regarding the 0.2 acre of regulated waters identified on the property.

TMDLs

- The project is located in the Assawoman Bay Watershed. The State of Delaware does not have a listed nutrient or bacterial TMDL loading rate for the Assawoman Bay watershed; however, since most of this watershed lies within the State of Maryland, we strongly recommend the applicant contact the Maryland Department of the Environment for that State's TMDL regulatory requirements. The MDE can be contacted at (410) 537-3656.

Comment Noted.

- 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 requirements or view the following web link for additional information: <http://dda.delaware.gov/nutrients/index.shtml>

Comment Noted

Water Supply

- The project information sheets state water will be provided to the project by Artesian Water Company via a public water system. Our records indicate that the project is located within the public water service area granted to Artesian Water Company under Certificate of Public Convenience and Necessity 00-CPCN-07.

The service area has been confirmed with Artesian Water Co.

- 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.

A water allocation permit will be obtained prior to any dewatering activities.

- 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.

Comment Noted.

Sediment and Stormwater Program

- A sediment and stormwater plan will be required for 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 possible. 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)

Comment noted. A proposed stormwater management and erosion and sediment control plan is under review at the Sussex Conservation District.

Flood Management

- FEMA's Flood Insurance Rate Maps have been revised in Sussex County as the result of a new coastal study. The maps are currently preliminary, but the location of the high risk, Zone AE floodplain on this lot has increased. The maps can be viewed at www.rampp-team.com/de.htm

Comment Noted.

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 are no SIRS sites or salvage yards found within a ½-mile radius of the proposed project.

We appreciate the information provided. The absence of any past uses or sites known to cause or contain any hazardous substances on the property was further confirmed by investigations conducted by the developer.

In the unlikely event that any hazardous substances are discovered during the course of development, construction activities will be discontinued and DNREC will be contacted immediately.

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	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	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	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	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	Ensure that emissions of nitrogen oxides (NO _x), non-methane hydrocarbons (NMHC), particulate matter (PM), sulfur dioxide (SO ₂), carbon monoxide (CO), and carbon dioxide (CO ₂) 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	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>.

Comment Noted.

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.

We will comply with all State Fire Marshall water requirements.

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

Comment Noted

- **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.
 - 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.
 - 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 this office, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

Comment Noted.

- **Gas Piping and System Information:**
 - Provide type of fuel proposed, and show locations of bulk containers on plan.

LP gas is provided by Sharp Energy from a centralized "tank farm" located inside Americana Bayside and distributed to each building phase by underground gas mains.

- **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 / Duplex 2-hr separation wall details shall be shown on site plans
- Provide Road Names, even for County Roads.

Comment Noted.

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

- DelDOT suggests that the proposed entrance location on Williamsville Road be further evaluated. DelDOT has no requirement now, but they may require that the entrance be placed opposite Bayview Boulevard to provide for adequate sight distance and to prevent conflicts between vehicles turning left into the two developments. DelDOT suggests that three issues should be examined in the following order: 1) whether the proposed entrance location would provide adequate sight distance for entering and exiting traffic, 2) whether a left turn lane entering the site is warranted, and 3) whether a left turn lane for an entrance opposite Bayview Boulevard would fit within the available right-of-way. West of Bayview Boulevard, the homes in Bayview Estates and the pond on the north side of the road could be constraints.

Comment noted. A LONO submittal is currently under review at DelDOT.

- DelDOT has reviewed the August 21, 2013, traffic analysis prepared by The Traffic Group (applicant’s traffic engineer) for the intersection of Delaware Route 54 and Williamsville Road and agree with their findings. Briefly, with the addition of the traffic from the proposed development, all movements at the intersection would continue to operate at Level of Service C or better during the weekday morning and evening and Saturday midday peak hours.

Comment Noted.

- Please refer to the DelDOT website for guidance as to whether a pre-submittal meeting is required and how to prepare for one. That guidance is

available at <http://www.deldot.gov/information/business>.

- Be advised that the standard general notes have been updated and posted to the DeIDOT website. Begin using the new versions and look for the revision date of June 28, 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

http://www.deldot.gov/information/business/subdivisions/DeIDOT_Development_Coordinator_Plan_Sheet_Notes.doc

Comment Noted.

- In accordance with Section 3.6.4 of the Standards and Regulations for Subdivision Streets and State Highway Access, DeIDOT recommends that right-of-way monuments be placed along the subdivision streets.

Comment Noted.

- Please check to determine if any utilities will need to be relocated as part of this project.

Comment Noted.

- The developer should anticipate a requirement that any sub-station and/or wastewater facilities have access from the internal subdivision streets with no direct access to the State-maintained highway. That does not appear to be a concern on this plan.

Comment Noted.

- All PLUS comments should be addressed prior to submitting record, subdivision or entrance plans for review.

Comment Noted.

Department of Natural Resources and Environmental Control – Contact Kevin Coyle 735-3495

Soils Assessment

- Based on NRCS soils survey mapping update, the mapping units of concern are Hurlock (HvA) and Mullica-Berryland complex (MuA). Hurlock and Mullica-Berryland complex are poorly-drained to very poorly-drained wetland associated (hydric) soils that have severe limitations for development (i.e., considered unsuitable; Figure 1).

Building on hydric soils (i.e., Hurlock & Mullica) may increase the potential for future on-site and off-site flooding events (hydric soils act as nature's "sponge" by retaining water and mitigating surface water runoff or flooding) along with concurrent increases in the volume of pollutant-laden surface water runoff and discharges to surface water bodies (streams, ponds, and ocean) and groundwater; such increases in water volume and pollutants may negatively impact both

(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 waterbodies (including ditches) and wetlands (field delineated and approved by the USACE).

A wetland delineation performed by a professional wetland scientist employed by Environmental Resources, Inc. has been conducted and submitted to the U.S. Army Corps of Engineers for approval. No perennial streams occur on the site. Only man-made agricultural drainage ditches occur on part of the property perimeter associated with only 0.20 acres of regulated wetlands. Significant wetlands are not found on this property. The project complies with all state and local buffer requirements.

- Avoid all hydric soil mapping units (e.g., Hurlock & Mullica). 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 2 storm water ponds in this parcel. DNREC strongly advises against the installation of any new additional open-water ponds because they will contribute to increases in nuisance algae, geese and mosquitoes. DNREC recommends Green technology storm water management be utilized in lieu of open-water storm water management ponds.

Comment noted. We will incorporate some green technology into the final design as much as possible, but please note it is often extremely difficult to incorporate many green technology practices recommended by DNREC into the SWM plan in southeastern Sussex County due to the relatively low elevation of the site, high groundwater and influence of tidewater on the drainage system. We will incorporate swales, bioswales, and some constructed wetlands into the final drainage and landscape design.

- 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.

Comment noted. The design and computations have already submitted to SCD for review.

- Wherever practicable, use pervious paving materials (instead of conventional asphalt and concrete) as a BMP(s) to reduce the impacts from all forms of created surface imperviousness.

Comment noted.

- 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/discharges from impervious surfaces.

Comment noted. See response above.

- 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. DNREC strongly encourages 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.

Comment noted.

Additional information on hazardous waste sites

- SIRS 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.

Phase I and Phase II Environmental Site Assessments have been completed by Hillis-Carnes Inc. with no adverse findings.

- Additional remediation may be required if the project property or site is rezoned by the county.

Comment noted.

- 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). SIRB should also be contacted as soon as possible at 302-395-2600 for further instructions.

Comment noted.

Additional information on air quality

- 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.

Comment noted.

- Air emissions generated from commercial spaces 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 commercial space, and
 - All transportation activity

Comment noted. There is no commercial space on this project.

- Based on the information provided, the three air emissions components (i.e., area, electric power generation, and mobile sources) for the development were quantified. Table 1 represents the actual impact the Americana Bayside development may have on air quality.

Emissions Attributable to Americana Bayside (Tons per Year)	Volatile Organic Compounds (VOC)	Nitrogen Oxides (NOx)	Sulfur Dioxide (SO ₂)	Fine Particulate Matter (PM _{2.5})	Carbon Dioxide (CO ₂)
Mobile	4.3	4.5	0.1	0.0	2,748.6
Electric Power	*	1.1	4.0	*	585.4
Area Source	2.9	0.3	0.3	0.3	11.7
Total	7.2	5.9	4.4	0.3	3,345.7

(*) *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.

Comment noted. Please note that this community will be incorporated into American Bayside, an existing development, and will share in infrastructure already installed to support the community. The community has approximately 6 miles of trails and multimodal paths, over 285 acres of open space and amenities, and over 314 acres of dedicated, protected conservation areas that have been deeded over to the Sussex Land Trust. The main amenity complex at Bayside, Sun Ridge, is located a quarter mile away. The project's sidewalks and trails will connect into the overall trail system at Bayside. Trees will be planted in buffers and open spaces.

The proximity to the existing Bayside community makes this project ideal for development.

- 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 Americana Bayside development.

Comments noted.

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.

Comments noted.

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