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

April 23, 2025

Scott Lobdell, P.E.
First State Engineering
630 Churchmans Rd
Suite 105
Newark DE 19702

RE: PLUS review – 2025-03-06; Dexter Corner Parcels

Dear Mr. Lobdell:

Thank you for meeting with State agency planners on March 26th, 2025 to discuss Dexter Corner Parcels. According to the information received, you are seeking review of a proposed annexation of 116.26 acres into the Town of Townsend.

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 the Town of Townsend is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the Town.**

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: Samantha Bulkilvish 302-739-3090

The proposed Annexation under review is part of a PLUS application 2024-03-03 for a Comprehensive Plan Amendment to amend the Future Land Use & Growth & Annexation Areas Map. In this application these two parcels have the future land use designation of farmland. This comprehensive plan amendment is still outstanding. Townsend has met with representatives from the Department of Agriculture and The Department of Natural Resources and Environmental Control to better understand the concerns of these two agencies. The Town of Townsend is currently working on getting feedback from both the Town of Middletown and New Castle County as well as updating a sewer agreement with New Castle County that will help move the proposed amendment closer to approval.

The proposed annexation area is located in Investment Level 4 according to the *2020 Strategies for State Policies and Spending.*

Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4. 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. In this particular case the parcels encompass an Excellent Groundwater Recharge area, Agricultural Land of Importance, Forestland of Importance, Non-Tidal Wetlands, the Delaware Ecological Network. The fact that these parcels were included in a possible future greenbelt on the Future Land Use Map in the 2010 Townsend Comprehensive Plan would also have been taken into consideration during the 2020 State Strategies and would have gone towards promoting preservation. The Townsend 2022 Comprehensive Plan also shows these parcels in a greenbelt area.

While no development proposal was included with the PLUS application, the application does propose to, if annexed, a residential zoning for these parcels. From a fiscal responsibility perspective, development of these parcels would be inappropriate. The cost of providing services to development in rural areas is an inefficient and wasteful use of the State's fiscal resources. Over the longer term, the unseen negative ramifications of this development will become even more evident as the community matures and the cost of maintaining infrastructure and providing services increases.

In addition, development of this site may be environmentally inappropriate due to the following:

- Under their current jurisdiction, the environmental protections for these parcels are robust within New Castle County rules. If the proposed parcels are annexed into Townsend under the town's current environmental requirements, the parcels' protections will be severely undermined.

- The proposed project is located entirely within Level 4 lands, where state policies encourage agriculture, protection of natural resources, and open space. Over 98% of the site is forested and is wholly located within both the Delaware Ecological Network and the Blackbird Natural Area. Several state-listed endangered and rare animal species have been documented within this site.

- Additionally, maps show this land to be about 50% covered with fragmented non-tidal wetlands, totaling about 56 acres. These wetlands provide regional benefits for water quality and flood attenuation. The soils in these wetland areas are poorly drained, and water is coming into the site from several neighboring properties.

- While DNREC reviewers acknowledge that certain measures exist within Townsend's current municipal limit to protect riparian forest buffers, as it stands, the code is inadequate to protect the greater expansive network of critical habitat that exists in this area. Currently, this land falls under New Castle County Code, where Critical Natural Areas and forested wetlands are offered 100% protection, with extensive protections and mitigation requirements for mature forest. Annexing this land into Townsend, without implementing additional environmental protection measures, will ultimately result in eliminating high-value habitat in the future.

Because development of this site would be inconsistent with the Strategies for State Policies and Spending, the Department is opposed to this proposed annexation as a residential zoned property and does not feel the annexation would be a positive addition to the Town of Townsend because of the environmentally sensitive nature of the features on these two parcels. The environmental protections the County has are stronger than those in place for the Town of Townsend and leaving the parcels in the County would continue to promote their preservation.

It should also be noted that the PLUS review of a proposed annexation does not authorize the town to move forward with annexation proposal. In this case, the Town of Townsend would need to:

1. Finalize and make a decision on the 2024 Comprehensive Plan amendment to include these parcels in the Future growth and annexation area of the town. If the amendment moves forward, the town will need to ensure that the proposed Future Land Use of these parcels matches the proposed use. State agency comments regarding the Comp plan amendment were included in a response letter for PLUS 2024-03-03. Those comments still stand and there will need to be further communication with this office before the comprehensive plan amendment can be approved by the town.

2. If the comprehensive plan amendment is ultimately approved and the town wishes to move forward with this annexation, the town will need to submit a Plan of Services form to the Office of State Planning Coordination at least 20 working days prior to any formal decision.

3. In addition, if this parcel is annexed into the Town of Townsend, any future development of the parcel would be required to be reviewed through the PLUS process.

<u>Department of Transportation – Contact Stephen Bayer 302-760-4834</u>

- DelDOT has no comments on the proposed annexation. DelDOT notes that any development to occur in the subject area in the future will still require all applicable reviews and permits.

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

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.

Wetlands and Waterways
Maps from the Statewide Wetlands Mapping Project indicate the potential presence of non-tidal wetlands covering approximately 50% of the site, as well as a potential blue line stream located on the eastern portion of the site.

Existing Townsend code speaks to certain wetland requirements being triggered when a permit is needed by the U.S. Army Corps of Engineers. Federal permitting requirements have changed substantially in recent years. The most recent U.S. Army Corps of Engineers update from March 22, 2024 can be found at: https://api.army.mil/e2/c/downloads/2024/03/21/a3846e04/memo-on-cw-actions-on-waters-and-wetlands-22-march-2024.pdf.

Forested wetlands currently have 100% protection from development under the New Castle County Code. Annexing these parcels into Townsend will likely lessen environmental protections for this site.

State Contact: DNREC Wetlands and Waterways Section at (302) 739-9943.
Website: https://dnrec.delaware.gov/water/wetlands/

Federal Contact: U.S. Army Corps of Engineers (Dover Office) at (267) 240-5278.
Website: https://www.nap.usace.army.mil/Missions/Regulatory/Contacts/

Coastal Zone Federal iConsistency Certification (state contact): DNREC Coastal Management Program at (302) 739-9283.
Website: https://dnrec.delaware.gov/coastal-programs/coastal-management/

Natural Areas/Nature Preserves
The parcels proposed for annexation are entirely located within the Blackbird Natural Area. Natural Areas contain lands of statewide significance identified by the Governor's Natural Areas Advisory Council as containing high quality natural features unique to Delaware.

Under New Castle County development code, Critical Natural Areas are offered 100% protection from development activities. Annexing these parcels into Townsend will likely lessen environmental protections for this site.

- Consider dedicating forested areas as a Nature Preserve through a conservation easement or donation of land. For more information, please contact the DNREC Planning Preservation and Development Section.

Contact: DNREC Division of Parks and Recreation, Office of Nature Preserves at (302) 739-9039.
Website: https://dnrec.delaware.gov/parks/natural-areas/

Mature Forest in Delaware Ecological Network and Blackbird Natural Area
Over 98% of the site is forested and is wholly located within both the Delaware Ecological Network and the Blackbird Natural Area. The parcels proposed for annexation 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. These mature forests also filter water for improved water quality, absorb nutrients, infiltrate stormwater, moderate temperatures, and store atmospheric carbon which would otherwise contribute to climate change.

The Delaware Ecological Network is a statewide network of interconnected lands having significant ecological value. This GIS data layer helps to identify and prioritize areas for natural resource protection, including forests, wetlands, streams, and high-quality habitat for rare plants and animals. Larger, connected areas of natural habitat are beneficial to wildlife, allowing for safer movement and migration from one area to another and reducing roadway mortality.

These forests currently have extensive protections and mitigation requirements under the New Castle County Code.

- Removing forested areas for development, especially mature forests, should be avoided to the greatest extent possible.

- The forest on this site occurs within the Delaware Ecological Network, a statewide network of interconnected lands having significant ecological value. Avoid disturbance within these habitats.

- A forest assessment should be conducted to determine if mature forest resources exist on the property and to delineate their boundaries. 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.
- In general, contiguous forest and connected areas of natural habitat are more beneficial to wildlife, allowing for safer movement from one area to another while reducing roadway mortality.

- 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.

Contact: DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600. Website: https://dnrec.delaware.gov/fish-wildlife/contact-information/

State-listed Threatened and Endangered Species – Site Visit Requested
The following animals are listed as State of Delaware rare, threatened, or endangered species, and have been documented within the area of interest. Scientists from the DNREC Division of Fish and Wildlife request a site visit to survey the project area and ensure wildlife and critical resources will not be impacted. Contact the Species Conservation and Research Program if the landowner will grant a site visit.

- The Barking Treefrog (*Hyla gratiosa*) is an amphibian listed as endangered in the State of Delaware.

- The Rough Greensnake (*Opheodrys aestivus*) is a reptile listed as rare in the State of Delaware.

- The Spotted Salamander (*Amystoma maculatum*) is an amphibian listed as rare in the State of Delaware.

- The Eastern Tiger Salamander (*Ambystoma tigrinum*) is an amphibian listed as endangered in the State of Delaware.

Contact: DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600. Website: https://dnrec.delaware.gov/fish-wildlife/conservation/

Special Drainage Concerns
This property contains a channel that runs northwest to southeast through the property. This channel is the outlet for the South East Townsend Tax Ditch. This property also contains many pockets of wetlands and poorly drained soils that are not recommended for development.

- If this parcel is developed in the future, include a setback from the adjacent South East Townsend Tax Ditch to allow access for future maintenance. Proper function of the adjacent South East Townsend Tax Ditch must be maintained.

Contact: DNREC Drainage Program at (302) 855-1930.
Website: https://dnrec.delaware.gov/drainage-stormwater/

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

- The proposed development is located in an area classified as Level 4 per the Strategies for State Policies and Spending. Both the State Strategies and County Comprehensive Plan explicitly disapprove of the proposed isolated development in this region. The main objective of these plans is to protect agricultural lands, forestlands, recreational uses, and open spaces, all of which are considered preferred uses in Level 4 areas.

- The Delaware Department of Agriculture categorically opposes the proposed development, citing its inconsistency with the preferred land uses. This misalignment is seen as detrimental to the success of agriculture and forestry, leading to increased public costs for services and facilities. Moreover, the Department firmly opposes the project due to its adverse impact on the fundamental land uses crucial to Delaware's resource industries, including agriculture, forestry, and horticulture, along with their associated sectors.

- Newcomers to such developments often lack an understanding of and appreciation for modern agriculture and forestry, resulting in conflicts that compromise health and safety, such as reduced highway safety with farm equipment and cars sharing rural roads. The Department emphasizes that these conflicts jeopardize the essential economic, environmental, and open space benefits of agriculture and forestry. As such, the Department is steadfast in its opposition to the establishment of isolated development areas that it deems inefficient in terms of the full spectrum of public facilities and services funded with public resources. It asserts that public investments should prioritize agricultural and forestry preservation.

- The Delaware Department of Agriculture advocates for growth that expands existing urban areas and growth zones outlined in approved State, county, and local plans. It expresses support for additional land preservation through measures like transfer of development rights, committing to work with developers to implement these strategies if the project is approved.

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

- DEMA has no comments or objections to the annexation process as this is not our area of expertise.

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

- The Delaware State Historic Preservation Office does not recommend or support development in Level 4 areas. There is high potential for historic archaeological resources to be present. The property has a combination of well drained and poorly drained soils. A tributary of the Barlow Branch runs through the property. There are known sites belonging to a large precontact archaeological complex to the north and

south of the parcel. These are connected to the same context so there is a very high chance that the complex continues into this property. This property has a high potential for precontact archaeological resources. Our office recommends an archaeological survey prior to any ground disturbing activities.

If there are any questions, inquiries, or concerns, feel free to contact the Delaware State Historic Preservation Office for assistance at 302-736-7400.

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

- This Agency has no objection and submits no comments for the annexation into the Town of Townsend

The Town of Townsend must table any proposed annexation requests until the coordination taking place between the town, New Castle County, and the State can be completed and a decision on the comprehensive plan amendment is finalized.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,



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