



STATE OF DELAWARE
OFFICE OF MANAGEMENT AND BUDGET
OFFICE OF STATE PLANNING COORDINATION

January 22, 2024

Katja Kalinski
George, Miles & Buhr, LLC
206 West Main Street
Salisbury, MD 21801

RE: PLUS review – 2023-12-05; Cool Spring Crossing

Dear Ms. Kalinski:

Thank you for meeting with State agency planners on December 20, 2023 to discuss the Subdivision Plan for the Cool Spring Crossing. According to the information received, you are seeking review of a proposed subdivision plan for a large residential subdivision with diverse residential unit types totaling 1,922 units and over 400,000 SF of nonresidential development to include retail, recreation, educational, and medical uses. A portion of this project is to be rezoned and developed in accordance with the Sussex County Rental Program.

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.**

There have been three prior PLUS applications associated with this project. In April 2021, (PLUS 2021-04-07) the state reviewed a site plan review for 2000 residential units, 77,100 sq. ft. of commercial and 86,000 sq. ft. of other non-residential square footage undefined on 539 acres which included parcels 235-27.00-11.00, 12.00, 13.00 and parcel 334-4.00-34.00. The Office of State Planning Coordination was opposed to this project based on its location in Investment Level 4 and other comments received from State agencies. In addition, we noted that because the requested density and MR-RPC zoning district were inconsistent with the 2018 Sussex County certified comprehensive plan, a comprehensive plan amendment would be required.

In December of 2021 Sussex County submitted a comprehensive plan amendment, which was reviewed as PLUS 2021-12-12, to change the Future Land Use of parcels 334-4.00-34.00,

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235-27.00-11.00, 12.00, 12.01, 13.00, and 14.00. These parcels consisted of approximately 637 acres. The County proposed to change the Future Land Use Map designation on these parcels from Low Density to Coastal. In our PLUS response letter dated January 13, 2022, the Office of State Planning noted that DelDOT would soon begin a Coastal Corridors study that would consider transportation issues along the Route 9 corridor. Considering the impacts a comprehensive plan amendment of this size could have on the surrounding area, the Office of State Planning thought it would be inappropriate for the County to approve this amendment before that study is complete. An amendment of this size should be discussed during the study to determine the effects it would have on the Route 9 corridor and the surrounding road network. In the letter the State also reserved the right to formally object to this amendment in accordance with Title 29, Section 9103 of the Del. Code but did not formally object at the time of the PLUS review to provide the opportunity for the County to pursue a collaborative planning process for the area. This amendment was tabled by the applicant and to our knowledge has not been considered by the County to date.

In January of 2023 the state reviewed another version the subdivision plan as PLUS 2023-01-04. This application added an additional parcel, 235-27.00-14.00. This application also increased the non-residential square footage to 125,125 sq. ft. The state comments related to the 2020 Strategies for State Policies and Spending were similar to the prior reviews of this property. In the February 22, 2023 PLUS response letter this office noted that the developer has submitted a Traffic Impact Study (TIS) to DelDOT for review. The TIS was based on a conceptual site and subdivision plan located in Investment Level 4 and remained inconsistent with the Sussex County Comprehensive Plan. The analysis in the TIS presupposed that the comprehensive plan amendment would be adopted by Sussex County, the requested zoning designation granted, and that there was no objection from the State through the provisions of Title 29, Section 9103 of the Del. Code. With this in mind, the TIS was completed at the risk of the developer and the results of the TIS and the anticipated improvements preliminary and could change based on the outcomes of future public planning processes involving both the State and the County, and also due to changes to the site plan moving forward.

The project being reviewed at this time again raises the non-residential square footage from 125,125 sq. ft. to 400,000 sq. ft. The proposed development of this project in this location is inconsistent with both the 2020 Strategies for State Policies and Spending and the 2018 Sussex County Comprehensive Plan. This area continues to be in a Low Density area according to the 2018 Sussex County Comprehensive Plan. In addition, it remains in an Investment Level 4 area according to the Strategies for State Policies and Spending. The State encourages the County to follow the 2018 Sussex County Comprehensive plan rather than considering incremental rezonings and development proposals such as this one. A coordinated overall approach is needed to plan for environmental and transportation impacts of development along this corridor. A good start to this coordination is DelDOT's

Coastal Corridors study, which has not finalized the recommendations for the Route 9 corridor at this time. The State encourages the County to table this and other development in this area until the Coastal Corridor study is complete and the County can begin a coordinated community planning effort with local and state agencies to address the cumulative impact to the surrounding area and road corridors.

It is for these reasons that the State remains opposed to the rezoning of these parcels and the development of this project. The PLUS comments associated with the prior PLUS reviews of these parcels for rezonings, site plans, and the associated comprehensive plan amendment (PLUS 2021-12-12) still stand and are added to by the comments in this letter. Please note that the State reserves the option to formally object to the comprehensive plan amendment associated with this rezoning request in accordance with Title 29, Section 9103 of the Del. Code.

Strategies for State Policies and Spending

This project represents a major land development that will result in almost 2000 residential units and 400,000 sq. ft. of commercial in an Investment Level 4 area according to the *2020 Strategies for State Policies and Spending*. This project is also located within a Low Density area according to the 2018 Sussex County certified comprehensive plan.

Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4. These areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.

From a fiscal responsibility perspective, development of this site is likewise inappropriate. The cost of providing services to development in areas where state and local comprehensive plans have no plans for infrastructure or services to support unplanned development is an inefficient and wasteful use of the State's fiscal resources. The project as proposed will bring a new residential development to an area where the State is working to determine the investments needed to maintain the safety of the current road network based on the development that was planned in the 2018 comprehensive plan, not additional unplanned growth. In this effort, DelDOT is continuing to study the Route 9 Corridor under the Coastal Corridors study area to determine what Road improvements are needed along the Route 9 Corridor to meet the needs of the existing, approved, and planned development in the area including the improvements needed for the Henlopen TID.

The intended development will need access to services and infrastructure such as police, emergency services, transportation improvements and roadway maintenance. To provide some examples, the State government funds 100% of road maintenance and drainage improvements for the transportation system, and 100% of the cost of police protection in the

unincorporated portion of Sussex County where this development is proposed. Over the longer term, the unseen negative ramifications of this development will become even more evident as the cost of maintaining infrastructure and providing services increases.

In addition, the development of this site may have the following environmental and archaeological impacts:

- DNREC reviewers have concerns about environmental impacts of this project. Preliminary plans propose the removal of 104 acres of forest (some of which is likely mature) and will negatively impact Key Wildlife Habitat as identified in the Delaware Wildlife Action Plan
- The proposed project is adjacent to a property protected through the State's Agricultural Lands Preservation Program (Littlefield District S-96-03-071-3 Parcel# 235-27.00-1.01). Therefore, the activities conducted on this preserved property are protected by the agricultural use protections outlined in Title 3, Del. C., Chapter 9. These protections effect adjoining developing properties. The 300 foot notification requirement affects all new deeds in a subdivision located in whole or part within 300 feet of an Agricultural District/Easement.
- There is an archaeological site known as the Cool Spring Site on the northeastern part of parcel number 235-27.00-11.00. Multiple previously recorded archaeological and above ground sites are located within the project area.
- The forested area on the western side of parcel 235-27.00-13.00 lies immediately adjacent to a much larger contiguous forest complex within the Broadkill River Natural Area. Natural areas contain lands of statewide significance identified by the Governor's Natural Areas Advisory Council as containing a high quality of natural features unique to Delaware.
- Development of this site is anticipated to displace local wildlife. Delaware is home to a rich array of wildlife species, which greatly depend on forests and other habitat types for food, water, and cover. The early successional forest and coastal plain stream that lie on this property are also mapped as Key Wildlife Habitat in the Delaware Wildlife Action Plan.
- Removing large expanses of forested lands and altering natural habitat is known to increase water temperature, impact the forage base for many fish species, and directly impact fish nursery areas. Martin Branch flows through this parcel, where fish species associated with good water quality have been documented in this stream. Fish species documented during cursory surveys of Martin Branch include the brown bullhead, chain pickerel, eastern mudminnow, pirate perch, and tessellated darter. In addition, the blackbanded sunfish, a state-endangered fish, was documented downstream in Red Mill

Pond. There are also freshwater gamefish species in Red Mill Pond, which support recreational angling. Forests contained within this entire watershed are integral to the health of aquatic habitats due to their ability to capture, filter, and retain water. Forest removal results in increased nutrients and pollutants that reach streams from stormwater run-off when natural vegetation is replaced with lawns and paved areas

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

Code Requirements/Agency Permitting Requirements

Department of Transportation – Contact Stephen Bayer 302-760-4834

In addition to the Office of State Planning's comments on the rezoning, DeIDOT offers the following comments that would apply to the proposed development of the property regarding to the site plan:

- Because the site fronts on US Route 9, which is part of the Delaware Bayshore Byway, it is subject to outdoor advertising regulations found in 17 Del. C. §1101-1120. Accordingly, the applicant should expect the following requirements:
 - No new billboards, variable message boards, or electronic changing message sign(s) anywhere on or off US Route 9 within 660 feet of the closest right-of-way edge.
 - No off-premises advertising on the property for others within 660 feet of the closest right-of-way edge of US Route 9, e.g., displaying on-site the bank/financial institution funding the project or the contractor building the project.
- The site accesses on Lewes Georgetown Highway (US Route 9), Cool Spring Road (SCR 290), Log Cabin Hill Road (SCR 247), and Hudson Road (SCR 258) must be designed in accordance with DeIDOT's Development Coordination Manual, which is available at <http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes>.
- Pursuant to Section 1.3 of the Manual, a Pre-Submittal Meeting is required before plans are submitted for review. The form needed to request the meeting and guidance on what will be covered there and how to prepare for it is located at https://www.deldot.gov/Business/subdivisions/pdfs/Meeting_Request_Form.pdf?08022017.

- This proposed project and its developer have previously met with the department regarding a Traffic Impact Study. Please continue to correspond with DeIDOT to finalize any adjustments necessary in order to secure any and all required approvals and permits.
- Section 1.6 of the Manual addresses principles for the location of site entrances. DeIDOT does not anticipate allowing the parking lot access on Cool Spring Road, just south of the four legged site access intersection approximately 1,600 feet north of the intersection of Cool Spring Road and US Route 9. The entrance on US Route 9 west of the intersection with Cool Spring Road is not shown to be lined up with the commercial entrance on the south side of Route 9 as stated in the final TIS review letter.
- Section 1.7 of the Manual addresses fees that are assessed for the review of development proposals. DeIDOT anticipates collecting the Initial Stage Fee when the record plan is submitted for review and the Construction Stage Fee when construction plans are submitted for review.
- Per Section 2.2.2.1 of the Manual, Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day.

The plan submitted to PLUS and the items identified in the TIS are not consistent. Although some of the land uses have changed from the TIS, the primary site trips have not increased from what was analyzed during the TIS and further analysis based on trip generation is not warranted. TIS items will be discussed during the Pre-Submittal meeting.

The purpose of a TIS, per DeIDOT regulations, is to determine the offsite improvements for which the developer should be responsible to build or contribute toward. In addition to the offsite improvements identified in the TIS, DeIDOT anticipates requiring the developer to improve US Route 9, Cool Spring Road, Log Cabin Hill Road, Hudson Road, and Josephs Road (SCR 281) within the limits of their frontage, to meet DeIDOT's standards associated with their Functional Classifications. US Route 9 is a Principal Arterial, for which the standard includes 12-foot lanes and 8-foot shoulders. Hudson Road is a Minor Collector, for which the standard includes 12-foot lanes and 8-foot shoulders. Cool Spring Road, Log Cabin Hill Road and Josephs Road are Local Roads, for which the standard includes 11-foot lanes and 5-foot shoulders. Frontage, as defined in Section 1.8 of the Manual, includes the length of roadway perpendicular to lines created by the projection of the outside parcel corners to the roadway.

Questions regarding the requirement to improve the site frontage should be directed to the Sussex County Review Coordinator, Mr. Kevin Hickman. Mr. Hickman may be reached at Kevin.Hickman@delaware.gov or (302) 760-2461.

- As necessary, in accordance with Section 3.2.5 and Figure 3.2.5-a of the Manual, DelDOT will require dedication of right-of-way along the site's frontage. By this regulation, this dedication is to provide a minimum of 50 feet of right-of-way from the physical centerline of US Route 9. By this regulation, this dedication is to provide a minimum of 40 feet of right-of-way from the physical centerline of Hudson Road. By this regulation, this dedication is to provide a minimum of 30 feet of right-of-way from the physical centerline of Cool Spring Road. By this regulation, this dedication is to provide a minimum of 30 feet of right-of-way from the physical centerline of Log Cabin Hill Road. By this regulation, this dedication is to provide a minimum of 30 feet of right-of-way from the physical centerline of Josephs Road. The following right-of-way dedication note is required, **"An X-foot wide strip of right-of-way from the centerline is hereby dedicated in fee simple to the State of Delaware, acting by and through the Delaware Department of Transportation."**
- In accordance with Section 3.2.5.1.2 of the Manual, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage. The location of the easement shall be outside the limits of the ultimate right-of-way. The easement area can be used as part of the open space calculation for the site. The following note is required, **"A 15-foot wide permanent easement is hereby dedicated in fee simple to the State of Delaware, acting by and through the Delaware Department of Transportation."**
- Referring to Section 3.4.2.1 of the Manual, the following items, among other things, are required on the Record Plan:
 - A Traffic Generation Diagram. See Figure 3.4.2-a for the required format and content.
 - Depiction of all existing entrances within 600 feet of the proposed entrances on US Route 9, 450 feet of the proposed entrances on Harbeson Road, 600 feet of the proposed entrances on Log Cabin Hill Road, and 600 feet of the proposed entrances on Cool Spring Road.
 - Notes identifying the type of off-site improvements, agreements (signal, letter) contributions and when the off-site improvements are warranted.

- Section 3.5 of the Manual provides DelDOT's requirements with regard to connectivity. The requirements in Sections 3.5.1 through 3.5.3 shall be followed for all development projects having access to state roads or proposing DelDOT maintained public streets for subdivisions. DelDOT anticipates recommending that the County require a stub street to the property line to line up with the sub street proposed on the plan for Tax Parcel No. 235-27.00-11.01 for a future interconnection. DelDOT anticipates recommending the County require a stub street from Cool Spring Road to the northern property line.
- Section 3.5.4.2 of the Manual addresses requirements for Shared Use Paths (SUP) and sidewalks. For projects in Level 3 and 4 Investment Areas, installation of paths or sidewalks along the frontage on State-maintained roads is required where there is an existing path with which to connect. Installation of paths or sidewalks along the frontage on State-maintained roads is required for all projects that generate a total of 2,000 average daily trips or more.
- Section 3.5.4.3 of the Manual addresses walkways, non-residential developments shall provide a system of internal pedestrian connections to encourage safe and convenient pedestrian movement within the site. These pedestrian connections, known as walkways, shall also link the site with the public street sidewalk, transit facilities and shared-use trail system, where they exist. Non motorized access as stated in the TIS letter is not shown to each school and commercial site.
- Section 3.5.4.4 of the Manual addresses accessways, paved pathways connecting a sidewalk or path along a road frontage to an internal sidewalk or path.
- Referring to Section 3.5.5 of the Manual, existing and proposed transit stops and associated facilities as required by the Delaware Transit Corporation (DTC) or DelDOT shall be shown on the Record Plan. DTC anticipates requiring one pair of Type 2 shelter pad 17x8 stops on Cool Spring Road, and a second pair of Type 2 shelter pad 17x8 stops on US Route 9 near the access to the west of the intersection with Cool Spring.
- Because the proposed development is to be constructed in proximity to a road with a functional classification of principal arterial, specifically US Route 9, the developer will be required to perform a noise analysis in accordance with DelDOT's Noise Policy, found in Section 3.6 of the Manual and may be required to provide noise abatement for residents based on that analysis.
- In accordance with Section 3.8 of the Manual, storm water facilities, excluding filter strips and bioswales, shall be located a minimum of 20 feet from the ultimate State right-of-way along US Route 9, Cool Spring Road, Log Cabin Hill Road, Hudson Road, and Josephs Road.

- Sections 5.1.5.1 and 5.1.5.2 of the Manual address requirements for the design of State-maintained subdivision streets that are, respectively, permanent and temporary dead-end streets. On the basis of those standards, DelDOT recommends that cul-de-sac bulbs or other turnarounds be provided at the end of Cool Spring Road at the northern end of the property.
- In accordance with Section 5.2.9 of the Manual, the Auxiliary Lane Worksheet should be used to determine whether auxiliary lanes are warranted at the site entrances and how long those lanes should be. The worksheet can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>. DelDOT acknowledges that the site entrance at the intersection of Log Cabin Hill Road and Cool Spring Road will be a roundabout and the worksheet does not directly apply.
- In accordance with Section 5.4 of the Manual, sight distance triangles are required and shall be established in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards. A spreadsheet has been developed to assist with this task. It can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>.
- In accordance with Section 5.14 of the Manual, all existing utilities must be shown on the plan and a utility relocation plan will be required for any utilities that need to be relocated.
- Questions regarding the requirement abandonment/vacation and or closure of an existing road, as referred to in Section 8.10 of the Manual, should be directed to Mr. Robby Brown in DOTs Right of Way. Mr. Brown may be reached at Robby.Brown@delaware.gov or (302) 760-2240.

DART First State – Contact Jared Kauffman 302-576-6062

- A pair of companion stops are need on US 9 at Cool Spring Rd.
 - Westbound, a Type 2 (17x8) shelter pad placed far-side of Cool Spring Road
 - Eastbound, a Type 2 (17x8) shelter pad is preferable, but if Right-of-Way constraints deem it necessary, then a Type 2 5'x8' is adequate. Whether this stop is placed far-side or near-side of Cool Spring Road depends upon a pedestrian crossing of Cool Spring Road
- If a crossing is proposed or needed across US 9 at the western entrance, a pair of companion stops are needed on at this entrance on US 9. Both stops should be placed

far-side of the entrance and constructed as Type 2 (17x8) shelter pads.

- In order to encourage the use of non-motorized travel and accommodate those in need of affordable transportation, it is recommended to provide covered bicycle parking near the apartment buildings.

Department of Natural Resources and Environmental Control – Contact Beth Krumrine 302-735-3480

Disclaimer Clause: Staff from the Delaware Department of Natural Resources and Environmental Control (DNREC) reviewed the project submitted for PLUS review. The absence of comments regarding specific resources does not indicate that there are not additional constraints or environmental issues on site, nor does it indicate DNREC support of a project.

DNREC reviewers have concerns about environmental impacts of this project. Preliminary plans propose the removal of 104 acres of forest (some of which is likely mature) and will negatively impact Key Wildlife Habitat as identified in the Delaware Wildlife Action Plan, among other concerns as identified below. DNREC reviewers recommend that further steps are taken to reduce environmental impacts by following the recommendations outlined below.

Requirements Within the Development Footprint

Stormwater Management

This application proposes greater than 5000 square feet of land disturbing activities, therefore, this project will be subject to Delaware's *Sediment and Stormwater Regulations*.

- A Sediment and Stormwater Plan must be developed, then approved by the appropriate plan review agency prior to any land disturbing activity taking place on the site. For this project, the plan review agency is the Sussex Conservation District.
- Additionally, to address federal requirements, construction activities that exceed 1.0 acre of land disturbance require Construction General Permit coverage through submittal of an electronic Notice of Intent for Stormwater Discharges Associated with Construction Activity. This form must be submitted electronically (<https://apps.dnrec.delaware.gov/enoi/>), select Construction Stormwater General Permit) to the DNREC Division of Watershed Stewardship, along with the \$195 fee.
- Schedule a project application meeting with the appropriate plan review agency prior to moving forward with the stormwater and site design. As part of this process, you must submit a Stormwater Assessment Study.

Plan review agency contact: Sussex Conservation District at (302) 856-2105 or (302) 856-7219.

Website: <https://www.sussexconservation.org/>

General stormwater contact: DNREC Sediment and Stormwater Program at (302) 739-9921.

E-mail: DNREC.Stormwater@delaware.gov.

Website: <https://dnrec.delaware.gov/watershed-stewardship/sediment-stormwater/>

Wetlands and Subaqueous Lands

Maps from the Statewide Wetlands Mapping Project indicate the presence of freshwater forested wetlands on the site. The application indicates that wetlands have been delineated, with 29.6 acres of wetlands present on the site according to the project application.

- As proposed, do not disturb wetlands. State permits from the DNREC Wetlands and Subaqueous Lands Section may be necessary if plans change and dredge or fill is proposed in tidal wetlands, streams, or State Subaqueous Lands.
- Federal permits from the U.S. Army Corps of Engineers may also be necessary if dredge or fill is proposed in non-tidal wetlands or streams.

Federal Contact: U.S. Army Corps of Engineers (Dover Office) at (267) 240-5278.

Website: <https://www.nap.usace.army.mil/Missions/Regulatory/Contacts/>

State Contact: DNREC Wetlands and Subaqueous Lands Section at (302) 739-9943.

Website: <https://dnrec.delaware.gov/water/wetlands/>

Special Flood Hazard Area

The southeastern portion of this site lies within a Special Flood Hazard Area. In lands contained within the 100-year floodplain, the National Flood Insurance Program's floodplain management regulations must be enforced through the local floodplain ordinance, which can have higher standards.

- As proposed, do not build lots or structures in the floodplain. The applicant must comply with the local floodplain ordinance and regulations applicable to development or construction within the 100-year floodplain. In determining the boundary of the floodplain, use the most recent FIRM maps available, which can be found at <https://floodplanning.dnrec.delaware.gov/>

Contact: DNREC Shoreline and Waterway Management Section at (302) 739-9921.

Website: <https://dnrec.delaware.gov/watershed-stewardship/waterways/floodplains/>

Wastewater Disposal Systems – Small Systems

The following permits exist for this site in the Small System Branch database:

- Active capping filled gravity system (permit #: 232270) under the tax parcel 235-27.00-13.00
- Active full depth gravity system (permit #: 239834) under the tax parcel 235-27.00-14.00
- Active full depth gravity system (permit #: 233513) under the tax parcel 334-4.00-34.00

The applicant must follow current regulations to properly abandon these systems. The On Site Regulation are listed within Section 5 (Small Systems) or Section 6 (Large Systems) of the Regulations Governing the Design, Installation and Operation of the On-site Wastewater Treatment and Disposal Systems at:

<https://documents.dnrec.delaware.gov/Water/Septics/delaware-on-site-regulations-with-exhibits.pdf>. A list of licensed Class D soil scientists can be found at the following website:

<https://data.delaware.gov/Energy-and-Environment/Class-D-Site-Evaluator-Licensees-Based-on-Licensed/6vjq-34rp>.

Contact the DNREC Groundwater Discharges Section to discuss requirements for properly abandoning these systems.

Contact: DNREC Groundwater Discharges Section at (302) 739-9947

Website: <https://dnrec.delaware.gov/water/residential/septic-systems/>

Nutrient Management Plan

This project proposes open space of 295 acres.

- A nutrient management plan is required for all persons or entities who apply nutrients to lands or areas of open space of 10 acres or more.

Contact: Delaware Department of Agriculture's Nutrient Management Program at (302) 698-4558.

Website: <https://agriculture.delaware.gov/nutrient-management/>

Delaware Department of Agriculture – Contact Milton Melendez 302-698-4500

- The proposed project is adjacent to a property protected through the State's Agricultural Lands Preservation Program (Littlefield District S-96-03-071-3 Parcel# 235-27.00-1.01). Therefore, the activities conducted on this preserved property are protected by the agricultural use protections outlined in Title 3, Del. C., Chapter 9. These protections effect adjoining developing properties. The 300 foot notification requirement affects all new deeds in a subdivision located in whole or part within 300

feet of an Agricultural District/Easement. Please take note of these restrictions as follows:

§ 910. Agricultural use protections.

(a) Normal agricultural uses and activities conducted in a lawful manner are preferred and priority uses and activities in Agricultural Preservation Districts. In order to establish and maintain a preference and priority for such normal agricultural uses and activities and avert and negate complaints arising from normal noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations, land use adjacent to Agricultural Preservation Districts shall be subject to the following restrictions:

(1) For any new subdivision development located in whole or in part within 300 feet of the boundary of an Agricultural Preservation District, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:

This property is located in the vicinity of an established Agricultural Preservation District in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."

(2) For any new subdivision development located in whole or in part within 50 feet of the boundary of an Agricultural Preservation District, no improvement requiring an occupancy approval shall be constructed within 50 feet of the boundary of the Agricultural Preservation District.

(b) Normal agricultural uses and activities conducted in accordance with good husbandry and best management practices in Agricultural Preservation Districts shall be deemed protected actions and not subject to any claim or complaint of nuisance, including any such claims under any existing or future county or municipal code or ordinance. In the event a formal complaint alleging nuisance related to normal agricultural uses and activities is filed against an owner of lands located in an Agricultural Preservation District, such owner, upon prevailing in any such action, shall be entitled to recover reasonably incurred costs and expenses related to the defense of any such action, including reasonable attorney's fees (68 Del. Laws, c. 118, § 2.).

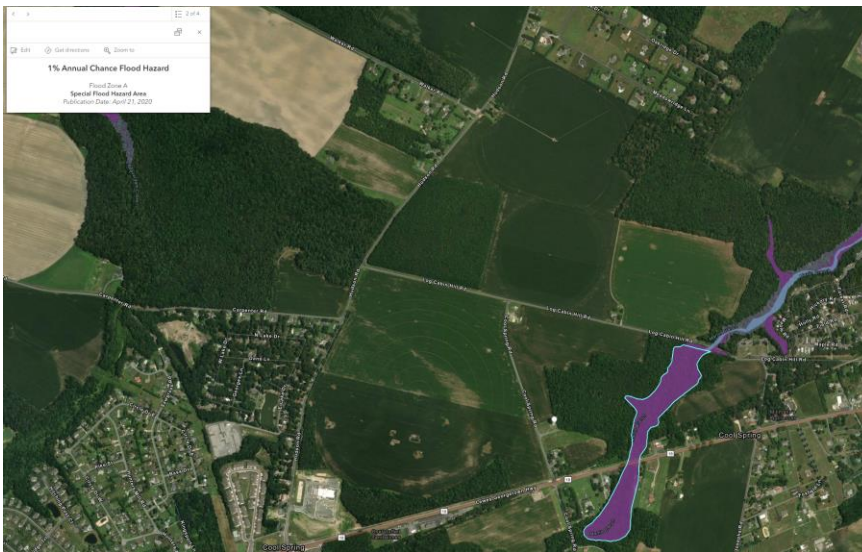
- In addition, if any wells are to be installed, Section 4.01(A)(2) of the Delaware Regulations Governing the Construction and Use of Wells will apply. This regulation states:

(2) For any parcel, lot, or subdivision created or recorded within fifty (50) feet of, or within the boundaries of, an Agricultural Lands Preservation District (as defined in Title 3, Del. C., Chapter 9); all wells constructed on such parcels shall be located a minimum of fifty (50) feet from any boundary of the Agricultural Lands Preservation District. This requirement does not apply to parcels recorded prior to the implementation date of these Regulations. However, it is recommended that all wells be placed the maximum distance possible from lands which are or have been used for the production of crops which have been subjected to the application of land applied federally regulated chemicals.

Delaware Emergency Management Agency – Contact Phillip Cane 302-659-2325

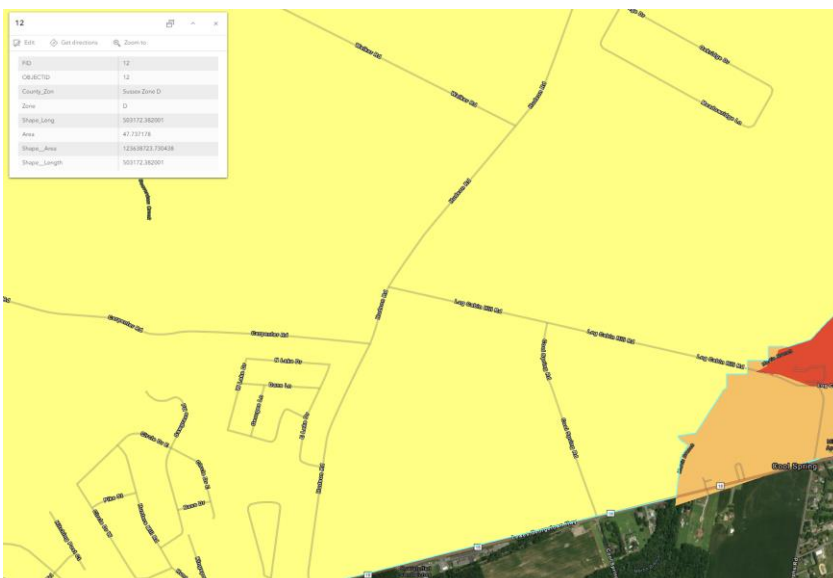
Proposed Project Parcel Flood Concern

The majority of this project is located within an area of **Minimal Flood Concern of 1000 years or greater**. However, there is a flood zone from the Martin Branch subwatershed that stretches between route 18 and Log Cain Hill Road. In particular regarding the Special Flood Hazard Area, there is both a Regulatory Floodway identified as a Flood Zone AE and a Flood Zone A which is a 1% annual chance flood or 100-year floodplain.



Parcel Status within County Evacuation Zone Location

- The parcel is located within Sussex County Evacuation Zone D.



Parcel Status within the 10-mile Emergency Planning Zone (EPZ) for the Salem Nuclear Power Plant

- The parcel **is not** located within the 10-mile EPZ for the Salem Nuclear Power Plant.

State Historic Preservation Office – Contact Carlton Hall 302-736-7400

- The Delaware SHPO does not recommend or support development in Level 4 areas. There is an archaeological site known as the Cool Spring Site on the northeastern part of parcel number 235-27.00-11.00. Multiple previously recorded archaeological and above ground sites are located within the project area.
- In addition, historic maps indicate structures associated with the parcels in question. Historic roads adjacent to the project area also carry an increased potential for historic archaeological resources remaining within the parcels.
- There is also high potential for precontact resources based on the presence of well drained soils, stable landforms, and close proximity to fresh water. These are all environmental factors that would have been attractive to precontact peoples.
- Finally, multiple cemeteries have been reported in the project area, and are potentially not fully delineated. Due to the increased potential for human remains, a high potential for historic and precontact archaeological resources, and the seemingly minimal disturbance evident across the majority of the project area, the DE SHPO would recommend archaeological survey prior to any ground disturbing activity. If any project or development proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law (Del. C. Title 7, Ch. 54).

Delaware State Fire Marshall's Office – Contact Duane Fox 302-739-4394

This document is for information purposes only and does not constitute any type of approval from the Delaware State Fire Marshal's Office.

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 (DSFPR):

Fire Protection Water Requirements

- Water distribution system capable of delivering at least 1500 gpm for 2-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers. (Mercantile)

- 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. (Assembly, Apartment, and Townhouses)
- Where a water distribution system is proposed for single-family dwellings, it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 800 feet spacing on centers are required. (One & Two- Family Dwelling)
 - **One- and Two-Family dwellings are required by law to offer the homeowner an automatic sprinkler system, therefore infrastructure should accommodate water needs.**
- Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

Fire Protection Features

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq. ft, 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR
- 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 Log Cabin Hill Rd, Lewes Georgetown Hwy, Cool Springs Rd, Hudson Rd, and Walker Rd must be constructed so fire department apparatus may negotiate it.

- 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.

Gas Piping and System Information

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

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
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Townhouse 2-hr separation wall details shall be shown on site plans
- Note indicating if building is to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

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 Stephen Bayer 302-760-4834

- The DelDOT Coastal Corridors Study is evaluating “East-West” movements primarily across the northern portion of Sussex County along Delaware Routes 16 and 404 and US Route 9. Impacts to the local road system are also being examined. The study is collecting and evaluating data on how traffic enters and exits Delaware from Route 404 in Maryland and other points west of the state line and travels to and from the eastern portion of Sussex County. The study is evaluating the amount, time of day, and time of year for various components of “through traffic” (with an origin or destination on either side of the Bay Bridge) and “local traffic” (with an origin or destination primarily within the northern Sussex County study area). When completed, the study will present recommendations for a range of improvements including:
 - short term projects able to be completed within DelDOT’s existing programs within 3-4 years,
 - medium term projects able to be designed and constructed within 5-8 years, and
 - longer term projects likely to take 10 years or more to study, design, and initiate.

Any entrances along the identified corridors (Delaware Routes 16 and 404 and US Route 9) may be addressed in the study from this point forward to the final recommendations as they are developed, and may include consolidated entrances, alternative entrances on other roads, or in a service road access model arrangement. DelDOT’s initial findings in conducting the study include a future need to widen US Route 9.

- The applicant should expect a requirement that any substation and/or wastewater facilities will be required to have access from an internal driveway with no direct access to US Route 9, Cool Spring Road, Log Cabin Hill Road, Hudson Road, and Josephs Road.
- The applicant should expect a requirement that all PLUS and Technical Advisory Committee (TAC) comments be addressed prior to submitting plans for review.
- Please be advised that the Standard General Notes have been updated and posted to the DelDOT website. Please begin using the new versions and look for the revision dates of March 21, 2019 and March 16, 2022. The notes can be found at <https://www.deldot.gov/Business/subdivisions/>

Department of Natural Resources and Environmental Control – Contact Beth Krumrine 302-735-3480

Mature Forest

The revised site plan proposes the elimination of approximately 104 of 208 acres of forest on the site. An analysis of historical data indicates that the forest areas located on parcels 235-27.00-11.00, 235-27.00-12.00, and 235-27.00-13.00, have likely maintained some degree of forest cover since 1937 and could be considered mature forest. Mature forests possess the potential for rare, threatened, or endangered species that rely on this type of habitat.

- Removing forests for development, especially mature forests, should be avoided to the maximum extent possible. Forests filter water for improved water quality, provide habitat for wildlife, absorb nutrients, infiltrate stormwater, moderate temperatures, and store atmospheric carbon which would otherwise contribute to climate change.
- A forest assessment should be conducted to determine if mature forest exists on the property and to delineate the boundary. Additionally, a forest assessment would include the identification of specimen trees and forest-dependent wildlife. If mature forests are found, these areas should be conserved to the maximum extent practicable.
- To reduce impacts to nesting birds and other wildlife species that utilize forests for breeding, it is recommended that tree clearing not occur from April 1st to July 31st. This clearing recommendation would only protect those species during one breeding season because once trees are cleared, the result is an overall loss of habitat and displacement of wildlife. Likewise, avoid mowing open space areas and grass filter strips during the same timeframe, as various species of birds utilize these areas for nesting sites.
- Investigate dedicating such areas as a nature preserve through a conservation easement or donation of land. Contact the DNREC Office of Nature Preserves for more information.

Contact for information on forest habitat: DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600.

Website: <https://dnrec.delaware.gov/fish-wildlife/conservation/>

Contact for nature preserves: DNREC Division of Parks and Recreation, Office of Nature Preserves at (302) 739-9039.

Website: <https://dnrec.delaware.gov/parks/natural-areas/>

Natural Areas

The forested area on the western side of parcel 235-27.00-13.00 lies immediately adjacent to a much larger contiguous forest complex within the Broadkill River Natural Area. Natural areas contain lands of statewide significance identified by the Governor's Natural Areas Advisory Council as containing a high quality of natural features unique to Delaware.

- As proposed, implement a buffer of 100 feet or greater between the Broadkill River Natural Area and all lots, houses, structures etc.

Contact for natural areas: DNREC Division of Parks and Recreation, Office of Nature Preserves at (302) 739-9039.

Website: <https://dnrec.delaware.gov/parks/natural-areas/>

Vegetated Buffer Zones

As proposed, do not disturb wetlands. Implement a vegetated buffer of 100 feet or greater from wetlands and waterways consistently throughout the site.

- Vegetated buffer zones should be left undisturbed during construction and should be identified outside of the Limit of Disturbance on the engineering plans. In some instances, stormwater outfalls, conveyances, and emergency spillways may cross through these zones, and will require temporary disturbance during construction.
- Vegetated buffer zones should be deeded as community open space and not contained within any lot lines. Signage should be installed at the edge and within the buffer zones to deter residents from encroaching into these common areas.
- Maintain vegetated buffer zones as either grasslands/meadows or forest. Buffer zones should be planted exclusively with native trees and plants. Native plants are well-suited to our climate and require limited maintenance. They also provide an increasingly important role in the survival of native birds and beneficial insects whose habitat is shrinking due to development and climate change.
- Grass cutting for vegetated buffer zones if maintained as meadow should not occur between April 1st to July 31st to reduce impacts to nesting birds and other wildlife species that utilize meadows and grasslands for breeding habitat.

Contact: DNREC Wildlife Species Conservation & Research Program at (302) 735-3600.

Website: <https://dnrec.delaware.gov/fish-wildlife/contact-information/>

Site Visit Requested

DNREC Division of Fish and Wildlife scientists have not surveyed this project area, therefore, information pertaining to rare habitats and rare or endangered species cannot be provided at this time. To provide informed comments, scientists from the Species Conservation and Research Program request the opportunity to conduct a survey of the property at no expense to the landowner.

- Recommendations resulting from the survey would allow the applicant the opportunity to reduce potential impacts to rare species and unique habitats, and to ensure that the project is environmentally sensitive.
- Please contact the Species Conservation and Research Program if the landowner will grant a site visit.

Contact: DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600.

Website: <https://dnrec.delaware.gov/fish-wildlife/conservation/>

Key Wildlife Habitat

Development of this site is anticipated to displace local wildlife. Delaware is home to a rich array of wildlife species, which greatly depend on forests and other habitat types for food, water, and cover. The early successional forest and coastal plain stream that lie on this property are also mapped as Key Wildlife Habitat in the Delaware Wildlife Action Plan. Key Wildlife Habitat should be conserved to the maximum extent practicable and negative impacts should be minimized.

Contact: DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600.

Website: <https://dnrec.delaware.gov/fish-wildlife/conservation/>

Potential Impacts to Fisheries

- Removing large expanses of forested lands and altering natural habitat is known to increase water temperature, impact the forage base for many fish species, and directly impact fish nursery areas. Martin Branch flows through this parcel, where fish species associated with good water quality have been documented in this stream. Fish species documented during cursory surveys of Martin Branch include the brown bullhead, chain pickerel, eastern mudminnow, pirate perch, and tessellated darter. In addition, the blackbanded sunfish, a state-endangered fish, was documented downstream in Red Mill Pond. There are also freshwater gamefish species in Red Mill Pond, which support recreational angling.

- Forests contained within this entire watershed are integral to the health of aquatic habitats due to their ability to capture, filter, and retain water.
- Forest removal results in increased nutrients and pollutants that reach streams from stormwater run-off when natural vegetation is replaced with lawns and paved areas.

Contact: DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600.

Website: <https://dnrec.delaware.gov/fish-wildlife/conservation/>

Mosquitoes

The project is expected to be impacted by mosquitoes due to its location near large expanses of wetlands. Mosquito control issues are increasing as developments infringe on wetland areas, often leading to increased demands for mosquito control services beyond what DNREC has the resources to provide.

- If necessary, arrange for long-term mosquito control services through a private company licensed in this area of specialty. In some cases, the DNREC Mosquito Control Section may be able to provide these services free of charge.

Contact: DNREC Division of Fish and Wildlife, Mosquito Control Section at (302) 739-9917.

Website: <https://dnrec.delaware.gov/fish-wildlife/mosquito-control/>

Drainage

- All existing drainage ditches on the property should be evaluated for function and cleaned, if needed, prior to the construction of the project.
- Environmental permits or exemptions may be required by the County Conservation District (Standard Plan), the DNREC Sediment and Stormwater Program (eNOI/NOT), Army Corp of Engineers, and/or DNREC Wetlands and Subaqueous Lands Section prior to clearing and/or excavating ditch channels.
- All precautions should be taken to ensure the project does not hinder any off-site drainage upstream of the project or create any off-site drainage problems downstream by the release of on-site storm water.

Contact: DNREC Drainage Program at (302) 855-1930.

Website: <https://dnrec.delaware.gov/drainage-stormwater/>

Additional Sustainable Practices

The following information provides general recommendations for energy efficiency and other sustainable practices. Implementing these options alone will not provide adequate environmental protection. In summary, changes that incorporate greater forest protection should be key in moving forward with the planning phase of this project.

- Near community facilities, educational facilities, and rental units, install electric vehicle (EV) charging stations in parking areas. The DNREC Division of Climate, Coastal and Energy offers rebates of up to 90% of the cost of the charging station for commercial, multi-unit dwelling and other public properties. These programs address climate change goals of reducing greenhouse gas emissions and improving overall air quality (<https://dnrec.delaware.gov/climate-coastal-energy/clean-transportation/>).
- For single residential lots, build garages to be “EV-ready”. Installing a 240-volt outlet in one or two locations in a garage will enable a resident to easily (and cheaply) install a level 2 electric vehicle charger. Increasingly, residents will expect EV charging and EV-readiness will be a selling point for homes. Installation costs can vary significantly depending on the parking and electricity distribution at a given location, so it is often easier and cheaper to plan for the installation at construction, rather than doing costly retrofits later.
- Use renewable energy infrastructure such as solar or geothermal on community buildings to reduce energy costs and further reduce pollution created from offsite generation. Additionally, offer the option to install solar or geothermal systems for each home. This allows a purchaser to incorporate the cost into their mortgage, making it more affordable. Grant funds and incentives are available for Delmarva Power customers through the DNREC Green Energy Fund, which includes several funding types through the state’s major electric utilities (<https://dnrec.delaware.gov/climate-coastal-energy/renewable/assistance/>).
- Include space for recycling dumpsters within the preliminary site design stage. These can be placed adjacent to trash dumpsters.
- Incorporate nonmotorized connectivity and install bicycle racks where feasible to help facilitate non-vehicular travel modes.
- Use efficient Energy Star rated products and materials in construction and redevelopment. Energy efficient appliances use less energy over time. This saves consumers and businesses money, while also helping to reduce pollution from power generation.

- Use structural paint coatings that are low in Volatile Organic Compounds to help protect air quality. Air pollution from new construction is generated through the use of maintenance equipment, paints, and consumer products like roof coatings and primers.
- Use recycled materials, such as reclaimed asphalt pavement, to reduce heat island effects on paved surfaces, prevent landfill waste, and lower material costs.

Contact: DNREC Division of Climate, Coastal & Energy at (302) 735-3480.

Website: <https://dnrec.delaware.gov/climate-coastal-energy/>

Delaware Department of Agriculture – Contact Milton Melendez 302-698-4500

- The proposed development is in an area designated as Level 4 under the Strategies for State Policies and Spending. The consideration of an isolated development of this magnitude, is inconsistent with the methodical comprehensive growth of the area. The Department of Agriculture opposes the proposed development which conflicts with the preferred land uses, making it more difficult for agriculture and forestry to succeed, and increases the cost to the public for services and facilities.

More importantly, the Department of Agriculture opposes this project because it negatively impacts those land uses that are the backbone of Delaware's resource industries - agriculture, forestry, horticulture - and the related industries they support. Often new residents of developments like this one, with little understanding or appreciation for modern agriculture and forestry, find their own lifestyles in direct conflict with the demands of these industries. Often these conflicts result in compromised health and safety; one example being decreased highway safety with farm equipment and cars competing on rural roads. The crucial economic, environmental and open space benefits of agriculture and forestry are compromised by such development. We oppose the creation of isolated development areas that are inefficient in terms of the full range of public facilities and services funded with public dollars. Public investments in areas such as this are best directed to agricultural and forestry preservation.

The Delaware Department of Agriculture supports growth which expands and builds on existing urban areas and growth zones in approved State, county and local plans. Where additional land preservation can occur through the use of transfer of development rights, and other land use measures, we will support these efforts and work with developers to implement these measures.

- The Department of Agriculture strongly encourages the developer to work with the Department's Forestry Section during the design and implementation of the project to

plant an effective forested buffer between the proposed residential development and existing preserved properties. It is important that suitable tree species be selected and planted to create an effective mitigation barrier between this new development and the existing agricultural operation enrolled in the Agricultural Lands Preservation Program. This farm generates dust, noise and odors that new residents may not be familiar with.

Delaware Emergency Management Agency – Contact Phillip Cane 302-659-2325

Population

- The county has a population density of 265.60 per square mile based on the US 2020 Census report; an increase from 2010 at 208.90 persons per square mile.
- The specific census block(s) the project is located on has a total population of 30, though, with development, this will undoubtedly change.
- The 15 adjacent blocks aggregate bring the area to a total population of 1938.

FEMA National Risk Index

- The FEMA National Risk Index is an online mapping application that identifies communities most at risk to 18 natural hazards: Avalanche, Coastal Flooding, Cold Wave, Drought, Earthquake, Hal, Heat Wave, Hurricane, Ice Storm, Landslide, Lightning, Riverine Flooding, Strong Wind, Tornado, Tsunami, Volcanic Activity, Wildfire, and Winter Weather. The FEMA National Risk Index is calculated by multiplying the Expected Annual Loss times the Social Vulnerability and dividing that by the Community Resilience.

$$\begin{aligned} & \text{Expected Annual Loss} \\ & \times \text{ Social Vulnerability} \\ & \div \text{ Community Resilience} \\ \hline & = \text{Risk Index} \end{aligned}$$

- According to FEMA's National Risk Index, the parcel is considered **relatively low** for overall natural hazards risks.
- Community Resilience is a consequence reduction risk component and a community risk factor that represents the ability of a community to prepare for anticipated natural hazards, adapt to changing conditions and withstand/recover rapidly from disruptions. Social Vulnerability is a consequence-enhancing risk factor that represents the susceptibility of social groups to the adverse impacts of natural hazards.

- Its community resilience is rated as **relatively moderate** whereas its social vulnerability is rated as **relatively low**.

Renewable Energy Commitment

- Regarding energy use and consumption, the parcel utilizes **electricity** as the predominant fuel type for heating purposes, the the surrounding areas do use natural/utility gas.
- DEMA strongly encourages the use of renewable energies and high-efficiency appliances and utilities. Regarding utilities, DEMA suggests incorporating 90% series furnaces/HVAC systems; the closer to 99%, the better, as well as A/C units of 20 Seer or greater. DEMA recommends using tankless water heaters, and battery backup systems for sump pumps to reduce potential water damage from power failure.
- Lastly, DEMA encourages the integration of modern and emerging technologies, such as the potential for electric vehicles in garages/parking lots, green roofs where applicable and allowable, and the like.

DEMA Notes

- In reference to the floodplain, it doesn't appear that any lots/zones are being built directly within; however, some may be adjacent to the area. In particular, based on the submitted colored master plan, all of the lots/zones that touch the greenage between sections B, C and F are in close proximity to these flood zones. DEMA does not recommend construction within close proximity to a floodplain as water knows no bounds; however, should construction continue, we recommend utilizing mitigation strategies to reduce the risk. This could include, but isn't limited to, wet/dry floodproofing, elevating mechanicals/HVAC/Electricity out of the flood waters, and other similar methods.
- Lastly, in reference to the evacuation zone, DEMA recommends the zone's designation and the information behind it be made readily available to all persons on the parcels, which can be done by simply placing a sign or having pamphlets readily accessible.

Delaware State Fire Marshall's Office – Contact Duane Fox 302-739-4394

- 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.

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,

A handwritten signature in black ink, appearing to read "D. Edgell". The signature is fluid and cursive, with a large initial "D" and a stylized "E".

David L. Edgell, AICP
Director, Office of State Planning Coordination

Attachments:

Sussex County Planning & Zoning Comments

Sussex County Community Development & Housing Comments

Sussex County Engineering Comments

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

Preliminary Land Use Service (PLUS) Meeting
December 20, 2023
December 2023 PLUS Comments
Sussex County Department of Planning & Zoning

I. Review and Discussion: Cool Spring (2023-01-04)

Location: North side of Lewes Georgetown Highway (Route 9) on the east side of Hudson Road (S.C.R. 258) and the west side of Josephs Road.

Project: Review of a proposed rezoning of five parcels to accommodate a proposed change of zone from AR-1 to MR-RPC to accommodate a development including (1922) residential housing units and (411,975) square feet of commercial, institutional, & office improvements on five parcels comprised of a total of 636.12 acres +/-.

Sussex County Department of Planning & Zoning Comments

The applicant is required to participate in a pre-application meeting with the County. Please contact the Planning and Zoning Department to schedule a pre-application meeting with staff to discuss the proposed project by calling (302) 855-7878 or you may reach out to Michael Lowrey at michael.lowrey@sussexcountyde.gov.

Following submission to the County, staff will review the Preliminary Site Plan, where more detailed comments will be provided to the Applicant. At the PLUS stage of review, staff wish to limit comments to high-level comments only.

Please note that the following are informal staff comments, and do not prejudice any decision that the Sussex County Planning & Zoning Commission may wish to make as part of any application submitted to the Department.

Tax Parcel ID(s): 235-27.00-11.00, 235-27.00-12.00, 235-27.00-13.00, 235-27.00-14.00, & 334-4.00-34.00

Zoning: The parcels are currently zoned Agricultural Residential (AR-1). The plan proposes a change of zone from Agricultural Residential (AR-1) to the Medium-Density Residential – Residential Planned Community (MR-RPC) District to accommodate single-family and multifamily dwellings totaling 1,922 units as well as (411,975) square feet of commercial. The proposal includes SCRP housing and will require a Conditional Use approval to allow for the multifamily structures, medical offices, and assisted living facility use portions of the Plan. Staff also note that the County is in the process of drafting a Master Plan Zone (MPZ) District which may serve as a possible option for plans of this scale and type which include commercial uses mixed with varying residential design forms.

Proposed: The project proposes rezoning of five parcels from (AR-1) to (MR-RPC) to accommodate 1,922 residential housing units and 125,125 square feet of commercial, institutional, & office improvements on five parcels comprised of 636.12 acres +/- . The proposed 1,922 residential units are comprised of 872 single-family and 1,050 multifamily units comprised of duplexes, quadplexes, townhomes, and villas. The proposed commercial improvements totaling 183,475 square feet include a grocery store, retail, restaurants, convenience store, bank, hotel (100 rooms), and theater. The proposed institutional, office, and other uses totaling (230,500) square feet include an assisted living facility, medical offices, an educational facility, and a YMCA.

Density: The proposed density of ≈ 3 dwelling units per acre complies with the Code requirements for residential improvement in an (MR-RPC) District which allows up to twelve (12) multifamily dwelling units per acre and two (2) single-family detached dwelling units per acre when serviced by a central sewer system (§115-34(A)) & (§115-188(D)). Please note any structure containing multifamily use is subject to all standards in (§115-188). Please note, under County Code, no overall actual outside wall dimension of a building shall exceed 170 feet and not more than eight dwelling units shall be included in any one building if the improvements are designed as townhouses (§115-188(D)(6)) & (§115-188(E)(1)).

Applicability to Comprehensive Plan: The project lies within the Rural Area classifications of “Low Density Area” (per the 2018 Comprehensive Plan). Low Density Areas are lands currently zoned AR-1 that the County “hopes to retain the rural environment” and “set aside significant open space” (2018 Sussex County Comprehensive Plan, 4-15). As part of this submission the Applicant also proposes amending the Future Land Use Element of the Comprehensive Plan relating to these parcels, changing the subject parcels from “Low Density Area” to a Growth Area classification of “Coastal Area.” This is necessary in order to accommodate the correlating proposed Change of Zone from AR-1 to MR, as the MR Zoning District is not listed as an applicable zoning district in Low Density Areas according to Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories” within Sussex County’s 2018 Comprehensive Plan Update (2018 Sussex County Comprehensive Plan, 4-25).

In Coastal Areas, the Plan encourages only the appropriate forms of concentrated new development, especially when environmental features are in play (2018 Sussex County Comprehensive Plan, 4-9). The Coastal Area designation is intended to recognize the characteristics of both anticipated growth and ecologically important and sensitive characteristics (2018 Sussex County Comprehensive Plan, 4-15). The Plan also notes that larger scale non-residential uses in Coastal Areas “should be confined to selected locations with access along arterial roads” and noting that more intense uses should be “near major intersections” (2018 Sussex County Comprehensive Plan, 4-15). The Plan also notes guidelines for density in areas classified Coastal Area, noting that a “density (4-12 units per acre) can be appropriate” where development can be supported by central water/sewer, a proximity to commercial and employment centers, or location along a main road or intersection (2018 Sussex County Comprehensive Plan, 4-16). Finally, the Plan notes that “a range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units.” (2018 Sussex County Comprehensive Plan, 4-15).



If the requested corollary amendment to reclassify the parcels as Coastal Area were to be approved by County Council, the proposed improvements could be seen as an appropriate use within a Medium-Density Residential - Residential Planned Community (MR-RPC) District. Conversely, staff note that a plan of this scale, with this number of residential units and commercial uses of varying intensity, may require revision to meet the review standards in (§115-125(A-C)) as they apply to civic design, landscaping, open space, resource protection, internal circulation, and/or character.

Open Space Provisions: The proposed plan includes 295 acres +/- (out of a total of 636.12 acres) of open space which equates to approximately 46% of the project site. Staff note that relatively little open space is provided adjacent to the residential improvements in the northwest portion of the Plan, when compared with the other residential clusters across the Plan. Staff recommend the Applicant consider revision to the design to include more areas of open space immediately adjacent to the units proposed on the western portion of Parcels 13.00 and 14.00.

Interconnectivity: Staff encourage interconnectivity between proposed developments in order to prevent only one-way-in, one-way-out access in the event that an emergency should occur on the property in the future. Staff have noted the proposed removal of the existing intersection connecting Log Cabin Hill Road (S.C.R. 247) and Hudson Road (S.C.R. 258) and no access to be provided onto Hudson Road with the primary entrance into the development at the intersection of Cool Spring Road and Route 9. Staff also note the increase in daily trips that will be associated with the proposal and encourage the Applicant to work closely with DelDOT regarding the design, configuration, and capacity of the primary entrance on Route 9 as well as the intersection of Log Cabin Hill Road and Sweetbriar Road (S.C.R. 261). Additionally, staff recommend the Applicant consider providing interconnection with, or emergency access via, Hudson Road at the intersection Hudson Road (S.C.R. 258) and Carpenter Road (S.C.R. 259) in the design.

Transportation Improvement District (TID): The proposed project is not located within the Henlopen TID.

Agricultural Areas: The site is located within the vicinity of parcels which appear to be actively farmed. Please include on any plans submitted the Agricultural Use Protection notice located in (§99-6(G)(1)) of the County Code. This language shall also be included within any subsequent deed restrictions, leases, or agreements of sale for the property.

Forested Areas: The Applicant notes that there are presently (208) acres of existing forest on the site and that (104) acres will be removed. Therefore, the site is retaining (104) acres of forested area (roughly 16% of the site.). Staff appreciate efforts to conserve as many mature trees as possible on the project site. Staff note that any buffers which may be required as part of this plan are required to be exclusive of “stormwater management areas or facilities, wastewater treatment and/or disposal facilities” (§99-5 FORESTED AND/OR LANDSCAPED BUFFER) & (§115-193(C)(18)). As proposed, it not clear that the location of stormwater management basins are exclusive of the required wetland resource buffers that are required adjacent to Martin Branch (§99-6(G)(1)).



Wetlands/Waterways: The Application notes that there are (29.6) acres of non-tidal wetlands present on the site. Please note, the wetland buffer requirements under Sussex County Code were recently updated and code requires that “established natural forests and nonforest meadows predominated by noninvasive species shall be retained” (§115-193(D)(2)(a)). Any proposed plan for the site will be required to meet all the wetland buffer standards included in (§115-193). Staff have concerns about flooding and emergency access given the design and configuration of the isolated cluster of units separated by wetlands on the far eastern portion of Parcel 13.00. Additionally, please note the requirements of regarding the submission of Environmental Assessment & Public Facility Evaluation Report, Drainage Assessment Report, and a Site-Specific Geological And Hydrogeological Analysis (§89-8) & (§115-194.3).

Site Considerations (Flood Zones, Tax Ditches, Groundwater Recharge Potential etc.): The property is located within Flood Zone (0.2 Pct Annual Chance Flood Hazard), Flood Zone A, and Flood Zone AE. This is accurate according to current data available to Sussex County Planning & Zoning. The site is located within areas of “fair” and “good” Groundwater Recharge according to Sussex County GIS data. Please note this on the plans in order to comply with the provisions of Chapter 89 “Source Water Protection” of the Sussex County Code (§89-7). Staff note that there are no Wellhead Protection Areas on the site. Staff note that the Applicant’s existing SLER and TISRL from DelDOT will be required to be updated in terms of the Parcels included and the proposed square footage of non-residential development prior to any public hearing for the Application.



BRANDY BENNETT NAUMAN
DIRECTOR OF COMMUNITY
DEVELOPMENT & HOUSING
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Sussex County
DELAWARE
sussexcountyde.gov

December 21, 2023

Ms. Katja Kalinski
George, Miles & Buhr, LLC
206 West Main Street
Salisbury, MD 21801

RE: PLUS Review (PLUS 2023-12-05) – Cool Spring Crossing

Dear Ms. Kalinski,

Sussex County endeavors to promote non-discrimination and affordable housing whenever possible throughout the County. In this regard, the developer and associated financial institutions are encouraged to provide and finance affordable housing opportunities to Sussex County residents in all new developments, and affirmatively market those affordable housing units to diverse populations.

For questions about opportunities available for affordable housing projects within Sussex County, please consult Sussex County's "Affordable Housing Support Policy". The policy along with other resources are available on the County's Affordable & Fair Housing Resource Center website: www.sussexcountyde.gov/affordable-and-fair-housing-resource-center. The County's Community Development & Housing Department can advise about existing affordable housing opportunities in Sussex County and the appropriate County Department to contact regarding specific development issues concerning future affordable housing projects within Sussex County.

The Community Development & Housing Department can also explain and assist with any financial support or incentives that may be available to a project from federal, state and county sources, as well as private funding sources that also promote affordable housing in Sussex County. **Please visit www.sussexcountyde.gov/housing-trust-fund for information on the County's new Housing Trust Fund, which offers gap funding for developers of affordable housing.**

Further, the County's newly approved Work Force Housing Zoning Ordinance permits up to 12 units per acre, by right, in eligible areas for projects that set-aside 25% of the total units for affordable rentals. For more information on eligibility and design criteria, please review the Ordinance at www.sussexcountyde.gov/affordably-priced-rental-units. The application can be found on the Planning & Zoning website at https://sussexcountyde.gov/sites/default/files/forms/SussexCountyRentalProgram_Application.pdf. **As of the date of this letter, no application for the Sussex County Rental Program (SCRPP) has been received for this project.**



Please understand that all residential projects, including Affordable Housing Projects are subject to the applicable provisions of the Sussex County Subdivision and Zoning Codes, and the approval processes set forth in those Codes.

On behalf of Sussex County, we look forward to cooperating with you and your project as it moves forward.

Thank you,

A handwritten signature in black ink, consisting of the letters 'B', 'B', and 'N' written in a cursive, stylized font.

Brandy B. Nauman
Director



Visit de.gov/plus for updates

Preliminary Land Use Service (PLUS) Meeting
Meeting will be conducted on-line and in person
Room 133, Haslet Armory

122 Martin Luther King Jr. Blvd., South

Please see <https://publicmeetings.delaware.gov/> for link to on-line access

Date

Applicants should arrive at least 15 minutes before their appointed time. Times are approximate and are subject to change.

Public comment will be heard at the end of each PLUS application after the State Agencies have shared their comments with the applicants. Each person wishing to comment on the application under review will have up to 3 minutes.

- I. 8:30 AM **Pre-Meeting Discussion – PLUS Reviewers**

- II. 9:00 AM **Review and Discussion: 339 Old State Road Storage (2023-12-04)**
County: New Castle **Municipality:** Unincorporated
Location: 339 Old State Road, New Castle, DE
Project: Review of a proposed Rezoning and Site Plan for a vehicle storage lot on 11.06 acres zoned S (Suburban) with proposed zoning of CR (Commercial Regional).

- III. 9:30 AM **Review and Discussion: 196 N. Dupont Highway (2023-12-02)**
County: New Castle **Municipality:** Unincorporated
Location: 196 N. Dupont Highway, New Castle, DE
Project: Review of a proposed Site Plan for the construction of a 4 story mixed use building on 3 acres zoned CR (Commercial Regional).

- IV. 10:00 AM **Review and Discussion: Chapel Branch Subdivision (2023-12-01)**
County: Sussex **Municipality:** Unincorporated
Location: NE corner of Dorman Road and John J. Williams Highway (Rt. 24)
Project: Review of a proposed Subdivision and Site Plan to subdivide on 7.4 acres parcel zoned AR-1 (Agricultural Residential) into two equal parcels and construct 4 apartment buildings containing 84 residential units.

The proposed project is located within a Tier 1 area within the Sussex County Unified Sanitary Sewer District and connection to the sewer system is mandatory.

A “Use of Existing Infrastructure Agreement” is required for new projects. Sussex County Code, Chapter 110, requires that the Engineer and/or Developer request a Sewer System Concept Evaluation (SSCE) from the Utility Planning & Design Review Department for the project by providing the parcel(s) estimated equivalent

dwelling units (EDU) for the project, along with payment of a \$1,000.00 fee for the evaluation and must be approved prior to approval of construction plans. The fee is to be payable to Sussex County Council. The Department will review the parcel(s) and EDU, confirm capacity, provide the connection point and define any additional parcels that must be served as part of the project. Should it be determined that a pump station is required for the project, additional information may be requested. This information will be conveyed to the engineer and/or developer. The Department will use this information when reviewing construction drawings to verify that the correct connection point is used, and all required parcels are served.

The proposed development will require a developer installed collection system in accordance with Sussex County standards and procedures.

One-time system connection charges will apply. Please contact the Utility Permits Division at 302 855-7719 for additional information on charges.

For questions regarding these comments, contact Chris Calio, Sussex County Engineering Department at (302) 854-5088

V. 10:30 AM **Review and Discussion: Northstar Mixed Use Development (2023-12-03)**

County: Sussex

Municipality: Unincorporated

Location: South of Route 9 and on the north and south sides of Beaver Dam Road, approximately 1 mile west of Five Points outside of Lewes.

Project: Review of a proposed Rezoning and Subdivision of approximately 433 acres into 758 single family residential lots, 94 multi-family apartment units and 96,000 SF of commercial. Currently the property is zoned AR-1 with plans to rezone portions to C-3 (Heavy Commercial) and MR (Medium Density Residential).

The proposed project is located within a Tier 1 & 2 area and is contiguous to the Sussex County Unified Sanitary Sewer District. Annexation and connection to the sewer system is required.

A “Use of Existing Infrastructure Agreement” is required for new projects. Sussex County Code, Chapter 110, requires that the Engineer and/or Developer request a Sewer System Concept Evaluation (SSCE) from the Utility Planning & Design Review Department for the project by providing the parcel(s) estimated equivalent dwelling units (EDU) for the project, along with payment of a \$1,000.00 fee for the evaluation and must be approved prior to approval of construction plans. The fee is to be payable to Sussex County Council. The Department will review the parcel(s) and EDU, confirm capacity, provide the connection point and define any additional parcels that must be served as part of the project. Should it be determined that a pump station is required for the project, additional information may be requested. This information will be conveyed to the engineer and/or developer. The Department will use this information when reviewing construction drawings to verify that the correct connection point is used, and all required parcels are served.

The proposed development will require a developer installed collection system in accordance with Sussex County standards and procedures.

One-time system connection charges will apply. Please contact the Utility Permits Division at 302 855-7719 for additional information on charges.

For questions regarding these comments, contact Chris Calio, Sussex County Engineering Department at (302) 854-5088

VI. 10:45 AM **Review and Discussion: Cool Spring Crossing (2023-12-05)**

County: Sussex

Municipality: Unincorporated

Location: Log Cabin Hill Road, Hudson Road, Route 9 and Cool Spring Road.

Project: Preview of a proposed Subdivision of approximately 637 acres for a mixed use development with current zoning of AR-1 (Agricultural Residential) and proposed zoning of MR-RPC (Medium Density Residential – residential Planned Community) and incorporating the Sussex County Rental Program (SCRCP). The proposed subdivision contains 1,922 residential units; a mixture of single family, multi-family and townhomes, along with commercial and institutional buildings totaling 411,975 SF.

The project is within a Tier 3 area for wastewater planning. Sussex County does not currently have a schedule to provide sanitary sewer to these parcels. The Sussex County Engineering Department recommends the project receive wastewater service from a public utility or municipality.

For questions regarding these comments, contact Chris Calio, Sussex County Engineering Department at (302) 854-7370

The agenda items times are approximate and subject to change. This agenda is subject to change to include additional items or the deletion of items, which arise at the time of the meeting.