

October 9, 2015
Revised: April 18, 2016

Sussex County Planning and Zoning Department
2 The Circle
Georgetown, DE 19947

ATTN: Lawrence Lank
Director of Planning and Zoning

RE: Gills Neck Village Center
Developer Response to PLUS review 2015-03-02
Tax Map: 3-35-12.00, Parcel 3.00 (Portion)
DBF No.: 2261J001.F01

Michael R. Wigley, AIA, LEED AP
Randy B. Duplechain, P.E.
Charles R. Woodward, Jr., LS
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Michael E. Wheedleton, AIA
Jason P. Loar, P.E.
Ring W. Lardner, P.E.
Gerald G. Friedel, P.E.

Dear Mr. Lank,

On behalf of the Owner / Developer, J.G. Townsend Jr. & Co., we are pleased to submit a revised response to the Office of State Planning's comments for PLUS Review 2015-03-02: The Village Center. On October 9, 2015 we provided a written response to the comments that included a revised schematic site plan that reduces the commercial space (including outparcels) from 235,000 SF to 215,000 SF.

The Developer upon further evaluation is withdrawing the current CR-1 rezoning application and filing a new B-1 rezoning application with up to 75,000 square feet of commercial space. The new application is a significant reduction in the area to be rezoned (reduced from 36.47 acres to 11.66 acres) and commercial space (reduced from 215,000 square feet to 75,000 square feet). The revised response includes our original response in red and revised response in blue to aid in the review of our response.

Strategies for State Policies and Spending

- *This project is located in Investment Level 1 according to the Strategies for State Policies and Spending. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy.*

Original Response: This project is located adjacent to King's Highway (US- Route 9 and Sussex Road 268) which is classified as other principal arterial per DelDOT's Functional Classification Map. In addition, this section of road is classified as a major

arterial per the definition of major arterial in Chapter 99-5 of the Sussex County Code, which identifies Roadway G as "US Route 9 from its interconnection with Delaware Route 1 to the southwesterly town limit of the Town of Lewes". This site is located within a rapidly growing area consisting of single family detached houses, townhouses, Assisted Living, Cape Henlopen High School, general mixture of commercial / service activities along King's Highway, and through traffic to / from the City of Lewes, Cape May – Lewes Ferry and Cape Henlopen State Park. The September 24, 2009, Letter Agreement between DelDOT and the developers details the roadway, intersection, and site access improvements. A TOA and Signal Justification Study using 2015 traffic data are under way to update the site access design per current traffic counts and the reduced land use.

Revised Response: There is no change from the original response.

Code Requirements/Agency Permitting Requirements

Department of Transportation – Contact Bill Brockenbrough 760-2109

- *Per Section 2.2.2.1 of the Development Coordination 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. From the plan accompanying the PLUS application, DelDOT estimates that the development would generate 11,834 vehicle trip ends per day on a typical weekday. This number differs somewhat from the volume shown on the PLUS application but the difference may not matter in that we understand the center design is still being refined and the floor areas are likely to change. Regardless, the daily and peak hour volumes will almost certainly be high enough to warrant a TIS.*

Original Response: The site plan has been revised to further reduce the square footage of the retail space. We will continue to work with our traffic section to update the traffic generation for the project. Regardless, as mentioned in the comment, the proposed project meets the warrants for a TIS per the Development Coordination Manual, which is addressed hereafter.

Revised Response: The site plan commercial space has been further reduced. Our traffic section is updating the traffic generation diagram for the project. The reduction of commercial space still meets the warrant for a TIS per the Development Coordination Manual, which is addressed hereafter.

- *Having said that, the applicant submitted a TIS in 2006 for the development of the entirety of Tax Parcel 3-35-12.00-3.00. A DelDOT consultant reviewed the study and*

DelDOT sent comments to Sussex County in January 2008, incorporating in that review analysis of yet a third land use scenario. Shown below for comparison purposes are the 2006, 2008 and 2015 land use scenarios, with the 2015 residential data coming from a conversation with the applicant's engineer. We understand they intend to submit plans for the residential development to us this spring.

	2006	2008	2015
<i>Shopping Center (square feet)</i>	330,000	521,000	235,000 (includes pad sites)
<i>Single-Family Detached Houses (dwellings)</i>	138	N/A	287
<i>Townhouses (dwellings)</i>	318	472	139
<i>Performing Arts Center (seats)</i>	1,000		
<i>Museum (acres)</i>			10
<i>YMCA (acres)</i>			17

Original Response: On June 11, 2015, DBF submitted a record plat and entrance plans for a 426 unit mixed use residential development entitled Governors which is located on a portion of this parcel. The 426 units corresponds with the 287 Single-Family Detached Houses (dwellings) and 139 Townhouses (dwellings) as indicated in the 2015 column above. The Shopping Center square footage has decreased from 235,000 SF (including pad sites) to 215,000 SF. The residual acreage for the future YMCA and multicultural/museum site remains unchanged.

As shown in the table above, the proposed use (2015) substantially reduces the development density (a 55% reduction in commercial square feet and a 10% reduction in residential units as compared to the 2008 proposed use).

Revised Response: On December 16, 2015, the Sussex County Planning and Zoning Commission granted final approval for a 423 mixed use unit residential development entitled Governors which is located on a portion of this parcel. The 423 units corresponds with the 287 single-Family Detached Houses (dwellings) and 136 Townhouses (dwellings) as indicated in the 2015 column above. The Gills Neck Village Center commercial space has decreased from 235,000 square feet (including pad sites) to 75,000 square feet. The project no longer includes a future multi-cultural center or YMCA. The residual acreage of the land (approximately 53.39 acres) is zoned AR-1.

As shown in the table above, the proposed use (described in our response) substantially reduces the development density (an 85% reduction in commercial space

and a 10% reduction in residential units when compared to the 2008 proposed use column).

- *Subsequent to the TIS review, in 2009, DelDOT entered an agreement with the applicant, outlining the right-of-way dedications and road improvements for which the applicant will be responsible. That agreement is still in effect. Copies of the TIS review letter and agreement are attached.*

Original Response: A copy of the TIS Review Letter and Agreement was not attached to the comments. However, DBF has a copy of each document and is familiar with their contents and requirements. As noted above, the Agreement was based on the 2008 proposed use which is substantially larger than the currently proposed use.

The 2009 Agreement required off-site improvements to be constructed by the developer(s). The status of these improvements are:

Showfield Frontage Improvements: The Developers of Showfield have obtained entrance plan approvals that include a deceleration lane entering Showfield, widening of approximately 2,000 linear feet of Gills Neck Road to 10' travel lanes and 5' shoulders, reconfiguration of the S-curve to the north of the entrance to meet DelDOT standards and improve visibility.

Senators Frontage Improvements: The Developers of Senators recently completed their improvements which consisted of a deceleration lane, by-pass lane, widening of approximately 2,000 linear feet of Gills Neck Road to 11' travel lanes and 5' shoulders, reconfiguration of the curve between the entrances of Senators and Cadbury to meet DelDOT standards and improve visibility.

Governors Frontage Improvements: The Developers of Governors are expected to submit final entrance plans in October 2015 which will consist of a deceleration lane, protected left turn lane, widening of approximately 1,400 linear feet of Gills Neck Road to 11' travel lanes and 5' shoulders to meet DelDOT standards and improve visibility.

Intersection Improvements at Gills Neck Road, King's Highway and Cape Henlopen High School: The Developers of Senators (including contributions from Showfield, Governors and Gills Neck Village Center) recently completed the construction of the Phase 1 improvements to this intersection. The Phase 1 improvements included signal upgrades and adding additional turn lanes along Kings Highway. Phase 2 of the improvements includes additional signal upgrades and

adding additional turn lanes along Gills Neck Road and High School approaches to the intersection.

There are other improvements identified in the 2009 Agreement that will be completed if Gills Neck Village Center is approved and constructed. These improvements include the proposed Kings Highway / Clay Road / Site Access Intersection, installation of a signal at Kings Highway / Clay Road / Site Access, contribution to the improvements at Delaware Route 1 / Dartmouth Road intersection, installation of the shared use path along King's Highway Frontage, road widening, as required, along the King's Highway Frontage, and widening of Gills Neck Road along the property frontage that has not been completed by other projects.

In addition to the required items above, the Developers of Senators and Governors will have removed and replaced the gravel Junction and Breakwater Trail installed by the Owner with a 4,500 linear foot paved trail.

Also, in addition to the 1.15 acres of permanent easement previously granted by the Owners of Showfield, the Owners also dedicated approximately 2.43 acres of land for the expansion of the Junction and Breakwater Trail to DelDOT in response to the easement issues within the Breakwater Community at no cost to the State

The total improvements to the Gills Neck Road Corridor and portions of Kings Highway to include two intersections, Delaware Route 1 / Dartmouth Drive, the Junction and Breakwater Trail, and dedication of land for easements and Right of Way will represent millions of dollars of private investment in public infrastructure. These improvements benefit the residents along these roadways, their friends, family, visitors and the Greater Lewes Community. The improvements listed above, both those completed/underway, and those to be constructed if Gills Neck Village Center is approved, are possible because of the development of the Gills Neck Road corridor and proposed development of Gills Neck Village Center.

Revised Response: As noted above, the Agreement was based on the 2008 proposed use which is substantially larger than the currently proposed use.

The 2009 Agreement required off-site improvements to be constructed by the developer(s). The status of these improvements is:

Showfield Frontage Improvements: The Developers of Showfield have obtained entrance plan approvals that include a deceleration lane entering Showfield, widening of approximately 2,000 linear feet of Gills Neck Road to 10' travel lanes and 5' shoulders, reconfiguration of the S-curve to the north of the entrance to meet

DelDOT standards and improve visibility. The road frontage improvements are currently under construction.

Senators Frontage Improvements: The Developers of Senators within the past year completed their improvements which consisted of a deceleration lane, by-pass lane, widening of approximately 2,000 linear feet of Gills Neck Road to 11' travel lanes and 5' shoulders, reconfiguration of the curve between the entrances of Senators and Cadbury to meet DelDOT standards and improve visibility. Said improvements have been inspected and accepted by DelDOT.

Governors Frontage Improvements: The Developers of Governors are required to install a deceleration lane, protected left turn lane, widening of approximately 1,400 linear feet of Gills Neck Road to 11' travel lanes and 5' shoulders to meet DelDOT standards and improve visibility. The entrance plans were approved by DelDOT on March 3, 2016.

Intersection Improvements at Gills Neck Road, King's Highway and Cape Henlopen High School: The Developers of Senators (including contributions from Showfield, Governors and Gills Neck Village Center) recently completed the construction of the Phase 1 improvements to this intersection. The Phase 1 improvements included signal upgrades and adding additional turn lanes along Kings Highway. Phase 2 of the improvements includes additional signal upgrades and adding additional turn lanes along Gills Neck Road and High School approaches to the intersection. The Phase 2 improvements are scheduled to begin upon the end of the 2015 / 2016 school year.

There are other improvements identified in the 2009 Agreement that will be completed if Gills Neck Village Center is approved and constructed although, given the considerable reduction in size of the center and the corresponding traffic impact, said improvements will need to be discussed with DelDOT in further detail to determine what is still necessary. These improvements include the proposed Kings Highway / Clay Road / Site Access Intersection, installation of a signal at Kings Highway / Clay Road / Site Access, contribution to the improvements at Delaware Route 1 / Dartmouth Road intersection, installation of the shared use path along King's Highway Frontage, road widening, as required, along the King's Highway Frontage, and widening of Gills Neck Road along the property frontage that has not been completed by other projects.

In addition to the required items above, the Developers of Senators and Governors will have removed and replaced the gravel Junction and Breakwater Trail installed by the Owner with a 4,500 linear foot paved trail.

Also, in addition to the 1.15 acres of permanent easement previously granted by the Owners of Showfield, the Owners also dedicated approximately 2.43 acres of land for the expansion of the Junction and Breakwater Trail to DelDOT in response to the easement issues within the Breakwater Community at no cost to the State

The total improvements to the Gills Neck Road Corridor and portions of Kings Highway to include two intersections, Delaware Route 1 / Dartmouth Drive, the Junction and Breakwater Trail, and dedication of land for easements and Right of Way will represent millions of dollars of private investment in public infrastructure. These improvements benefit the residents along these roadways, their friends, family, visitors and the Greater Lewes Community. The improvements listed above, both those completed/underway, and those to be constructed if Gills Neck Village Center is approved, are possible because of the development of the Gills Neck Road corridor and proposed development of Gills Neck Village Center.

- *Because of the previous TIS, the agreement and the downsizing of the proposed development since then, we find that a new TIS is not needed for the shopping center or the residential development. However, pursuant to Section 2.3.2 of the Development Coordination Manual, DelDOT anticipates requiring a Traffic Operational Analysis (TOA) as part of the plan review process to ensure that the required road improvements are appropriately sized. They will evaluate the need for separate TIS to address the proposed future museum and YMCA when plans for them are presented, but presently it is believed the YMCA will require a TIS and they anticipate requiring one for it. Further, pursuant to Section 2.6 of the Development Coordination Manual, DelDOT anticipates requiring a Signal Justification Study for a signal at the intersection of Kings Highway, Clay Road and the site entrance there.*

Original Response: The applicant agrees that a new TIS is not needed for the shopping center or the residential development. The applicant's engineer has requested and received a Signal Justification Study and Traffic Operational Analysis Scope of Work. The results of both studies will be provided as soon as they are completed.

Revised Response: The applicant has submitted a new Service Level Evaluation Request (SLER) to Planning and Zoning and anticipates that a new TIS will not be required as this project's trip generation is further reduced from that anticipated in previous applications. The applicant's engineer has requested and received a Signal Justification Study and Traffic Operational Analysis Scope of Work. Both studies are ongoing and will be submitted as soon as they are completed.

- To obtain a scope of work for the TOA, the applicant may have their engineer contact Mr. Troy Brestel of this office. Mr. Brestel may be reached at (302) 760-2167. To obtain a scope of work for the Signal Justification Study, they may have their engineer contact Mr. Chris Sylvester of the DelDOT Traffic Studies Section. Mr. Sylvester may be reached at (302) 659-4094.

Original Response: The applicant's engineer has requested and received a Signal Justification Study and Traffic Operational Analysis Scope of Work. The results of both studies will be provided as soon as they are completed.

Revised Response: There is no change from the original response.

- *The site access on King's Highway and on Gills Neck Road must be designed in accordance with DelDOT's Development Coordination Manual (formerly the Standards and Regulations for Subdivision Streets and State Highway Access), which is available at <http://www.deldot.gov/information/business/subdivisions/changes/index.shtml>.*

Original Response: The proposed site accesses from Kings Highway and Gills Neck Road will be designed to meet the DelDOT Development Coordination Manual. The applicant's engineer is familiar with the manual and has submitted numerous entrance plans meeting the requirements of the manual. The proposed Gills Neck Village Center includes an interconnection to the adjacent Governors community.

Revised Response: There is no change from the original response.

- *As necessary, in accordance with Section 3.2.5 and Figure 3.2.5-a of the Development Coordination Manual, DelDOT will require dedication of right-of-way along the site's frontage on both King's Highway and Gill's Neck Road. By this regulation, those dedications are to provide a minimum of 50 feet of right-of-way from the road centerline on King's Highway and a minimum of 30 feet of right-of-way from the road centerline on Gill's Neck Road. However, the 2008 TIS review letter and the 2009 agreement discussed above contemplate expansion of Kings Highway to either four lanes with median left turn lanes or five lanes with a continuous left turn lane.*

Original Response: As part of the Gills Neck Road Improvements designed and installed by the Developers of the Senators Subdivision, a significant amount of right-of-way (far exceeding the requirements of the Development Coordination Manual) has been granted.

Revised Response: There is no change from the original response.

- *The right-of-way dedication note has been revised to the following, "An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat."*

Original Response: This note is not required for this project. A separate right-of-way plan was recorded and the right-of-way limits far exceed the requirements of the Development Coordination Manual.

Revised Response: There is no change from the original response.

- *In accordance with Section 3.2.5.1.2 of the Development Coordination Manual, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage on both Kings Highway and Gills Neck Road. The location of the easement shall be outside the limits of the ultimate right-of-way. The easement area can be used as part of the open space calculation for the site. The following note is required, "A 15-foot wide permanent easement is hereby established to the State of Delaware, as per this plat."*

Original Response: The 15 foot permanent easement is not required given the amount of right-of-way that was previously dedicated. The applicant will consult with DelDOT as part of the entrance plan process to determine if there is a need for the additional easement, and will grant the amount of additional easement found to be required. The Junction and Breakwater Trail located on the south side of Gills Neck Road and along the property frontage is currently designed to be installed entirely within DelDOT right-of-way.

Revised Response: There is no change from the original response.

- *Section 2.5 of the Development Coordination Manual addresses in part Traffic Signal Agreements, Traffic Signal Revolving Fund agreements, and Off-Site Improvement Agreements. These agreements must be finalized prior to entrance plan approval. Having said that, the 2009 agreement discussed above divides responsibility for all signals, assigning DelDOT responsibility for aboveground work and the developer responsibility for underground work, and at least to some extent takes the place of Off-Site Improvement Agreements. The applicant's engineer should contact Mr. Steve Sisson of this office to discuss what, if any, further agreements may be needed. Mr. Sisson may be reached at (302) 760-2553.*

Original Response: The applicant's engineer will consult with Mr. Steve Sisson to determine if any further agreements are required for this project. Based on the existing letter agreement between DelDOT and LT Associates, LLC that details all

DelDOT improvements for Gills Neck Village Center, it appears further agreements are not necessary.

Revised Response: There is no change from the original response.

- Referring to Section P.5 of the Development Coordination Manual, the Initial Stage review fee shall be assessed to this project.

Original Response: The applicant will submit the Initial Stage Fee at the time of Record Plat Submission for review and approval.

Revised Response: There is no change from the original response.

- Referring to Section P.5 of the Development Coordination Manual, the Construction Stage review fee shall be assessed to this project.

Original Response: The applicant will submit the Construction Stage Fee at the time of Entrance Plan Submission for review and approval.

Revised Response: There is no change from the original response.

- In accordance with Section 3.4 of the Development Coordination Manual, a record plan shall be prepared prior to issuing "Letter of No Objection". The following information will be required for the "Letter of No Objection" review:

- Copy of the Initial Stage Fee Calculation Form
- Copy of the Initial Stage Review Fee
- Gate-Keeping Checklist – Site Plan
- Sight Distance Spreadsheet
- Design Checklist – Record Plan*
- Owners and Engineer's name and e-mail address
- Three (3) paper sets of the Record Plan
- Conceptual Entrance Plan
- CD with a pdf of the Site Plan
- Submission of the Area-Wide Study Fee (if applicable)

**For the design checklist for the site plan, please refer to the Development Coordination Manual, Appendix D, Plan Review Checklist.*

Original Response: The required information will be submitted with the record site plan for a Letter of No Objection.

Revised Response: There is no change from the original response.

- Referring to Section 4.3 of the Development Coordination Manual, an entrance plan shall be prepared prior to issuing entrance approval. The following information will be required for Entrance Plan review:
 - Copy of the Construction Stage Fee Calculation Form
 - Copy of the Construction Review Fee
 - Gate-Keeping Checklist – Entrance Plan
 - Auxiliary Lane Spreadsheet
 - Design Checklist – Entrance Plan**
 - Three (3) paper sets of the Entrance Plan
 - SWM Report and Calculations (if applicable)
 - CD with a pdf of the Entrance Plan

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

Original Response: The required information will be submitted with the entrance plan submission for Entrance Approval.

Revised Response: There is no change from the original response.

- Referring to Section 3.3.5 of the Development Coordination Manual, existing and proposed transit stops and associated facilities as required by the Delaware Transit Corporation (DTC) or DelDOT, in consultation with Sussex County, shall be shown on the Record Plan.

Original Response: DBF will show the existing transit stops within the proposed project limits and will consult with the Delaware Transit Corporation, DelDOT and Sussex County to determine if a proposed transit stop is required and, if so, it will be shown on the Record Plan.

Revised Response: There is no change from the original response.

- Referring to Section 3.4.1 of the Development Coordination Manual, because the proposed development would generate more than 200 vehicle trips per day, a Pre-Submittal Meeting is required before plans are submitted for review. The form needed to request this meeting is available http://www.deldot.gov/information/business/subdivisions/Meeting_Request_Form.pdf.

Original Response: DBF will complete the Pre-Submittal Meeting form and request a pre-submittal meeting at the appropriate time during the design process of the proposed entrances and frontage improvements.

Revised Response: There is no change from the original response.

- Referring to Section 3.4.2.1 of the Development Coordination Manual, a Traffic Generation Diagram is required on the Record Plan. See Figure 3.4.2-a for the required format and content.

Original Response: The Traffic Generation Diagram will be shown on the Record Plan.

Revised Response: There is no change from the original response.

- In accordance with Section 3.5 of the Development Coordination Manual, the proposed private subdivision streets should follow Sussex County's requirements for connectivity. That said, we do have comments in this regard, which we offer under Suggestions below.

Original Response: The proposed Gills Neck Village Center provides an interconnection to the proposed Governors community and the existing Senators community (via Governors).

Revised Response: There is no change from the original response.

- Referring to Section 3.5.4.2 of the Development Coordination Manual, projects that generate 2,000 or more Average Daily Trips (ADT) and need Entrance Plan Approval are required to install a shared-use path or sidewalk along the State-maintained road frontage, in this case Kings Highway and Gills Neck Road.

Original Response: The Gills Neck frontage includes the existing Junction and Breakwater Trail and an additional path or sidewalk is not required on this frontage. The Developer will install a shared use path along the King's Highway frontage as required per the Development Coordination Manual.

Revised Response: There is no change from the original response.

- In accordance with Section 3.8 of the Development Coordination 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 Kings Highway and Gills Neck Road.

Original Response: All stormwater facilities, excluding filter strips and bioswales, will be located a minimum of 20 feet from the ultimate State right-of-way.

Revised Response: There is no change from the original response.

- In accordance with Section 5.2.5.6 of the Development Coordination Manual, Turning Movement Diagrams shall be provided to verify vehicles can safely enter and exit the site entrances. As per Section 5.2.3 of the Manual, the entrance shall be designed for the largest vehicle using the entrance.

Original Response: DBF will prepare Turning Movement Diagrams as required and the Design Vehicle for the Kings Highway Entrance will be a WB-62 and the Design Vehicle for the Gills Neck Road Entrance will be a SU-30.

Revised Response: There is no change from the original response.

- In accordance with Section 5.2.9 of the Development Coordination 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/information/business/subdivisions/auxiliary_lane_worksheet.xls.

Original Response: DBF will prepare auxiliary lane worksheets for each entrance to determine if auxiliary lanes are required. In the case of a signalized intersection, the

signal justification study or traffic operational analysis will determine the auxiliary lane requirements.

Revised Response: There is no change from the original response.

- *In accordance with Section 5.4 of the Development Coordination Manual, sight distance triangles are required for the site access on Kings Highway and Gills Neck Road 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/information/business/subdivisions/Intersection-Sight-Distance.xls>.

Original Response: DBF will analyze the sight distance requirements per the available spreadsheet and show the sight distance triangles on the record plat and entrance plans. Sight easements will be recorded, if necessary.

Revised Response: There is no change from the original response.

- *Metes and bounds and total areas need to be shown for any drainage easements. Section 5.7.2.6 of DelDOT's Development Coordination Manual requires, in part, a minimum 20-foot wide drainage easement for storm drainage systems, open or closed, that fall outside the existing right-of-way. These easements shall be shown and noted on the record plan.*

Original Response: If drainage easements are required, they will be shown on the record plat to include the metes and bounds and total areas.

Revised Response: There is no change from the original response.

- *In accordance with Section 6.4.3 of the Development Coordination Manual, this project will require Level II Construction Inspection and the applicant will be required to enter a construction inspection agreement with an inspection firm currently under contract with DelDOT.*

Original Response: The Developer of the proposed project will enter into a construction inspection agreement prior to scheduling a pre-construction meeting for the proposed entrances.

Revised Response: There is no change from the original response.

Department of Natural Resources and Environmental Control – Contact Kevin Coyle
739-9071

Wetlands

- *State regulated wetlands ARE located on this property based on a review of the State wetland maps. State regulated wetlands are those wetlands identified on the State's official State Regulated Wetland Maps. Wetlands labeled F for forested wetlands are on the southern edge of the property. Be sure there is no direct or indirect impact to these wetlands during the building process. Any activity in State regulated wetlands may require a permit from DNREC's Wetlands and Subaqueous Lands Section.*

Original Response: The proposed Governors community will create a separate parcel for conserved lands, approximately 67.21 acres, in which all wetlands will be contained. Furthermore, the proposed rezoning is located entirely within the uplands area and no wetlands are located within the rezoning area or proposed Gills Neck Village Center, therefore there is no direct impact to the referenced wetlands and there is more than 1,000 feet between the edge of the project and the nearest wetland location. Attached to this response is a copy of the rezoning plan that shows the limits of the proposed zoning request (also the limits of Gills Neck Village Center), adjacent properties and the limits of the Federal 404 delineated wetlands. The State Wetlands are located closer to the centerline of Pot Hook Creek.

Revised Response: There is no change from the original response.

- *State regulated subaqueous lands ARE likely to be located on this property based on a review of aerial photographs, SWMP maps, Soil Surveys and USGS topographic maps. Upon review of the GIS layers, Pot Hook Creek runs on and adjacent to this property. State subaqueous lands include all tidal waters (up to the mean high water line), most non-tidal rivers, streams, lakes, ponds, bays and inlets (up to the ordinary high water line), most perennial streams and ditches and many intermittent streams and ditches. An on-site inspection by a representative of the Wetlands and Subaqueous Lands Section or an environmental consultant is recommended to determine the limits of jurisdictional State subaqueous lands. Additional information about State regulated subaqueous lands is available by contacting the Wetlands and Subaqueous Lands Section at (302) 739-9943 or on line at <http://www.dnrec.delaware.gov/wr/Services/Pages/WetlandsAndSubaqueousLands.aspx>.*

Original Response: The proposed Governors community will create a separate parcel for conserved lands, approximately 67.21 acres, in which all wetlands will be contained. Furthermore, the proposed rezoning is located entirely within the uplands area and no subaqueous lands are located within the rezoning area or proposed Gills Neck Village Center, therefore there is no direct impact to the referenced wetlands and there is more than 1,000 feet between the edge of the project and the nearest subaqueous lands location. Attached to this response is a copy of the rezoning plan that shows the limit of the proposed zoning request (also the limits of Gills Neck Village Center), adjacent properties and the limits of the Federal 404 delineated wetlands. The State Wetlands are located closer to the centerline of Pot Hook Creek.

Revised Response: There is no change from the original response.

- *Waters of the U.S. regulated by the U.S. Army Corps of Engineers ARE likely to be located on this property based on a review of aerial photographs, SWMP maps, Soil Surveys and USGS topographic maps. The application notes that a delineation has been done. Review with the Army Corps of Engineers should be done to assess any direct or indirect impacts. The U.S. Army Corps of Engineers can be contacted at (215) 656-6728 or online at <http://www.nap.usace.army.mil/cenap-op/regulatory/regulatory.htm>.*

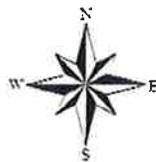
Original Response: The proposed Governors community will create a separate parcel, approximately 67.21 acres, for conserved lands in which all USACE regulated wetlands will be contained. Furthermore, the proposed rezoning is located entirely within the uplands area and no USACE regulated wetlands are located within the rezoning area or proposed Gills Neck Village Center, therefore there is no direct impact to the referenced wetlands and there is more than 1,000 feet between the edge of the project and the nearest USACE regulated wetland location. Attached to this response is a copy of the rezoning plan that shows the limit of the proposed zoning request (also the limits of Gills Neck Village Center), adjacent properties and the limits of the Federal 404 delineated wetlands. The State Wetlands are located closer to the centerline of Pot Hook Creek.

Revised Response: There is no change from the original response.

County: Sussex
PLUS 2015-03-02
The Village Center



0 425 850 1,700 2,550 3,400
Feet



Map created by Kitty Bronson
DHREC Wetlands and Subaqueous Lands

	Army Corps Wetlands
	State Regulated Wetland Lines

TMDLs

- *The project is located in the low nutrient reduction zone of the greater Inland Bays watershed. In this watershed, Total Maximum Daily Load (TMDL) pollutant reduction targets have been developed by the State of Delaware (under the auspices of Section 303(d) of the 1972 Federal Clean Water Act) for nutrients (e.g., nitrogen, phosphorus), and bacteria. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited waterbody" can assimilate and still meet State water quality standards (e.g., dissolved oxygen, nutrients, and bacteria; State of Delaware Surface Water Quality Standards, as amended July 11, 2004) to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. The TMDL for the low reduction zone of the Inland Bays watershed calls for 40 percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for a 40 percent reduction (17 percent for marine waters) in bacteria from baseline conditions. Please view the following web link for further information on the regulatory requirements and technical analysis involved in the development of the specific TMDLs:*

<http://www.dnrec.delaware.gov/swc/wa/Pages/WatershedAssessmentTMDLs.asp>

x

Original Response: The project will be designed to comply with the Inland Bays TMDL requirements.

Revised Response: The project will be designed to comply with the Inland Bays TMDL requirements by complying with the Pollution Control Strategy (PCS).

- The Inland Bays Pollution Control Strategy (PCS) and the accompanying regulations were finalized by order of the DNREC Secretary on October 2008. The PCS regulations can be reviewed at <http://regulations.delaware.gov/documents/November2008c.pdf>. Background information about the PCS with guidance documents and mapping tools can be retrieved from http://www.dnrec.state.de.us/water2000/Sections/Watershed/ws/ib_pcs.htm

Original Response: The project will comply with the Inland Bays Pollution Control Strategy requirements.

Revised Response: There is no change from the original response.

- *A nutrient management plan is required under the Delaware Nutrient Management law (3 Del. Chapter 22) for all persons or entities who apply*

nutrients to lands or areas of open space in excess of 10 acres. This project's open space may exceed this 10-acre threshold. Please contact the Delaware Nutrient Management Program at 739-4811 for further information concerning compliance requirements or view the following web link for additional information: <http://dda.delaware.gov/nutrients/index.shtml>

Original Response: The Applicant of the completed project will complete a nutrient management plan if the Applicant intends to apply nutrients to the proposed open space if greater than 10 acres.

Revised Response: There is no change from the original response.

Water Supply

- The project information sheets state water will be provided to the project by Tidewater Utilities via a central water system. Our records indicate that the project is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity 03-CPCN-12.*

Original Response: Tidewater Utilities, Inc. has an existing 12" water main that runs along the property frontage and has provided the Applicant with a Willing and Able to serve letter.

Revised Response: There is no change from the original response.

- Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.*

Original Response: The selected contractor will obtain dewatering well construction permits should dewatering of the project be required.

Revised Response: There is no change from the original response.

- All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.*

Original Response: The selected contractor will ensure that a licensed water well contractor prepares and signs the well permit application and construct the wells.

Revised Response: There is no change from the original response.

- *Potential Contamination Sources exist in the area, and any well permit applications will undergo a detailed review that may increase turnaround time and may require site specific conditions/recommendations. In this case, there are two Underground Storage Tanks associated with Cape Henlopen High School and Petroleum Equipment Inc. Lewes Bulk Plant located within 1000 feet of the proposed project.*

Original Response: The applicant thanks the Water Supply Section for the information regarding potential contamination sources.

Revised Response: There is no change from the original response.

Source Water Protection Areas

- *Significant portion of the proposed development falls within the wellhead protection area for the City of Lewes. Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where land use activities or impervious cover may adversely affect the quantity and quality of ground water moving toward such wells. The review did not find any excellent groundwater recharge areas within the proposed development (see map). The project lies within Sussex County.*

Original Response: A significant portion of the proposed Gills Neck Village Center is located within the wellhead protection area. The proposed project is required to “recharge” the ground per the Sediment and Stormwater Regulations that were promulgated on January 1, 2014. The proposed impervious area will be offset by the recharge of the runoff from this project. The proposed Gills Neck Village Center is not located within the excellent groundwater recharge area.

Revised Response: The original response is still valid, but the following information should also be considered. The applicant has entered into a contract with a professional geologist who specializes in hydrology to provide assistance with the Source Water Protection Area. The developer will comply with Sussex County’s Source Water Protection Ordinance during the design and construction of this project.

- *DNREC acknowledge that the Sussex County has a source water protection ordinance in place but DNREC recommends that this project go beyond the*

requirements of the ordinance and consider the recommendations that will afford this resource additional and much needed protection. DNREC asks the Sussex County consider Chapter 115 Zoning Article IV §115-19 of the County's Code that states in part that agricultural districts are also intended for protection of water resources. As an agricultural district, Lewes' drinking water source would be afforded more protection if the parcel remains agricultural.

Original Response: We include below an excerpt from Mr. Tom Ford of LANDDESIGN, INC. response from PLUS Review 2007-03-11 regarding this same property and downloaded from the Office of State Planning's website:

"Elimination of the existing agricultural irrigation well and its accompanying chemical feed tank will do several important things to enhance the future viability of the Lewes well field. They include:

- 1. The existing ag. well will no longer compete with the well field for ground water when demand is greatest in the summer and the water-table is lowest.*
- 2. The ag.irrigation [sic] system will no longer distribute nitrate-nitrogen and pesticides within the capture zone of the well field.*
- 3. The chemical feed tank will no longer be a potential source of direct groundwater contamination if a check valve were to fail at the well-head."*

Revised Response: The original response is still valid, but the following information should also be considered. The applicant has entered into a contract with a professional geologist who specializes in hydrology to provide assistance with the Source Water Protection Area. The developer will comply with the Sussex County's Source Water Protection Ordinance during the design and construction of this project. A hydrologic report will be submitted to Sussex County as part of the rezoning application.

- The amount of impervious cover proposed in this project is significant. This amount of impervious cover added to the existing impervious cover within the wellhead protection area has the potential to reduce ground-water recharge of the City of Lewes well field. The City of Lewes well field consists of a series of shallow public wells that draw water from the shallow unconfined aquifer that receives recharge directly from precipitation. Maintenance of water levels in this aquifer is critical to this coastal community due to long term risks of salt water intrusion in the event that head levels decline in the freshwater aquifer.*

Original Response: The proposed Gills Neck Village Center is located within the outer limits of the Lewes Wellhead Protection Area and is located 100 feet from

the Lewes Public Wells and meets the safe zone radius from the wells as required by Chapter 89 (Source Water Protection) of the Sussex County Code. In addition, this project will “recharge” the groundwater as per the sediment and stormwater regulations. We also include an excerpt from Mr. Tom Ford of LANDDESIGN, INC. response from PLUS Review 2007-03-11 regarding this same property and downloaded from the Office of State Planning’s website:

“Mr. Gilbert Holt, City of Lewes Public Works, was contacted to discuss positive and negative consequences that the proposed development may have on the City’s Well site. Mr. Holt seemed to agree that no longer having a farmed field across the road from the well field would at least be a [sic] good in terms of water quality. Nitrates have been increasing in the well nearest the road and it was a concern to him. A significant result of the farmland conversion to this commercial land use is the elimination of the existing irrigation well head. An initial semi-quantitative analysis of the cessation of the center-pivot irrigation and the subsequent withdrawal of water from the well on The Village Center (and in theory Governors) property results in the following observations:

- *The area of the project is 68.3 acres, of which 80% could become impervious or 54.6 acs.*
- *Average precipitation @ Lewes is 44.3 inches/year*
- *According to the Delaware Ground Water Design Manual about 31% or 13.7 inches/yr of this amount of water percolates to the ground water reservoir when crops are grown in type B soils*
- *Irrigation requirements for corn on the Delmarva Peninsula are roughly 16 inches per year above the normal rainfall*
- *Of the 16 inches approximately 85% or 13.6 inches is used by the crop and is lost to the atmosphere.*
- *The radius of influence of the irrigation well is approximately 900 fee or includes an area of approximately 58 acres.*
- *13.6 inches of water has to be pumped from that area to meet irrigation needs*

Under the present situation all of the water that makes it to the water table is pumped out again and used for irrigation where it is lost to the atmosphere. There is no net or excess recharge for the area of the Townsend Village Center since the 54.6 acres of impervious surfaces is slightly smaller than the 58 acres comprising the cone of influence around the existing well. Therefore, the quantity of recharge is a wash when comparing land use changes.

The City of Lewes well field should not be affected by the land use change because net recharge to the aquifer will not change. The primary benefit to the Lewes well sites will be the elimination of a contamination source within their well protection zone."

We acknowledge that the proposed application is for 36.47 acres of land (of which 80% or 29.18 acres of land may be impervious) and the theory described above does not change due to the size of the project. This project will complete a Climatic Water Budget to demonstrate compliance with Chapter 99 of the Sussex County Code.

Revised Response: The original response is still valid, with the exception of specific references to land size of the prior application, but the following information should also be considered. The applicant has entered into a contract with a professional geologist who specializes in hydrology to provide assistance with the Source Water Protection Area. The developer will comply with the Sussex County's Source Water Protection Ordinance during the design and construction of this project. A hydrologic report will be submitted to Sussex County as part of the rezoning application.

- *The majority of this impervious cover is Parking Lot. On the PLUS application, the Developer estimates 11,487 vehicle trips will be generated from this project. The Source Water Assessment and Protection Program identifies potential contamination from land use in the Source Water Assessment Reports for public water systems. These reports are required by amendments to the Federal Safe Drinking Water Act passed in 1996 (EPA, 1997). The land use category Highway/Parking lot is associated with the production of petroleum hydrocarbons, other organic compounds, metals, and other inorganic compounds (DNREC, 1999). Additionally, commercial land use is associated with the introduction of pathogens into the groundwater (DNREC, 1999).*

Original Response: The property is currently actively used for agriculture, whereby numerous fertilizers, pesticides, and herbicides are applied to the property throughout the year.

In accordance with the Sediment and Stormwater Regulations runoff from parking lots into infiltration practices is required to be located 150 feet from any public or private well. In addition, the proposed infiltration practices are required to pre-treat 100% of the runoff prior to entering into the infiltration practice. The applicant will evaluate different pre-treatment practices that are available to treat the potential pollutants listed above.

In addition, as part of the routine operations of the retail center, regular parking lot sweeping and cleaning activities will occur.

Revised Response: The original response is still valid, but the following information should also be considered. The applicant has entered into a contract with a professional geologist who specializes in hydrology to provide assistance with the Source Water Protection Area. The developer will comply with the Sussex County's Source Water Protection Ordinance during the design and construction of this project. A hydrologic report will be submitted to Sussex County as part of the rezoning application.

- *Impervious surface cover is known to accumulate pollutants leaked from vehicles. Wind-blown pollutants also accumulate on impervious surface cover. During a storm event, these pollutants are mobilized in runoff (Li, 2003; Schueler, 1994). The runoff from impervious surface cover can carry a pollutant load in a sufficient concentration to degrade water quality (Gobel, 2007; Li et al., 2006; Schueler, 1994). If this runoff is infiltrated into the unconfined aquifer, it has the potential to affect the drinking water quality and may require additional treatment methods for the City of Lewes.*

Original Response: In accordance with the Sediment and Stormwater Regulations runoff from parking lots into infiltration practices is required to be located 150 feet from any public or private well. In addition, the proposed infiltration practices are required to pre-treat 100% of the runoff prior to entering into the infiltration practice. The applicant will evaluate different pre-treatment practices that are available to treat the potential pollutants listed above.

As part of the routine operations of the retail center, regular parking lot sweeping and cleaning activities will occur.

Revised Response: The original response is still valid, but the following information should also be considered. The applicant has entered into a contract with a professional geologist who specializes in hydrology to provide assistance with the Source Water Protection Area. The developer will comply with the Sussex County's Source Water Protection Ordinance during the design and construction of this project. A hydrologic report will be submitted to Sussex County as part of the rezoning application.

- *The site plan submitted with the PLUS application shows a stormwater management area that runs north to south on the east site of the development (see map). A small bridge crosses this feature. It is unclear from the submission if this is a wet pond cutting into the water table or an infiltration basin.*

Original Response: Given the conceptual stage of this project, the stormwater management best management practices have not been selected. At a minimum there will be several infiltration practices and wet ponds are being considered for aesthetic purposes. A bridge will not be constructed and a pipe will be used to cross the roadway.

Revised Response: There is no change from the original response.

- *The construction phase of stormwater management facilities requires excavation, hauling, and grading. The heavy equipment used in this phase has the capacity to compact and degrade the structure of the strata of the underlying aquifer (Schueler, 2000). Changes to the structural soil properties may cause significant reduction in recharge capacity. Installing storm-water management ponds in wellhead protection areas has the potential to contaminate the ground water beneath it and infiltrate into the aquifer.*

Original Response: There are many construction techniques and equipment available to safely excavate stormwater management facilities to prevent degradation of underlying soil. Stormwater management is a requirement of any development and sizes and shapes will be managed to the extent necessary to meet the Sediment and Stormwater Regulations. As previously noted by the Department, no areas of excellent groundwater recharge exist on the site.

Revised Response: There is no change from the original response.

- *DNREC recommends that the portion of the new development within the wellhead protection area not exceed 20 percent impervious cover. Some allowance for augmenting ground-water recharge should be considered if the impervious cover exceeds 20 percent but is less than 50 percent of that portion of the parcel within this area. However, the development should not exceed 50 percent regardless. A water balance calculation will be necessary to determine the quantity of clean water to be recharged via a recharge basin. The purpose of an impervious cover threshold is to minimize loss of recharge (and associated increases in storm water) and protect the quality and quantity of ground water and surface water supplies.*

Original Response: Chapter 89 of the Sussex County Code details the requirements for the allowed impervious area within a wellhead protection area and Gills Neck Village Center will comply with the Code. The project will “recharge” the aquifer as part of the overall stormwater management plan and a Climatic Water Budget will be prepared per County Code.

In addition, the existing agricultural irrigation well will be decommissioned, thereby reducing the use of groundwater from the aquifer.

Revised Response: There is no change from the original response.

- *In addition, DNREC recommends the following actions:*
 - *Remove any stormwater management facilities out of the wellhead protection area. (Please note: they should not be moved to excellent groundwater recharge areas).*

Original Response: As indicated in a previous comment, most of this site is located within the Lewes Wellhead Protection Area and thus moving the stormwater management facility would be infeasible. Gills Neck Village Center as part of the overall design will provide “recharge” while also providing pre-treatment to protect the aquifer.

Revised Response: There is no change from the original response.

- *Using Better Management Practices in the design, construction, and maintenance of a stormwater management system designed to address water quality with respect to the dissolved component of nutrient and other pollutant loads.*

Original Response: Best Management Practices will be implemented in all phases of the project to reduce runoff from the project and maximize nutrient removal efficiencies.

Revised Response: There is no change from the original response.

- *Design the infiltration facility with advanced treatment, for example, multi-chamber sand filter system, to minimize the likelihood of introduction of any contamination to the infiltration basin.*

Original Response: The Applicant will evaluate different pre-treatment devices to maximize pollutant removal efficiencies before entering an infiltration basin.

Revised Response: There is no change from the original response.

- *Demonstrate via a ground-water particle tracking analysis with a numerical model that contaminants released into the infiltration pond will not be captured by existing wells.*

Original Response: The stormwater from this project that will be infiltrated into the groundwater will be pre-treated prior to entering into the infiltration system to remove contaminants from the runoff.

Revised Response: There is no change from the original response.

- *In addition, because the wellhead protection area is the source of public drinking water for the City of Lewes, the storage of hazardous substances or wastes should not be allowed within the area unless specific approval is obtained from the relevant state, federal, or local program.*

Original Response: Hazardous substances or wastes will not be stored on the project site during construction.

Revised Response: There is no change from the original response.

References

DNREC, 1999, The State of Delaware Source Water Assessment Plan, in DNREC, ed.: Dover, DE, State of Delaware, p. 301. EPA, 1997, State Source Water Assessment and Protection Programs Guidance: Final Guidance: Washington D.C., EPA, p. 160. Gobel, P., Dierkes, C., and Coldewey, W. G., 2007, Storm Water runoff concentration matrix for urban areas: Journal of Contaminant Hydrology v. 91, no. 1-2, p. 26-42. Li, L., Yin, C., He, Q., and Kong, L., 2006, First flush of storm runoff pollution from an urban catchment in China: Journal of Environmental Sciences v. 19, no. 1-2, p. 295 - 299. Schueler, T. R., 1994, The Importance of Imperviousness: Watershed Protection Techniques, v. 1, no. 3, p. 100-111. Schueler, T. R., 2000a, The Compaction of Urban Soils, in Schueler, T. R., and Holland, H. K., eds., The Practice of Watershed Protection: Ellicott City, MD, Center for Watershed Protection, p. 215-218.

Sediment and Stormwater Program

- *A sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. Contact the reviewing agency to schedule a project application meeting to discuss the sediment and erosion control and stormwater management components of the plan as soon as possible. The site topography, soils mapping, pre- and post-development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion. The plan review and approval as well as construction inspection will be coordinated through the Sussex Conservation District. Contact Jessica Watson at the Sussex Conservation District at (302) 856-2105 for details regarding submittal requirements and fees.*

Original Response: A meeting with the Sussex Conservation District will be requested at the appropriate time during the design process.

Revised Response: There is no change from the original response.

Hazardous Waste Sites

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

Original Response: The Owner / Developer will remediate the site as required by Delaware Code should the Department determine that a release of a hazardous substance occurred on this site.

Revised Response: There is no change from the original response.

Tank Management Section

- *If a release of a Regulated Substance occurs at the proposed project site, compliance of 7 Del.C. Chapter 60, 7 Del.C., Chapter 74 and DE Admin. Code 1351, State of Delaware Regulations Governing Underground Storage Tank Systems (the UST Regulations) is required.*

Original Response: The Owner / Developer will comply with the Delaware Code if a regulated substance is released at the site.

Revised Response: There is no change from the original response.

- *The following confirmed leaking underground storage tank (LUST) projects are located within a quarter mile from the proposed project area:*
 - *Uni Mart #02008 Lewes, Facility: 5-000110, Project: S9706088 (Inactive)*
 - *Mills Property, Facility: 5-000848, Project: S9703040 (Inactive)*

Original Response: The applicant thanks the Branch for the information regarding the confirmed LUST projects.

Revised Response: There is no change from the original response.

- *No environmental impacts are anticipated; however, per the UST Regulations: Part E, § 1. Reporting Requirements:*

- *Any indication of a Release of a Regulated Substance that is discovered by any Person, including but not limited to environmental consultants, contractors, utility companies, financial institutions, real estate transfer companies, UST Owners or Operators, or Responsible Parties shall be reported within 24 hours to:*
 - *The Department’s 24-hour Release Hot Line by calling 800-662-8802; and*
 - *The DNREC Tank Management Branch by calling 302-395-2500*

Original Response: While the Department does not anticipate any environmental impacts, the Owner / Developer will notify the Agencies listed above if a regulated substance is discovered at the proposed site.

Revised Response: There is no change from the original response.

Air Quality

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

<i>Table 1: Potential Regulatory Requirements</i>	
<i>Regulation</i>	<i>Requirements</i>
<i>7 DE Admin. Code 1106 - Particulate Emissions from Construction and Materials Handling</i>	<ul style="list-style-type: none"> • <i>Use dust suppressants and measures to prevent transport of dust off-site from material stockpile, material movement and use of unpaved roads.</i> • <i>Use covers on trucks that transport material to and from site to prevent visible emissions.</i>
<i>7 DE Admin. Code 1113 – Open Burning</i>	<ul style="list-style-type: none"> • <i>Prohibit open burns statewide during the Ozone Season from May 1-Sept. 30 each year.</i> • <i>Prohibit the burning of land clearing debris.</i> • <i>Prohibit the burning of trash or building materials/debris.</i>
<i>7 DE Admin. Code 1135 – Conformity of General Federal Actions to the State</i>	<ul style="list-style-type: none"> • <i>Require, for any “federal action,” a conformity determination for each pollutant where the total of</i>

<i>Implementation Plan</i>	<i>direct and indirect emissions would equal or exceed any of the de minimus levels (See Section 3.2.1)</i>
<i>7 DE Admin. Code 1141 – Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products</i>	<ul style="list-style-type: none"> • <i>Use structural/ paint coatings that are low in Volatile Organic Compounds.</i> • <i>Use covers on paint containers when paint containers are not in use.</i>
<i>7 DE Admin. Code 1144 – Control of Stationary Generator Emissions</i>	<ul style="list-style-type: none"> • <i>Ensure that emissions of nitrogen oxides (NO_x), non-methane hydrocarbons (NMHC), particulate matter (PM), sulfur dioxide (SO₂), carbon monoxide (CO), and carbon dioxide (CO₂) from emergency generators meet the emissions limits established. (See section 3.2).</i> • <i>Maintain recordkeeping and reporting requirements.</i>
<i>7 DE Admin. Code 1145 – Excessive Idling of Heavy Duty Vehicles</i>	<ul style="list-style-type: none"> • <i>Restrict idling time for trucks and buses having a gross vehicle weight of over 8,500 pounds to no more than three minutes.</i>

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

Original Response: The applicant will ensure compliance with the above listed regulations and requirements.

Revised Response: There is no change from the original response.

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

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

Original Response: The project will be designed to meet the above requirements.

Revised Response: There is no change from the original response.

- *Where a water distribution system is proposed for Mercantile sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.*

Original Response: The information requested will be provided as part of the Fire Marshal's approval process.

Revised Response: There is no change from the original response.

- **Fire Protection Features:**

- *All structures over 10,000 sqft aggregate will require automatic sprinkler protection installed.*

Original Response: The project will comply with this requirement.

Revised Response: There is no change from the original response.

- *Buildings greater than 10,000 sqft, 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.*

Original Response: All fire lane requirements to include marking will be shown on the site plan that will be submitted to the Fire Marshal for review and approval.

Revised Response: There is no change from the original response.

- *Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.*

Original Response: The Fire Department Connections will be shown on the plan to include being located within 300 feet of a hydrant and the detail provided on the plan.

Revised Response: There is no change from the original response.

- *Show Fire Lanes and Sign Detail as shown in DSFPR.*

Original Response: All fire lanes and sign details will be shown on the site plan that will be submitted to the Fire Marshal for review and approval.

Revised Response: There is no change from the original response.

- 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 site must be constructed so fire department apparatus may negotiate it.*

Original Response: The proposed site will be designed to meet all accessible requirements as listed in the Fire Prevention Regulations.

Revised Response: There is no change from the original response.

- *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.*

Original Response: The proposed site will be designed so that fire department access will be able to be located within 100 feet of the front door.

Revised Response: There is no change from the original response.

- *The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.*

Original Response: The intent is to design the site without the need of speed reduction devices, but if included in the design they will be in accordance with DelDOT requirements.

Revised Response: There is no change from the original response.

- *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.*

Original Response: The proposed project will not have gates that limit fire department access.

Revised Response: There is no change from the original response.

- Gas Piping and System Information:

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

Original Response: The type of fuel proposed or fuel provider will be provided on the plan, including bulk container locations if designed for the site.

Revised Response: There is no change from the original response.

- **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)*
- *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*

Original Response: All of the required notes listed above will be included on the site plan that will be submitted to the Fire Marshall's Office for review and approval.

Revised Response: There is no change from the original response.

State Historic Preservation Office – Contact Terrence Burns 736-7404

- *There was a known historic house (S-219 and S-1045) on this parcel and an archaeological site (S-562, 7S-G-024), towards the southeast side and Kings Hwy (Route 9). Although the house (S-219 and S-1045) was demolished, there are still some outbuildings remaining. According to the Pomeroy and Beers Atlas of 1868, the house (S-219 and S-1045) was associated with a S. P. Houston, and there may be archaeological resource associated with it. With this in mind, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law, which is in Chapter 54 of Title 7, of the Delaware Code (7 Del. C. Ch. 54).*

Original Response: The remaining outbuildings and known archaeological site referenced by the Office are not located on the portion of the property to be rezoned or developed.

Revised Response: There is no change from the original response.

- *Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural or open space areas, and sometimes near or within the boundary of an historic farm site. Even a marked cemetery can frequently have unmarked graves or burials outside of the known boundary line or limit. Disturbing unmarked graves or burials triggers the Delaware's Unmarked Human Burials and Human Skeletal Remains Law (7 Del. C. Ch. 54), and such remains or discoveries can result in substantial delays while the procedures required under this law are carried out. If there is a discovery of any unmarked graves, burials or a cemetery, it is very costly to have them archaeologically excavated and the burials moved. The Division of Historical & Cultural Affairs recommends that owners and/or developers have a qualified archaeological consultant investigate their project area, to the full extent, to see if there is any unmarked cemetery, graves, or burial sites. In the event of such a discovery, the Division of Historical & Cultural Affairs also recommends that the plans be re-drawn to leave the full extent of the cemeteries or any burials on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with the landowner association or development. If you would like to know more information pertaining to unmarked human remains or cemeteries, please check the following websites for additional information: www.history.delaware.gov/preservation/umhr.shtml and www.history.delaware.gov/preservation/cemeteries.shtml.*

Original Response: The Applicant is aware of the potential for unmarked graves and will consult with a qualified archaeologist as needed for this project.

Revised Response: There is no change from the original response.

- *Therefore, prior to any demolition or ground-disturbing activities, the developer may want to hire an archaeological consultant to examine the parcel for any potential archaeological site or archaeological resources, such as cemetery, burial site, or unmarked human remains.*

Original Response: The Applicant is aware of the potential for archaeological sites or resources and will consult with a qualified archaeologist as needed for this project.

Revised Response: There is no change from the original response.

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

Original Response: Federal permits are not anticipated for this project and the Applicant is familiar with the Section 106 process.

Revised Response: There is no change from the original response.

Recommendations/Additional Information

Department of Transportation – Contact Bill Brockenbrough 760-2109

- *Section 2.5 of the Development Coordination Manual addresses in part Traffic Signal Agreements, Traffic Signal Revolving Fund agreements, and Off-Site*

Improvement Agreements. To the extent that DelDOT identifies a need for these agreements, the applicant should expect a requirement that the need for them be noted on the Record Plan.

Original Response: All requirements identified as part of the Traffic Operational Analysis or the 2009 Agreement will be added to the notes on the Record Plan.

Revised Response: There is no change from the original response.

- *The plan accompanying the PLUS application shows a right-turn acceleration lane entering Kings Highway from the proposed main access. While DelDOT will review this feature further as part of the TOA and plan review, DelDOT generally discourages the use of acceleration lanes leaving subdivision streets and commercial driveways.*

Original Response: The acceleration lane that was shown on the plan reviewed by PLUS has been removed from the revised sketch plan.

Revised Response: There is no change from the original response.

- *The plan accompanying the PLUS application shows what appears to be a full access on Kings Highway serving the proposed YMCA site. While DelDOT will review this feature further when a plan is submitted for the YMCA parcel and may permit some direct access from Kings Highway, it is likely that some or all access movements will need to occur at the main entrance opposite Clay Road.*

Original Response: The proposed YMCA and multicultural/museum site shown on the plan reviewed by PLUS is schematic and shown to verify the land set aside for future use will be large enough for the potential use. The access to these parcels will be reviewed as part of their application process.

Revised Response: The revised sketch plan only shows the proposed shopping center and its access.

- *The TOA will need to address queueing along the proposed main site access opposite Clay Road.*

Original Response: The TOA and Signal Justification Study scopes of work were provided by DelDOT. A queuing analysis for the main site access will be analyzed and included in one or both of the required studies.

Revised Response: There is no change from the original response.

- *The plan accompanying the PLUS application shows a proposed parcel line running down the middle of the main access road leading in from Kings Highway. While such an ownership arrangement may be feasible using a set of cross-access easements, we suggest that the creation of a public or private right-of-way may make for easier administration.*

Original Response: The rezoning line has been adjusted to be located on the far side of the access from Clay Road. The parcel lines have not been adjusted on the site plan and will be further evaluated during the design. The intent is to use a set of cross-access easements for the various parcels.

Revised Response: The sketch plan only shows the proposed zoning line and existing right-of-ways. A set of cross access easements will be used for the various parcels.

- *In the internal design of the shopping center, we recommend that the applicant's engineer use truck turning templates typical of the largest trucks expected to make deliveries to the center. DelDOT will require the use of such template in the design of the site access but the plan accompanying the PLUS application appears to be restrictive internally, such that fire access and deliveries to the backs of the stores could be difficult.*

Original Response: The plan presented at PLUS is a schematic drawing. As Gills Neck Village Center moves forward in the process, the internal access will be verified to ensure that the site is accessible to both fire protection apparatus as well as the delivery trucks that will service the Center.

Revised Response: The revised sketch plan is a schematic drawing. As the Gills Neck Village Center moves forward in the process, the internal access will be verified to ensure that the site is accessible to both fire protection apparatus as well as the delivery trucks that will service the Center.

- *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 date of Mayh 21, 2014. The notes can be found at*

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

Original Response: Prior to submitting the record plat or entrance plans, the design engineer will verify that the most current general notes are used on the plan sets.

Revised Response: There is no change from the original response.

- *The applicant should expect a requirement that all PLUS and/or TAC comments be addressed prior to submitting record, subdivision or entrance plans for review.*

Original Response: The Applicant is aware that the comments provided at PLUS and / or TAC should be addressed as part of the record and entrance plan reviews.

Revised Response: There is no change from the original response.

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

Original Response: The design engineer will review this as part of the design stage and will work with the utility companies as necessary.

Revised Response: There is no change from the original response.

- *The applicant should expect a requirement that any substation, wastewater facility or other utility parcels serving the site have access from an internal subdivision street with no direct access to the State-maintained highway.*

Original Response: Access to a substation, wastewater facility or other utility, if required to serve Gills Neck Village Center, will be from an internal street or access.

Revised Response: There is no change from the original response.

- *Please be advised DelDOT's check handling procedures changed in 2012. For specific information, see the letter available at*

<http://www.deldot.gov/information/business/subdivisions/PaymentProcedure.pdf>

Original Response: The design engineer is aware of the check handling procedures and is also one of the testing firms for the new online submission process that DelDOT is moving towards. The Applicant will comply with the payment procedures in affect at time of submission.

Revised Response: There is no change from the original response.

- *The subject parcel is located at the intersection of two roads included in the Lewes Historic Byway, Kings Highway and Gills Neck Road. The design of the shopping center and associated off-site improvements will necessarily affect the experience of visitors to the Byway.*

Original Response: The Developer of this property is aware of the Lewes Byway. However, it is noted that the Kings Highway site frontage is not a part of the Lewes Byway or any byway. The only part of the site that is part of the Lewes

Byway is the Gills Neck road site frontage. The Developer of Gills Neck Village Center plans to construct a visually attractive project, which will be a welcome addition to the area designated as the "Gateway to Lewes" along Kings Hwy shown on page 3 the December 15, 2014 Traffic Management Plan completed by Delaware Greenways,

Revised Response: The applicant is aware of the Lewes Byway. The Kings Highway site frontage was added to the Lewes Byway and we were unaware of the addition and the owner was not contacted or notified prior to the change. The applicant and future Developer of Gills Neck Village Center plans to construct a visually attractive project, which will be a welcome addition to the area designated as the "Gateway to Lewes".

- *The following comments listed below are from the DelDOT Byways Program and are grouped under Suggestions because many of them are just that; they address concerns which DelDOT cannot require the applicant to address. However, the applicant should expect DelDOT to require the improvements to Kings Highway and Gills Neck Road to be guided by the DelDOT publication Context Sensitive Solutions for Delaware's Byways, the Corridor Management Plan for the Byway, and the Kings Highway/Gills Neck Road Master Plan.*

Original Response: The 2009 Letter Agreement will direct developer required improvements. The Developer has reviewed the published and available documents and will consider the guidance provided along Gills Neck Road within the context of public safety, roadway capacity, future maintenance, cost, and feasibility. The Kings Highway site frontage is not part of the Lewes Byway.

Revised Response: The 2009 Letter Agreement will direct the developer required improvements, subject to any changes based on the considerable reduction in the size and scope of the project. The applicant has reviewed the published documents and will consider them within the context of public safety, roadway capacity, future maintenance, cost, and feasibility.

- *Follow DelDOT's publications related to Byway design. As the proposed development project is on two roadways that comprise the Lewes Historic Byway, please follow the principles and guidance of the DelDOT publication, Context Sensitive Solutions for Delaware's Byways (DelDOT, June 2011) as the project design and transportation mitigation designs are progressed. This document represents DelDOT policy with regards to the state's byways.*

Original Response: As previously noted, the project is not on two roadways within the Lewes Byway. The Kings Highway site frontage is not part of the Lewes Byway or any byway. The approved and proposed improvements are guided by the existing 2009 Agreement and approved intersection improvements. The byways documents will also be considered along Gills Neck Road. The Developer and design engineer will meet with DelDOT early in the design process for the Gills Neck Road site access and road frontage improvements to review the design standards that will be used for the proposed improvements to Gills Neck Road. Phase 1 of the Kings Highway / Gills Neck Road / Cape Henlopen High School intersection was completed during the Summer of 2015. Phase 2 of the improvements will be completed during the Summer of 2016. The construction plans and signal design plans were paid for by the developers and were each approved by DelDOT in 2015.

Revised Response: The approved and proposed improvements are guided by the existing 2009 Agreement and approved intersection improvements. The byways documents will also be considered along both road frontages. The Developer and design engineer will meet with DelDOT early in the design process for the project site accesses and road frontage improvements to review the design standards that will be used for the proposed improvements to Gills Neck Road. Phase 1 of the Kings Highway / Gills Neck Road / Cape Henlopen High School intersection was completed during the summer of 2015. Phase 2 of the improvements will be completed during the summer of 2016. The construction plans and signal design plans were paid for by the developers and were each approved by DelDOT in 2015.

- *Follow the recommendations of the Corridor Management Plan for the Lewes Historic Byway. The soon to be completed Corridor Management Plan (final draft in May) for the Lewes Historic Byway provides more specific guidance on developing context sensitive solutions designed to protect and preserve the character of the Byway. This document, when completed will also become policy for the Department. The Applicant's attention is specifically directed to the typical sections developed in conjunction with the citizens that participated in the Byway Corridor Management Plan development process. Such typical sections received positive comment at the public meeting held on November 13, 2014.*

Original Response: The Kings Highway site frontage is not part of the Lewes Byway or any byway. The 2009 Letter Agreement will direct developer required improvements. The Corridor Management Plan is not complete for

the Lewes Historic Byway. The Developer and design engineer will review the typical sections and evaluate whether they can be incorporated into the Gills Neck Road design, the proposed site access improvements, and development of The Village Center site.

Revised Response: The 2009 Letter Agreement will direct developer required improvements. The Corridor Management Plan for the Lewes Historic Byway was adopted in October 2015. The Developer and design engineer will review the typical sections and evaluate whether they can be incorporated into the frontage, the proposed site access improvements, and development of The Village Center site.

- *Coordinate with the Kings Highway/Gills Neck Road Master Plan which will begin shortly. Legislatively funded, the Master Plan will coordinate with the active developers in the area, DelDOT and the community to develop context sensitive solutions for Kings Highway and Gills Neck Road.*

Original Response: The 2009 Letter Agreement will direct developer required improvements. Development of the Kings Highway / Gills Neck Road Master Plan has not started as of July 30, 2015. DelDOT anticipated an August project kick off and public meetings will be advertised. The Developer anticipates to be contacted during the preparation of the Master Plan.

Revised Response: There is no change from the original response.

- *Address the following site plan comments. The site plan as presented in the PLUS Application, while absent of dimensions, has generated the following specific comments:*

Original Response: We will address each comment below.

Revised Response: There is no change from the original response.

- *Provide sufficient setbacks to enable landscaping and other context sensitive features of the Byway to be designed into the project. The sketch plan shows insufficient setbacks to permit the context sensitive typical sections contained in the draft Corridor Management Plan. Such typical sections will be provided upon request.*

Original Response: The Owner has dedicated a significant amount of right-of-way as part of the Kings Highway / Gills Neck Road / Cape Henlopen High School intersection improvements such that additional

setbacks should not be required. We have requested the typical sections to determine the impacts to the Village Center.

Revised Response: The Owner has dedicated a significant amount of right-of-way as part of the Kings Highway / Gills Neck Road / Cape Henlopen High School intersection improvements such that additional setbacks should not be required. The applicant will review the typical sections and evaluate possible implementation.

- *Provide for multi-use trails through the development and connections to external trail links. DelDOT requirements with regard to multi-use trails, sidewalks and walkways are found in Section 3.5 of the Development Coordination Manual. The proposed setbacks also seem to lack sufficient room for a trail network along the Byway.*

Original Response: The existing multi-use paths/Junction and Breakwater Trail would not exist if it were not for the actions of the Owner – the Owner and its affiliates have donated acres of land and privately funded miles of the constructed trail network.

The Owner of this parcel, as well as others along Gills Neck Road installed, at its sole cost, the gravel portion of the Junction and Breakwater Trail. As most of the developments have been constructed, the Junction and Breakwater Trail has been upgraded from gravel to pavement along the south side of Gills Neck Road and easements were provided through Showfield to allow for connection to Freeman Highway. Furthermore, the developer's will improve the Junction and Breakwater Trail to the intersection of Kings Highway / Gills Neck Road / Cape Henlopen High School. The developers of Governors will then complete the final connection of the re-aligned and improved Junction and Breakwater Trail. There is sufficient space to then extend the Junction and Breakwater Trail (or shared use path) along the King's Highway road frontage of Gills Neck Village Center. In addition, there are sidewalks within the Center to promote walking as well as connection to the Governors community.

Revised Response: There is no change to the original response.

- *Revise the design of the site to one that enhances the character of the Byway. The succession of outparcels is unlike any other development, recent or older on any of the Lewes Historic Byway roadways. We request that they be eliminated or the site redesigned to a more village*

configuration as opposed to the typical suburban shopping center plan shown in the sketch. Note: A village design represents a center where retail buildings are arrayed across the site with separate parking areas and internal landscaping.

Original Response: The outparcels are located along the Kings Highway site frontage and are not located within the Lewes Byway. The proposed outparcels will provide a general mix of commercial and service oriented businesses consistent with the CR-1 zoning code.

The proposed sketch provides many of the features of the byways in that there are sidewalks throughout the center and use of landscaped islands to “break-up” the parking areas. This layout provides for better access for delivery vehicles and fire apparatus and concentrates utilities within a corridor to be more efficient.

Revised Response: The commercial space has been re-designed. The revised plan mimics the other commercial spaces located along Kings Highway. The proposed sketch plan provides many of the features of the byways in that there are sidewalks throughout the center and use of landscaped islands to “break up” the parking areas. This layout provides for better access for delivery vehicles and fire apparatus and concentrates utilities within a corridor to be more efficient.

- *Provide appropriate buffering and retain viewsheds. The strip center building at the back of the site has its back to the adjacent residential neighborhood. A village design might address that concern. The shopping center's back will be visible from Gills Neck Road.*

Original Response: The proposed Gills Neck Village Center will have landscaping to screen the Center from the adjacent Governors community.

Revised Response: There is no change from the original response.

- *Provide an acceptable access design to Gills Neck Road. The access to Gills Neck Road lacks an insufficient throat. We are concerned that incoming and outgoing traffic will conflict causing congestion on Gills Neck Road. The subject of entrance length or “throat” is addressed at length in Section 5.2.6 of the Development Coordination Manual.*

Original Response: The access shown on the concept plan is just a sketch. The entrance will be designed in accordance with the TOA analysis, as well as the Development Coordination Manual.

Revised Response: There is no change from the original response.

- *Incorporate the recommendations of the approved Transportation Management Plan. Please follow the recommendations of the DelDOT approved Transportation Management Plan (Delaware Greenways, December 2014) for the Byway by participating in transportation management improvements in addition to the capacity mitigation improvements driven by the traffic impact study. Such improvements are designed to improve the quality of life for the residents in the area, some of which reside in neighborhoods developed by the Applicant. The report will be provided upon request.*

Original Response: All DelDOT improvements will be required based on the Letter Agreement between LT Associates, LLC and DelDOT detailing the requirements. It is noted the Traffic Management Plan shows a typical section along a section of Kings Highway that is not located within the Byway. It is also noted the Traffic Management Plan references the Showfield TIS and states that since 2007 “few, if any of the developments contained therein have been built.” That statement is incorrect as all of Cadbury, Breakwater, and the vast majority of Wolfe Pointe, Hawkseye, and Senators have built-out.

The Developer will extend the shared use path along King’s Highway and tie it into the Junction and Breakwater Trail. The Developer will incorporate a bus stop into the design for future expansion of the DART Bus Route to include providing 100 dedicated parking spaces for a potential Park n Ride. The Developer will work with DART on the appropriate location whether it is on Gills Neck Village Center proper or the future YMCA or Museum / Multicultural Center. The Developer is installing a parking area for the users of the Junction and Breakwater Trail. The proposed Gills Neck Village Center will provide interconnection to the existing Junction and Breakwater Trail that was built and paid for by the Owner/affiliates of the Owner.

Revised Response: All DelDOT improvements will be required based on the Letter Agreement between LT Associates, LLC and DelDOT detailing the requirements. The Traffic Management Plan shows a typical section

along a section of Kings Highway that will be reviewed by the applicant. It is also noted the Traffic Management Plan references the Showfield TIS and states that since 2007 “few, if any of the developments contained therein have been built.” That statement is incorrect as all of Cadbury, Breakwater, and the vast majority of Wolfe Pointe, Hawkseye, and Senators have built-out.

The Developer will extend the shared use path along King’s Highway and tie it into the Junction and Breakwater Trail. The Developer will incorporate a bus stop into the design for future expansion of the DART Bus Route to include providing 100 dedicated parking spaces for a potential Park n Ride. The Developer will work with DART on the appropriate location whether it is on Gills Neck Village Center proper or the residual lands. The Developer is installing a parking area for the users of the Junction and Breakwater Trail. The proposed Gills Neck Village Center will provide interconnection to the existing Junction and Breakwater Trail that was built and paid for by the Owner and / or affiliates of the Owner.

- *Seek input from the Byway Committee and its sponsors throughout the design process. We request that the Applicant include the Lewes Scenic and Historic Byway Committee, an official committee of the City of Lewes and the Management Entity of the Lewes Historic Byway, in the review process for aspects of the plan review not under DelDOT entrance review purview.*

Original Response: The Developer will consider input from the Byway Committee and its sponsors at the appropriate stage of the design process. The entrance, off site intersection, and frontage improvements are requirements of DelDOT and will be reviewed under the DelDOT entrance review purview and per the Letter Agreement documenting required improvements.

Revised Response: There is no change from the original response.

*Department of Natural Resources and Environmental Control – Contact Kevin Coyle
739-9071*

Soils Assessment

- *Based on soils survey mapping update, the soil mapping units with the most limitations for development are Hurlock (HvA), Manahawkin (Ma), Hurlock, and Transquaking & Mispillion (TP). These soil mapping units are poorly to very*

poorly drained wetland associated (hydric) soils that are considered to have severe limitations for development (considered unsuitable). Therefore, DNREC strongly recommends that the applicant avoid development in all hydric soil mapping units. (Figure 1).

Original Response: The soils on the proposed Gills Neck Village Center property are all well drained soils and do not have any limitations on the development of this project.

Revised Response: There is no change from the original response.

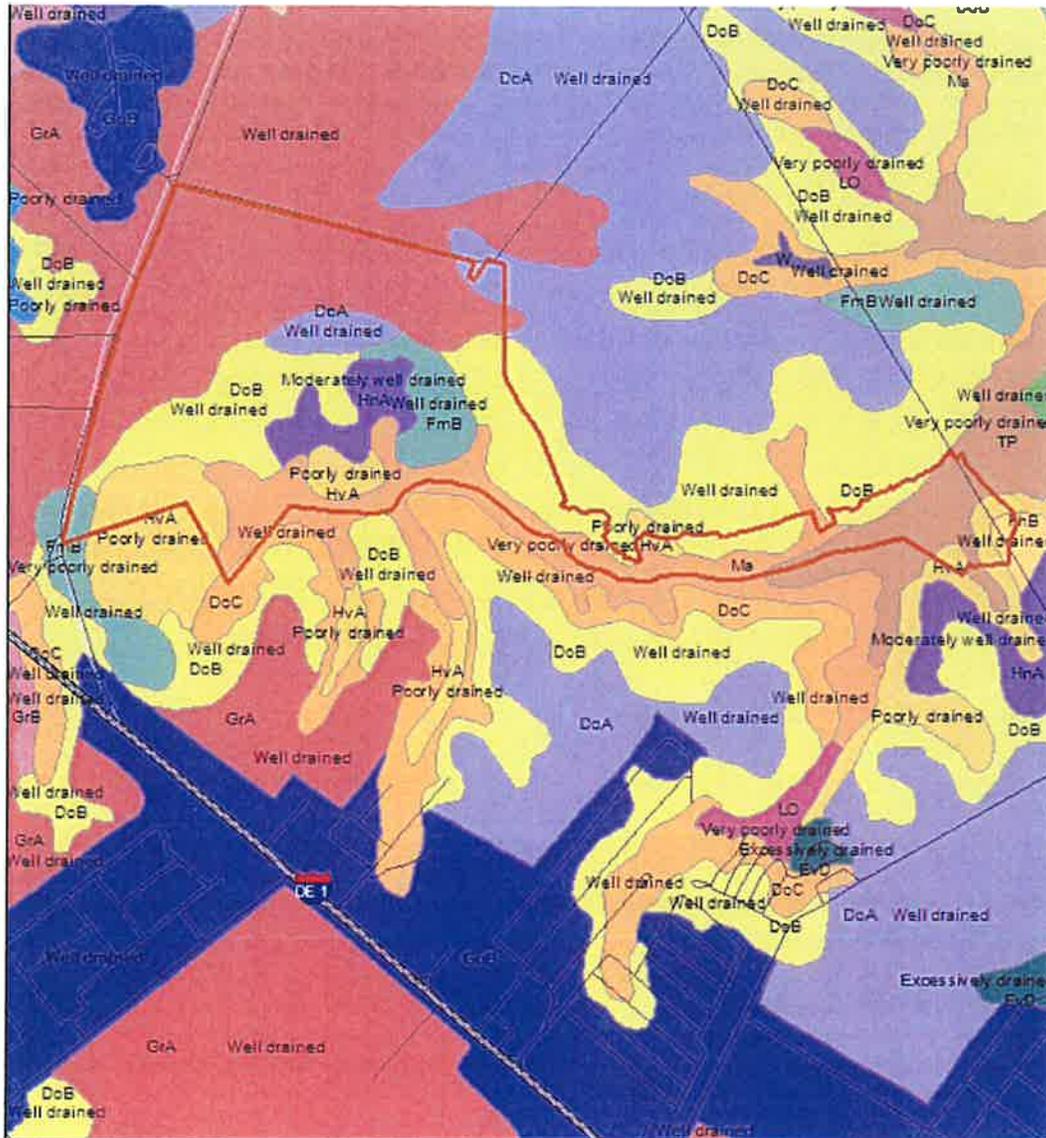
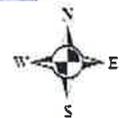
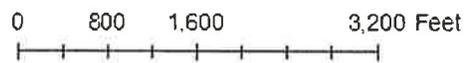


Figure 1 NRCS soil survey mapping update in the immediate vicinity of the proposed construction



Habitat and Rare Species

Rare Species

- *DNREC scientists have not surveyed this project area; therefore, we are unable to provide information pertaining to the existence of state-rare or federally listed plants, animals or natural communities at this project site. In the absence of site-specific information, we offer the following comments:*

Original Response: The proposed improvements are located within the currently agricultural portion of the property, which has been actively farmed for more than 50 years; therefore any existence of state-rare or federally-listed plants, animals or natural communities is highly unlikely.

Revised Response: There is no change from the original response.

- *According to the PLUS application submitted in 2009, the forested wetlands along Pot Hook Creek were to be designated as a conservation easement and left intact. However, this application does not specify if the plan remains to designate these habitats as a conservation easement. Rare species have been documented downstream within the forested buffer along Pot Hook Creek and Wolfe Glade. Forested habitat along the creek protects water quality by filtering run-off, minimizing bank erosion, and providing shade that moderates water temperature so it is suitable for spawning. Forested riparian habitat also provides vital breeding areas for wetland dependent species and is utilized by wildlife for resting, foraging and as a travel corridor between habitats. As such, DNREC strongly recommends that the forested wetlands within the parcel, both those which are included in the site plan and those that are not, are to remain intact. Moreover, it remains unclear how wide the buffer will be between these key wildlife habitats and the areas that are to be disturbed. DNREC highly recommends that at least a 100 foot (preferably 300 foot) buffer is preserved along the creek to protect sensitive rare species, protect water quality and to maintain a wildlife habitat along the creek.*

Original Response: The Governor's community is creating a conservation easement as previously shown in 2009. The proposed project is located over 1,000 feet from the proposed conservation easement. Buffers for this project are not proposed and are not required due to its location on the property.

Revised Response: There is no change from the original response.

Mosquito Control

- *Development projects within 2-5 miles of large expanses of salt marshes or brackish wetlands can often lead to increased demands for mosquito control services, going beyond what DNREC's Mosquito Control Section currently has the budget or resources to provide. State, county and/or local governments should be prepared to deal with increased budget demands for mosquito control services when approving developments that could potentially have mosquito issues.*

Original Response: We thank the Section for information regarding budget constraints for mosquito control.

Revised Response: There is no change from the original response.

- *Additionally, even though the EPA has scientifically determined that EPA-registered mosquito control insecticides can be applied "without posing any unreasonable risks to human health, wildlife or the environment" (when used in accordance with all product label instructions), avoiding or reducing the use of such pesticides should be employed whenever possible. For more information about this issue, the applicant can contact Dr. Bill Meredith, Mosquito Control Administrator at (302) 739-9917.*

Original Response: The Owner / property manager will determine if mosquito control will be required for the project.

Revised Response: There is no change from the original response.

Stormwater Ponds

- *Wet ponds created for stormwater management purposes may attract resident Canada geese and mute swans that will create a nuisance for community residents. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Short manicured lawns surrounding ponds provide attractive habitat for these species.*

Original Response: If a wet pond is proposed, the design engineer will work with the owner / property manager on a design to prevent as best as possible attracting resident Canada geese and mute swans.

Revised Response: There is no change from the original response.

- *To deter waterfowl from taking up residence in these ponds, we recommend planting the surrounding open space with a mix of native wildflower plantings (to be planted in accordance with the Sediment and Stormwater Plan approval agency requirements). It is best to mow the open space area surrounding the pond only once a year, either in February or March. If mowing must occur more often, it would be helpful to leave a minimum buffer of 15-30 ft. in width to be mowed annually. This area would be necessary to adequately deter the waterfowl from inhabiting the area (when the view of the surrounding area from the pond is blocked, geese can't scan for predators and are less likely to reside and nest in the area of the pond). In addition to deterring nuisance waterfowl, the native wildflower mix will also serve to attract bees, butterflies, and other pollinators, and reduce run-off, which can contain oil and other pollutants that homeowners may use on their lawns and driveways.*

Original Response: If a wet pond is proposed, the design engineer will work with the owner / property manager on a design to prevent as best as possible attracting resident Canada geese and mute swans.

Revised Response: There is no change from the original response.

- *DNREC's botanist, Bill McAvoy at (302) 735-8668 or William.McAvoy@state.de.us, would gladly assist in drafting a list of plants suitable for this site. = Kate Fleming, (302) 735-8658, Kate.Fleming@state.de.us*

Original Response: We thank the section for the contact information.

Revised Response: There is no change from the original response.

Additional information on TMDLs and water quality

Compliance with the specified TMDL nutrient and bacterial reduction requirements specified for the Inland Bays watershed can be facilitated by adherence to the strategies and requirements described in the Inland Bays PCS, and the implementation of the following recommended BMPs:

Original Response: The proposed project will meet the Inland Bays PCS.

Revised Response: There is no change from the original response.

- *Maintain all of the existing forest cover and/or riparian wetlands that bound the southern portion of this parcel. We further suggest additional native tree and native herbaceous plantings - wherever possible – to create additional environmentally-friendly open space.*

Original Response: The proposed project is to be developed on the upland portion of the site and there are no trees located within the project limits.

Revised Response: There is no change from the original response.

- *Conduct a United States Army Corps of Engineers (USACE) approved wetlands delineation. According to information submitted by the applicant, a wetland delineation has not been conducted or approved by the USACE.*

Original Response: On the PLUS application we noted that wetlands were not located on the site because the portion of the property to be developed is located on uplands that are currently agricultural. A wetland delineation was previously completed and there are no wetlands on the portion of the property.

Revised Response: There is no change from the original response.

- *Based on NRCS soil survey mapping, the area proposed for development is likely to contain poorly-drained wetland-associated (hydric) soils; hydric soils are considered unsuitable for development and should be avoided. We further suggest that a site-specific soils evaluation by a licensed soil scientist be conducted to more accurately identify and locate the presence of hydric soils in this parcel.*

Original Response: The proposed Gills Neck Village Center is located on well-drained soil as indicated on the NRCS soil survey. A soils investigation will be conducted as part of the design of Gills Neck Village Center.

Revised Response: There is no change from the original response.

- *Based on a review of existing buffer research by Castelle et al. (Castelle, A. J., A. W. Johnson and C. Conolly. 1994. Wetland and Stream Buffer Requirements – A Review. J. Environ. Qual. 23: 878-882.), an adequately-sized buffer that effectively protects wetlands and streams, in most circumstances, is about 100 feet in width. In recognition of this research and the need to protect water quality, the Watershed Assessment Section recommends that the applicant maintain/establish a minimum 100-foot upland buffer (maintaining the existing forested buffer and planting additional native vegetation to maintain this 100-foot buffer) from all waterbodies (including ditches) and wetlands (as determined by USACE approved wetlands delineation).*

Original Response: The Governors community is creating a conservation easement as previously shown in 2009. The proposed project is located over 1,000 feet from the proposed conservation easement. Buffers for this project are not proposed and are not required due to its location on the overall property.

Revised Response: There is no change from the original response.

- *Use green-technology storm water management and a rain garden(s) (in lieu of open-water management structures) as BMPs to mitigate or reduce nutrient and bacterial pollutant runoff increases that often track post-development increases in surface imperviousness. Please contact Lara Allison at 739-9939 for further information about the possibility for installing a rain garden(s) on this parcel.*

Original Response: The project is required to meet the current Sediment and Stormwater Regulations that requires “recharge” of the resource protection event including the use of green-technology practices. An open water management pond may be constructed as part of the overall stormwater management plan.

Revised Response: There is no change from the original response.

- *Calculate post-construction surface imperviousness with all forms of created (or constructed) surface imperviousness (e.g., rooftops, driveways, parking lots, sidewalks, open-water storm water management structures, ponds, and roads) included in the calculation. Using open-water management structures as part of calculation for open space results in an underestimate of actual surface imperviousness, and is not considered an acceptable best management practice.*

Original Response: The design engineer accounts for all impervious area to include the open water of an open water management structure to truly calculate the total impervious area.

Revised Response: There is no change from the original response.

- *Since this project will create additional surface imperviousness that will increase the probability for increased flooding and increased pollutant load runoff impacts to adjoining streams and wetlands in the greater Inland Bays watershed - wherever practicable - , the use of pervious paving materials (instead of conventional asphalt and concrete) to mitigate these impacts is strongly encouraged. We suggest that the applicant use pervious paving materials in all parking areas and consider the use of pervious pavers in roadways as well.*

Original Response: Open pavers is a viable option but conflicts with the comments provided in the Source Water Protection Area Section. The proposed project is required to meet the new Sediment and Stormwater Management Regulations which requires “recharge” of the resource protection event.

Revised Response: There is no change from the original response.

- *The applicant should voluntarily assess nutrient and bacterial pollutant loading at the preliminary project design phase. To this end, the Watershed Assessment Section has developed a methodology known as the “Nutrient Load Assessment protocol.” The protocol is a tool used to assess changes in nutrient loading (e.g., nitrogen and phosphorus) resulting from the conversion of individual or combined land parcels to a changed land use(s); thus providing applicants and governmental entities with quantitative information about the project’s impact(s) on baseline water quality. We strongly encourage the applicant/developer use this protocol to help them design and implement the most effective BMPs. Please contact Jen Walls or John Martin at (Division of Watershed Stewardship) at 302-739-9939 for more information on the protocol.*

Original Response: The Applicant and Design Engineer are familiar with the “Nutrient Load Assessment Protocol” worksheet and are familiar with the BMPs that effectively remove 100% of nitrogen and phosphorus.

Revised Response: There is no change from the original response.

Additional information on hazardous waste sites

- *DNREC's Site Investigation and Restoration Section (SIRS) strongly recommends that the land owner perform environmental due diligence of the property by performing a Phase I Environmental Site Assessment (including a title search to identify environmental covenants) and a Phase II or Facility Evaluation in accordance to Section 9105(c) (2) of the Delaware Hazardous Substance Cleanup Act (HSCA) and the HSCA Guidance Section 2, part 2.3 (page 2-1). While this is not a requirement under HSCA, it is good business practice and failure to do so will prevent a person from being able to qualify for a potential affirmative defense under Section 9105(c) (2) of HSCA.*

Original Response: This parcel of land has been owned by the current owner for over 50 years and said owner has no knowledge of a hazardous material release and a Phase I or II evaluation is not needed at this time. An Environmental Transaction Screen has been conducted and identified no significant issues.

Revised Response: There is no change from the original response.

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

Original Response: This portion of the project does not require remediation.

Revised Response: There is no change from the original response.

- *Should a release or imminent threat of a release of hazardous substances be discovered during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24-hour emergency number (800-662-8802). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions.*

Original Response: The Owner / Developer will discontinue construction activity and remediate the site as required by Delaware Code should the Department determine that a release of a hazardous substance occurs during construction of the project.

Revised Response: There is no change from the original response.

Additional information on tank management

- *When contamination is encountered, PVC pipe materials should be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.*

Original Response: If contamination is encountered, PVC pipe materials will be replaced with ductile steel and nitrile rubber gaskets if the soil is not remediated.

Revised Response: There is no change from the original response.

- *If any aboveground storage tanks (ASTs) less than 12,500 gallons are installed, they must be registered with the TMS. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMS.*

Original Response: The proposed project is not intended to install ASTs but if they do we will pass on the information to the tenants that they need to be registered.

Revised Response: There is no change from the original response.

Additional information on air quality

- *New homes may emit, or cause to be emitted, air contaminants into Delaware's air, which will negatively impact public health, safety and welfare. These negative impacts are attributable to:*

Original Response: There are no new homes proposed for this project.

Revised Response: There is no change from the original response.

- *Emissions that form ozone and fine particulate matter; two pollutants relative to which Delaware currently violates federal health-based air quality standards, the emission of greenhouse gases which are associated with climate change, and the emission of air toxics.*

Original Response: We thank the Section for this information.

Revised Response: There is no change from the original response.

- *Air emissions generated from commercial spaces include emissions from the following activities:*
 - *Area sources such as painting, maintenance equipment and the use of consumer products like roof coatings and roof primers.*

Original Response: Construction products are always evolving to reduce emissions from their products or use of their products.

Revised Response: There is no change from the original response.

- *The generation of electricity needed to support the commercial space, and all transportation activity.*

Original Response: Utility providers are studying ways and implementing practices to find green energy sources to reduce their emission.

Revised Response: There is no change from the original response.

- *Based on the information provided, the three air emissions components (i.e., area, electric power generation, and mobile sources) for the development were quantified. Table 2 represents the actual impact the project development may have on air quality.*

Table 2: Projected Air Quality Emissions for Village Center

<i>Emissions Attributable to Village Center (Tons per Year)</i>	<i>Volatile Organic Compounds (VOC)</i>	<i>Nitrogen Oxides (NOx)</i>	<i>Sulfur Dioxide (SO₂)</i>	<i>Fine Particulate Matter (PM_{2.5})</i>	<i>Carbon Dioxide (CO₂)</i>
<i>Mobile</i>	38.15	50.31	*	*	*

(*) Indicates data is not available.

Note that emissions associated with the actual construction of the road, including automobile and truck traffic from working in, or delivering products to the site, as well as

site preparation, earth moving activities, road paving and other miscellaneous air emissions, are not reflected in the table above.

Original Response: We thank the Section for quantifying the emission components.

Revised Response: There is no change from the original response.

DNREC encourages sustainable growth practices that:

- *Control sprawl;*

Original Response: The proposed project is located on property within the Level 1 Investment Area and near existing communities with existing infrastructure to support growth. In addition, numerous vehicle trips will be shortened in duration or eliminated (decreasing emissions) due to the proximity of Gills Neck Village Center to houses and customers.

Revised Response: There is no change from the original response.

- *Preserve rural and forested areas;*

Original Response: The project is located with Sussex County's growth zone and forested areas are not located within the project limits.

Revised Response: There is no change from the original response.

- *Identify conflicting land use priorities;*

Original Response: The project is located within a Level 1 Investment Area and within Sussex County's growth area.

Revised Response: There is no change from the original response.

- *Encourage growth on previously developed sites and denser communities while at the same time protect our diminishing land base;*

Original Response: The project is located within a Level 1 Investment Area and within Sussex County's growth area.

Revised Response: There is no change from the original response.

- *Coordinate transportation, housing, environment, and climate protection plans with land use plans; and*

Original Response: The project includes means for multi-modal transportation, connects to adjacent land uses and will include design methods to protect the

environment. The land use is intended to compliment the neighboring residential, commercial, and institutional uses.

Revised Response: There is no change from the original response.

- *Demonstrate that communities can achieve the qualities of privacy, community, and contact with nature without degrading the natural environment or generating unacceptable environmental costs in terms of congestion, use of natural resources, or pollution.*

Original Response: The proposed project will be designed to promote interconnection, multiple modes of transportation, public bus stop and runoff reduction practices to mitigate the impacts of this project.

Revised Response: There is no change from the original response.

Additional measures may be taken to substantially reduce the air emissions identified above. These measures include:

- ***Constructing with only energy efficient products.** Energy Star qualified products are up to 30% more energy efficient. Savings come from building envelope upgrades, high performance windows, controlled air infiltration, upgraded heating and air conditioning systems, tight duct systems and upgraded water-heating equipment. Every percentage of energy efficiency translates into a percent reduction in pollution. The Energy Star Program is excellent way to save on energy costs and reduce air pollution.*

Original Response: The Developer will consider this information and pass it on to the future tenants or building contractors to consider in their design and construction activities.

Revised Response: There is no change from the original response.

- ***Offering geothermal and/or photo voltaic energy options.** These systems can significantly reduce emissions from electrical generation, and from the use of oil or gas heating equipment.*

Original Response: The Developer will consider this information and pass it on to the future tenants or building contractors to consider in their design and construction activities.

Revised Response: There is no change from the original response.

- *Providing tie-ins to the nearest bike paths and links to any nearby mass transport system. These measures can significantly reduce mobile source emissions. For every vehicle trip that is replaced by the use of a sidewalk, a bike path or mass transit, 7 pounds of VOC and 11.5 pounds of NOx are reduced each year.*

Original Response: The Developer has constructed portions of the Junction and Breakwater Trail along the property frontage and will construct additional multi-use paths along King's Highway. Furthermore, they will install a bus stop for a future expansion of the DART Bus Route and have multiple connections to the existing Junction and Breakwater Trail as well as an interconnection to the adjacent Governors Residential Condominium Community.

Revised Response: There is no change from the original response.

- *Using retrofitted diesel engines during construction. This includes equipment that are on-site as well as equipment used to transport materials to and from site.*

Original Response: The Developer will consider this information and pass it on to the future tenants or building contractors to consider in their design and construction activities.

Revised Response: There is no change from the original response.

- *Using pre-painted/pre-coated flooring, cabinets, fencing, etc. These measures can significantly reduce the emission of VOCs from typical architectural coating operations.*

Original Response: The Developer will consider this information and pass it on to the future tenants or building contractors to consider in their design and construction activities.

Revised Response: There is no change from the original response.

- *Planting trees in vegetative buffer areas. Trees reduce energy emissions by cooling during the summer and by providing wind breaks in the winter, thereby reducing air conditioning needs by up to 30 percent and saving 20 to 50 percent on fuel costs.*

Original Response: The Developer will plant vegetation throughout the project in addition to trees in the required buffers.

Revised Response: There is no change from the original response.

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

Original Response: We thank the Department for the partial list of ways to mitigate emission migration measures.

Revised Response: There is no change from the original response.

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

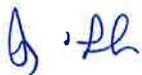
- *Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.statefiremarshal.delaware.gov, technical services link, plan review, applications or brochures.*

Original Response: The Design Engineer will request a pre-design meeting with a fire protection specialist as part of the design process.

Revised Response: There is no change from the original response.

On behalf of the Applicant, Jack Lingo Asset Management, LLC, we thank the various Departments of the State of Delaware for their comments on this project.

Sincerely,
Davis, Bowen & Friedel, Inc.



Ring W. Lardner, P.E.
Principal

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Cc: Constance C. Holland, AICP, Director, Office of State Planning Coordination
Gene Bayard, Morris James Wilson Halbrook & Bayard, LLP