

**From:** [Joe Setting](#)  
**To:** [Mary Roth](#)  
**Cc:** [Janelle Cornwell](#)  
**Subject:** Re: Lewes Waterfront Preserve  
**Date:** Thursday, July 8, 2021 3:52:38 PM

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Mary with cc to Janelle,

Thank you very much for the return call yesterday and I have very much enjoyed working with you and the Lewes Historic Byway Committee.

As we discussed I have relied on the Historic Lewes Byway Committee's 2019 endorsement of our current Landacaping Plan after multiple meetings and much input from the neighbors.

I have since prepared and received approval of the Lewes Waterfront Preserve Construction Plans and I am in full compliance with the Lewes Zoning Code.

I was very much surprised to receive your letter a few days before the scheduled Mayor and City Council Meeting for action on the Record Plan.

As we discussed on the phone yesterday, I believe the below adequately addresses your concerns:

1. The 6' high opaque, natural color, maintenance free fence on the plans is to be installed behind the berm and the heavy landacaping to act as an additional view buffer from New Road. Much time was spent with the Committte, neighbors and my landscape architect in selecting the appropriate fence and designing the landscaping, berm and shared use path.
2. The berm does not undulate because it acts as stormwater management, although the landscaping on the berm does undulate. This will give the appearance that the berm is also undulating. This plan also has been approved by the Sussex Conservation District and we have stamped and sealed plans.
3. The pump station plans have landscaping surrounding the fence. The fence that is on the plan is the requirement of the Lewes Board of Public Works and I believe is for safety reasons.

Regarding your other items, all fencing and landscaping is already documented to be the responsibility of the HOA and there is a Conservation Easement to the benefit of the City of Lewes, which could include any future trails.

Again, it has been a pleasure working with you and the Lewes Historic Byway Committee.

Best,

Joe Setting

**Joseph Setting II**  
**President**  
**Setting Properties, Inc.**  
**P.O. Box 5**  
**Montchanin, DE**

**joe@setting.com**  
**www.setting.com**

On Jul 6, 2021, at 9:56 AM, Mary Roth <MRoth@delawaregreenways.org> wrote:

Good morning Joe, I hope you and your family are well, and enjoyed a celebratory Fourth of July.

The Historic Lewes Byway Committee is submitting the attached letter requesting Mayor & City Council consider three changes to the final landscape plan. You have been gracious in working with our committee since early in the project. We're grateful for your collaboration and share our communication in the same spirit.

As you will read in the attached, as a committee we have continued to gain experience and historical perspective as we work along the Lewes Byway Corridors. As a result, we are requesting the fence be changed to post-and-rail, the berm undulate to continue to soften the edge, and the fencing surrounding the pump house be eliminated and a shrub blind installed in its place. A post-and-rail fence will also be installed at Tower Hill, continuing to provide a view shed along New Road reminiscent of the past.

I'm out of the office this week, available by cell if you need to reach me. Again, thank you for your past support. We look forward to continuing to work with you.

All the best,

Mary

Mary Roth  
Executive Director

Delaware Greenways

(302) 545-2881 - Cell

Discover Trails, Byways and Delaware Greenways on our new website.

<https://www.delawaregreenways.org>

<Historic Lewes Byway letter to MCC Lewes Waterfront Preserve07.06.21.pdf>



July 6, 2021

Mayor Becker and Lewes City Council  
City of Lewes  
P.O. Box 227  
Lewes, DE 19958

Dear Mayor Becker and Members of Lewes City Council,

The Historic Lewes Byway Committee extends its sincere thanks to Joseph Setting of Setting Properties, Inc. and his colleagues for their willingness to voluntarily work with the Byway Committee on the Lewes Waterfront Preserve development on New Road.

The State of Delaware defines a Byway as a corridor that highlights a combination of Delaware's heritage, recreational activities and scenic beauty. It is managed in order to protect six special intrinsic qualities: scenic, historic, natural, cultural, and recreational or archaeological. It encourages an appreciation of its surroundings and the development of tourism and recreational resources. Byways are managed by citizen led Committees and have no legal authority. However, they have the power of persuasion and the support of the community.

The completed landscape design demonstrates sensitivity to our concern that plantings along New Rd be primarily native trees and shrubs consistent with the native vegetation along Canary Creek and the adjacent Great Marsh. At our request the road edge was softened to give a more natural appearance with the undulating shared use path. All parties understand the path's final placement will be reviewed and approved by DeIDOT.

In 2019, the Byway Committee expressed its support for the landscape plan as shown. At this time, and as detailed below we request Mayor & City Council impose conditions requiring the following changes to the final landscape plan. As a committee we have gained valuable experience working along the corridor, and request changes that not only preserve the view shed, but embrace the history of New Road. Maintaining the character of each of the corridors of the Historic Lewes Byway is vital to our mission and we ask your support of our request below.

**The Historic Lewes Byway Committee endorses the final landscape plan for the Lewes Waterfront Preserve with the exceptions noted below.**

1. A hardwood post-and-rail fence be installed in lieu of the 6' fence included in the plans. Post-and-rail fences are reminiscent of the early days along New Road. A post-and-rail fence will front New Road along the Tower Hill Development, preserving the character as you travel the corridor.
2. In lieu of a straight berm as included in the landscape design, we request the berm undulate – continuing to soften the edge of the development while preserving the view.
3. Planting a shrub blind around the pumping station in lieu of the 6' white plastic fence proposed. Dense and quick growing shrubs surrounding the pumping station will preserve the view versus highlighting its existence with the proposed fence.

**The Historic Lewes Byway Committee also respectfully requests Mayor & Lewes City Council set the following conditions.**

- Permit the Historic Lewes Byway Committee the opportunity to review and comment before approval of any entrance signage is approved.
- Require all fences and landscaping be maintained in perpetuity by HOA following transition from developer.
- Require landscaping be provided and installed by developer and/or its assigns during the next planting season following the installation of infrastructure immediately adjacent to or part of the area of landscaping.
- Require a permanent easement from New Road to the back of property to allow for a future trail connection.

We are communicating the above directly to Mr. Setting. As mentioned at the start of this letter we're grateful for his collaboration from the start of the project, and hope to work with Mr. Setting and his colleagues through the projects completion.

Thank you for your consideration of our request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary Roth".

Mary Roth  
Historic Lewes Byway, Chair

cc: Joseph Setting, Setting Properties

**From:** [noreply@civicplus.com](mailto:noreply@civicplus.com) <[noreply@civicplus.com](mailto:noreply@civicplus.com)>

**Sent:** Saturday, July 3, 2021 2:37 PM

**To:** Janine Heffley <[jheffley@ci.lewes.de.us](mailto:jheffley@ci.lewes.de.us)>

**Subject:** Online Form Submittal: Question / Concern Submission Form

Question / Concern Submission Form

First Name Cathy

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Last Name Hinkelman

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Phone 3024630322

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Email [ctmerg@verizon.net](mailto:ctmerg@verizon.net)

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Address 7 Henlopen Gardens

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Address 2 *Field not completed.*

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City Lewes

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State Delaware

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Zip Code 19958

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Questions / Comments Lewes Waterfront Reserves Development

I write to express major disappointment in yet another development proposal in the town of Lewes. We sacrifice the uniqueness of our town character and destruction of this fragile coastal environment we so enjoy with continued over development. I moved to Lewes to experience "small town USA"; which I find is quickly vanishing; being replaced with the "Middletown DE" model of over development.

I respectfully ask that we consider the future value of remaining a "small town"; priceless!

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Thanks for your consideration.  
Cathy Hinkelman

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*The City of Lewes  
P. O. Box 227  
Lewes, DE 19958*

*Phone: 302-645-7777  
Fax: 302-645-6406*

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120 New Rd  
Lewes, DE 19958

June 22, 2021

City of Lewes  
114 E Third St.  
Lewes, DE 19958

Dear Mayor Becker and Members of the Lewes City Council,

It is very important that development at the Brittingham property comply with the city code and that strong effort is made to have it enhance the important environmental qualities of the area. Protections of wetlands and open space are essential to protecting the intrinsic natural features of the area and to ensure compliance with the interests/requirements of the New Road byway. The current plan fails to support the interests of the community and neighboring lands, ignores the potential of valuable archaeological findings, poses many difficulties for the movement of safe and efficient traffic and does not provide any strong protections to the sensitive environment in the Canary Creek area.

Wetland buffers should be up to the required standards to ensure that development does not result in excessive runoff that could damage its surroundings and aggravate flooding. According to the subdivision application building map, a large number of wetlands directly or closely border the southernmost strip of town-homes. Construction is planned just feet from the 100 year flood zone. The plan does not take into consideration future potential inundation problems that would result from erosion, subsidence or other future construction, negating or lessening the possibility of open space to absorb storm water (“Lewes Scenic and Historic Byway,” 27). Even more land would be impacted by 1.5 meter sea level rise (“New Road Corridor October Meeting,” 16). The plan for the Birmingham property includes buildings just feet away from the 100 year flood plain, which does not take into consideration an aggravation of flooding that would result from construction or the impacts of climate change.

The large number of attached units plus the presence of only one runoff pond should raise a red flag that flooding and environmental impacts will be worsened both on this parcel and its neighbors. This subdivision should receive at least one additional storm water management pond near the south end of the property in order to protect the farm to the south, the adjacent riparian buffer zone and a large amount of field space (Ibid., 16). Flooding at this location would harm the Great Marsh and aggravate spill over on nearby roads and properties. According to flood maps provided by the 2015 Lewes Byway Management Plan, a large portion of the Brittingham property would be submerged under a severe flooding event. Lastly, although the Town of Lewes is paying for a hydrological study, the results are not yet available. Any assurances from the developer on environmental protections should be matched with those from the study in order to ensure that development does not aggravate flooding or cause damage to the surrounding ecosystem.

Additionally, the parcel is very likely to contain the Derrickson site along the boundaries which is believed to contain a native American burial site along the northern boundaries. Canary Creek and the Great Marsh area formed a major travel route for native americans and, given other major archeological findings in the area, there is a high potential for the discovery of historical artifacts. Heavy construction equipment could seriously damage any potential findings. The Byways Program highlighted the importance of archeological resources of the area and should be highlighted along the historic travel way into Lewes (Ibid., 2). A carefully planned archeological survey should be done on

the parcel.

In addition, it is essential for new development to not detract from the character of neighboring communities or the aura of the region. The 2015 Lewes Byway plan states per federal guidelines, all new developments must have a strategy to preserve “the intrinsic qualities of the corridor” and to describe how “existing development might be enhanced” (7). As the project stands right now, it is severely out of character with neighboring land uses and landscaping, as it is over triple the density of its neighbors—factors that would not enhance the appeal of the neighboring single family homes in the area. The proposed development has been widely opposed by residents. A major value of the area is the Canary Creek view shed, however screening on both the west and north sides of the property by both a plain white fence and town-homes would make it impossible for anyone other than a few townhome owners to take in the views of the Canary Creek tree-scape. Additionally, the City Code should supports enhanced views, as the chapter on subdivision of land states that: “Open space areas shall be arranged where possible to maintain contiguity with open space areas on adjacent lands in order to ensure the potential for a contiguous open space network throughout the City” (§170-26). Later on, the code mentions that for ANX-RES districts, developments are required to “reduce disturbance of natural and cultural features, and conserve scenic views” (§197-43.1B3). Furthermore, in another section of the city code on the subdivision of land, an “open area” has to be “arranged to promote ingress, egress, passage over and through an area” (§170-6). With the Brittingham property being solely connected to the town of Lewes via Canary Creek and its associated wetlands, there is no way for one to walk or travel from this property to the nearest land at the Reserves of Pilottown without traveling on the unincorporated section of New Road between Forecastle Lane and the Brittingham land. Wetlands are unusable for any type of recreation that open space would offer. This part of the city code should be examined further within the context of this development application. The subdivision proposal would not give new residents the opportunity to create diverse open spaces or landscaping features of their own. New Road does not have a precedent for townhouse developments, and it is not in line with the original zoning of AR-1 designated by Sussex County. I ask that the City work with neighbors and the developer to find a subdivision plan that would better enhance the look and feel of the area and provide more opportunities for open space based on the tenets of the city code and the interest of the byways program.

Traffic safety and infrastructure is another facet that poses challenges for a townhouse subdivision in what is still a remote area of New Road and the Lewes region. With more than 640 vehicle trips a day being generated by this single development, it would have a strong impact on what already would be a very severe traffic volume for an old area, especially its intersections. The planned grade separation at Nassau would likely divert the majority of traffic away from Savannah Road and onto New Road to avoid traffic lights. The influx of many cars from the north and western parts of Sussex county onto New Road would make it more difficult for vehicles from the Brittingham property to make outbound left turns. There are four other driveways or small subdivision roads neighboring the parcel, which could make it harder to coordinate or make safe exits due to many small roads in a small space. The turning lanes proposed at the Creekside Drive intersection would only be large enough for 1 or 2 cars, posing a challenge for movement both into this property and the streets opposite, especially for larger vehicles such as vehicles with trailers. Between Creekside Drive and Schaeffer Lane there is a plan for a crosswalk, however, with it being after a curve, and also close to the nearby intersections, it too could pose safety challenges for pedestrians or bicyclists.

The importance of New Road as an evacuation route also cannot be overstated. The trend of large scale development has the potential to transform other nearby open parcels to turn into large subdivisions which could severely hamper egress from the town in the event of an emergency. This issue could be further aggravated if developers continue with a trend of increased density as has been

seen at the Old Orchard Ventures and Covered Bridge parcels. A comprehensive traffic study for the New Road area is still far from being completed and no recommendations on this subdivision plan should occur until that study is completed.

The effect on connector road intersections and neighboring lands needs consideration as well. Expansion of the Old Orchard Road intersection is proposed to accommodate movement to the Villages of Five Points and major shopping and employment destinations on Route 1 as well as increased east/west traffic to/from Lewes. However, any expansion there would encroach on at least 2 properties in that area (“New Road Master Plan,” 55). Additionally, neither the Tower Hill nor Brittingham property developers have set aside funds for any long term improvements to that intersection. These plans would not follow the Sussex County Code which stipulates that new subdivision applications assess the “effect on area property values” (§99-9 C.12) as well as the “effect on area roadways” (C.15). Additional private property space would be required to construct a bike path from the Brittingham property to the Villages of Five Points, a plan with no timeline from DELDOT, nor any funds from either the Tower Hill or Brittingham property developers (Ibid., 38). Closer to the Brittingham property, Road expansion of the New Road curve would also use up a large amount of grass space for a home opposite Schaeffer lane. A wider road from Ashburn Lane to Blue Heron Drive would only encourage speeding. It would not be fair or visually consistent for new subdivisions such as the Brittingham property to receive large setbacks while other properties would lose their roadside landscaping—factors that again violate the enhancement statute of the Delaware Byways. Surely older smaller scale developments should be respected in order to follow county laws and promote equal levels of livability throughout the New Road region.

I thank all members of the City Council for their consideration on the many issues mentioned above. It is very important that the Birmingham parcel not cause a deleterious impact on its environment or neighboring properties with regards to flooding or quality of life. Adherence to the established precedent of low density for the area would reflect a balanced approach by all parties and would adequately satisfy interests of the community and the developer. The Town of Lewes should support the vision of the 2015 Byway Management Plan in order to make sure that the Birmingham subdivision is in harmony with its natural and neighborhood environment. For that reason the current plan should be rejected or modified. We must ensure safety and promote a welcoming and scenic appearance for this area.

Sincerely,

Brian Aldred

Sources:

Lardner-Klein Landscape Architects, “Lewes Scenic and Historic Byway: Corridor Management Plan.” *Delaware Greenways* (2015). 11 October 2018. Web.

[https://delawaregreenways.org/wp-content/uploads/2016/06/CMP\\_Lewes\\_Final.pdf](https://delawaregreenways.org/wp-content/uploads/2016/06/CMP_Lewes_Final.pdf).

--“October Meeting.” New Road Master Plan Committee (2018). 28 May 2019. Web.

[http://www.lardnerklein.com/lewes/NR\\_mtg2\\_1024\\_18draft101918revPDFVersionx.pdf](http://www.lardnerklein.com/lewes/NR_mtg2_1024_18draft101918revPDFVersionx.pdf)

--“New Road Corridor Master Plan” (2019). 22 June 2021. Web.

[LKDiskStation - Synology DiskStation \(lardnerklein.com\)](http://www.lardnerklein.com)