



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

April 8, 2004

Mr. Harry Miller
Regal Builders
23 Holland Court
Dover, DE 19901

RE: PLUS review – PLUS 2004-03-05; Villages of Noble's Pond

Dear Mr. Miller:

Thank you for meeting with State agency planners on March 24, 2004 to discuss the proposed plans for the Villages of Noble's Pond project to be located on the north side of Fork Branch between McKee Road and Kenton Road, south of Cheswold.

According to the information received, you are seeking a conditional use through Kent County to place a Planned Unit Development on this parcel. Specifically, this project is to develop 1,031 dwellings in an active adult community on 343.86 acres.

It is our understanding that the project is being developed under two owners. You are proposing to develop about 879 dwellings in Area A; Dr. Noble Jarrell, the present owner of all the land proposes about 152 dwellings in Area B; Dr. Jarrell is retaining ownership of Area C but has no announced plans to develop it.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Kent County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

This office has received the following comments from State agencies:

State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685

There are two potentially historic properties on the northeast end (one possibly in the wooded area) of the subject parcel, in the area indicated as Area-B Future. During the

meeting you were uncertain whether these structures exist and if there is any demolition taking place. Please keep SHPO informed of any demolition.

There are known archaeological sites throughout the subject area, especially in the center, where the water branches in two and in and near the wooded areas. SHPO suggests designing the development in a way that it does not impact the wooded areas on the northwest and northeast sides and on the south edge at the creek. It is also suggested that you provide buffers around these areas. SHPO should be contacted at 302-739-5685 to set a time to meet with archaeologists and determine the locations of the sites and the best way to avoid and lessen any impacts to the sites.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

Delaware Transit Corporation (DTC) is interested in working with this development. The closest existing DART bus route is fixed Route 113 off McKee Road, providing service to Westminster Village Health Center. The Route 113 bus serves the western portion of Dover to Dover Mall, operating 6 total daily trips from 8:00 a.m. until 6:00 p.m. Monday through Fridays, with advanced registration night service on paratransit services from 6-9 p.m. weekday nights. Beginning in May 2004, DTC will be implementing our GoLink transit service, that will give us the capability of flexing low performing fixed routes to deviate off the fixed route pathway and provide access to communities within established “flex zones”. Route 113 could potentially be flexed to provide service to the Phase I community of this development. DTC will work with the developer at the appropriate time to provide our bus stop specifications information, making sure the bus stops will be accessible and meet American with Disabilities Act standards. The person to contact for bus stop specification information and costs is the Facility Coordinator for Kent County, Mr. Charlie Simpson, at (302) 760-2806.

DTC had commended this proposals inclusion of sidewalk pathways. Please note that the acceptable, reasonable transit walking distance standard is ¼ mile (1,320 feet) to a bus stop. DTC encourages the developer to work with us in providing an opportunity to promote transit service within this community and opening up service in the Cheswold area. Potentially, the developer or community civic association may assist with the distribution and collection of surveys to assist us in assessing the market demand for service, and provide the best transportation choices suited for the 55 plus community who will be buying and residing at the Villages of Noble Pond, i.e., off-peak travel times, vanpool, etc.

DelDOT also stated that would like to work with you to explore the possibilities of making transit service available to this area. The developer may contact the Service Development Planner for Kent County, Mr. Wayne Henderson, at (302-577-3278 ext. 3553) with any comments regarding the development of this proposal for implementation.

On February 24, 2004, the developer's traffic engineer met with DeIDOT to determine the scope of work for a traffic impact study. Presently it takes about a year from the initial scoping meeting until the completion of DeIDOT's review of the final study. You should be commended for meeting with DeIDOT early in this regard. By doing so, you are acting to keep the TIS process from delaying their project.

The sketch plan shows two entrances on McKee Road, one south of Rose Bowl Road serving Area A, and one north of Rose Bowl Road serving Area B. DeIDOT generally does not permit two entrances to the same development at such a close spacing and will likely recommend against it in this case. While DeIDOT understands that the property is to be subdivided such that Areas A and B would have different ownership, they recommend that the developer provide a stub street from Area A1 to Area B and use that stub street as access to Area B, should that future phase actually materialize.

At the west end of the property, there are large vacant parcels to the north and south of the proposed development. The plan should be modified to provide stub streets for future connections to those parcels.

While DeIDOT has not investigated the matter further, they see the potential for the existing gravel lane that serves Areas B and C to be used for a bicycle and pedestrian connection to Fulton Street. DeIDOT asks that you examine the feasibility and desirability of such a connection.

The County's PUD regulations allow for a percentage of the site acreage to be developed with commercial uses to serve residents of the development. It is recommended that the developer take advantage of this provision to incorporate on-site amenities and small commercial uses. Doing so would reduce the development's traffic impact by keeping some trips internal to the site.

It is recommended that all streets be designed and built to State standards and with sidewalks, whether they are to be publicly or privately maintained. DeIDOT's experience is that when privately maintained streets deteriorate, residents often seek to have the State rehabilitate them and take them over. Having them built to State standards means that they will have a longer life and will be readily acceptable if residents ever seek State maintenance for them. DeIDOT will not accept gated streets for State maintenance.

The engineer for the development should coordinate with the DeIDOT Subdivision Manager, Mr. George Shaw, to determine what will be required regarding the proposed site entrances. Mr. Shaw may be reached at (302) 760-2261.

**The Department of Natural Resources and Environmental Control – Contact:
Kevin Coyle 739-3091**

Water Supply

Any public drinking water supply well must be located a minimum of 150’ from all outside property boundaries.

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. 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.

Water Quality

It should be noted that this parcel contains sensitive headwater riparian wetlands associated with a headwater stream known as the Fork Branch. Headwater streams are important for the protection of water quality and the maintenance/integrity of the ecological functions throughout the length of the stream, including the floodplain system downstream. Since headwater streams are a major avenue for nutrient-laden stormwater and sediment runoff, their protection deserves the highest priority. **It is recommended that the applicant minimize the clearing/removal of trees in the upland forested areas of this parcel. Upland forested areas are important for mitigating the impacts of stormwater runoff on water quality as well as preservation of habitat for a variety of wildlife species.**

The Department recommends that the applicant preserve the existing natural forested buffer adjacent to the Fork Branch in its entirety. Additionally, efforts to maximize or expand the existing natural buffer width via planting of native woody or herbaceous vegetation, is recommended for the immediate vicinity of the unnamed first-order headwater tributary emptying into the Fork Branch from the north.

Soils

According to the soil survey update, the following soils were found in the immediate vicinity of the proposed construction and grouped on the basis of drainage class:

- Well Drained – Sassafras
- Moderately well drained – Woodstown
- Poorly drained (**hydric**) – Fallsington, Elkton, Othello & Mixed alluvial (floodplain)
- Very poorly drained (**hydric**) - Johnston (floodplain)

Sassafras is a well-drained upland soil with few limitations for development. Woodstown is a moderately well-drained soil that has moderate limitations for development. Fallsington, Elkton, and Othello are poorly-drained wetland associated

(hydric) soils that have severe limitations for development. Mixed Alluvial is typically a poorly drained mapping unit that is associated with wetland (hydric) floodplain soils. This unit has severe limitations for development. Johnston is a very poorly-drained wetland associated (hydric) floodplain soil that has severe limitations for development.

Wetlands

According to Statewide Wetland Mapping Project (SWMP) maps, the following wetland types were found on subject site:

- palustrine forested,
- palustrine farmed,
- palustrine emergent and
- palustrine unconsolidated bottom.

It should also be noted that a subsequent field visit revealed several unmapped (by SWMP) wetlands known as Delmarva Bays. Delmarva Bays are natural depressional wetlands that are often important habitats for a variety of rare plant and animal species. Protection of such areas from development is highly recommended. **Because both the soil survey update and the SWMP mapping show significant acreages of wetlands on subject site, a wetland delineation is highly recommended. The applicant is encouraged to maintain a 100-foot minimum buffer width from the landward edge of all delineated isolated and/or riparian wetlands.**

The applicant should be reminded that they must avoid construction/filling activities in those areas containing wetlands or wetland associated hydric soils as they are subject to regulatory provisions under the Federal 404 Clean Water Act governing jurisdictional wetlands. Impacts to waters of the U.S., including impacts to "isolated wetlands" are regulated by the USACE. Impacts within tidal wetlands and subaqueous lands are regulated by the State Division of Water Resources, Wetlands and Subaqueous Land Section. Individual permits and certain Nationwide Permits from the USACE also require 401 Water Quality Certification from the Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process. To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting.

The developer should also note that DNREC and the U.S. Army Corps of Engineers (USACE) discourage allowing lot lines to contain regulated wetlands in an effort to limit cumulative and secondary impacts to wetlands from unauthorized homeowner activities.

It is also recommended that the Farm Services Agency of the USDA be contacted to assess whether the farmed wetlands on subject parcel meet the recognized criteria for classification as "prior converted wetlands." Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered

exempt from regulatory protection provided that there is no proof of a continuous “fallow period” of five years or greater in that parcel’s cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the Army Corps of Engineers (ACOE). The contact person for assessing a parcel’s cropping history is Sally Griffin at the USDA and can be reached at 678-4182.

Stormwater Management

The Drainage Section has existing drainage complaints and concerns associated with this project. Properties along the west side of McKee Rd have an existing drainage pattern to the southwest through woods and an existing ditch, draining into an existing pond. The existing drainage conveyances have deteriorated over time and are in need of improvement. On the proposed plan, AREA-B-FUTURE does not show the existing ditch through the farm field. On the plan, the woods through this area are designated as open space with no mention of drainage conveyance. The Drainage Section recommends that existing drainage conveyances be reconstructed and maintained to allow for the proper off-site drainage of the properties on the West side of McKee Rd.

The Drainage Section has existing drainage complaints and concerns on Kenton Rd. and Seven Hickories Rd, upstream of the proposed project. A portion of the stormwater management drains through this proposed subdivision.

A meeting should be scheduled as soon as possible with the Drainage Section and the Kent Conservation District to discuss the current drainage and proposed stormwater management for the site. The existing embankment ponds were constructed by the USDA Soil Conservation Service in 1965 and 1993. All ponds used for stormwater management must meet the NRCS Small Pond code 378 approved for Delaware.

Contacts: DNREC Drainage Section, Kent County – Bob Enright – (302) 739-4411
Kent Conservation District- Jared Adkins – (302) 697-2600

Habitat

The Delaware Natural Heritage Program (DNHP) has reviewed this project for Kenneth W. Redinger of Atlantic Resource Management, Inc. and comments were sent in a letter dated December 12, 2003. In the letter, they requested the opportunity to survey the parcel in order to make more informed comments, however, DNHP have not been contacted. Below is an excerpt from the above referenced letter. Also note that DNHP recommended a 100ft buffer of vegetation be maintained along the edge of wetlands within the project area, and the current plan provides a buffer of 25ft or less.

Based on review of topographic maps and aerial photographs, and because we have not visited the site previously, our DNHP botanist requests the opportunity to survey the forested and wetland resources which could potentially be impacted by development of

this parcel. His observations would allow us to make more informed comments on this project. Please contact Bill McAvoy at (302) 653-2880 to set up a site visit.

As the design phase of this project moves forward, it is strongly encouraged that the landowner(s) consider preservation of upland, riparian, and wetland forests on these parcels. Forests provide environmental services that benefit humans directly such as water quality protection (erosion control and sediment, nutrient, biological and toxics removal), climate moderation, aesthetic value and recreational opportunities. In addition, forests provide habitat for many species of plants and animals. Forest fragmentation resulting from development separates wildlife populations, increases road mortality, and increases "edge effects" that leave many forest dwelling species, particularly songbirds, vulnerable to predation. DNHP would gladly assist the landowner(s) in evaluating these parcels for wildlife habitat. Many new incentive-based programs for wildlife management are available to private landowners through our agency. Please contact the DNHP office if the landowner(s) is interested in more information.

In addition, in order to protect the integrity of the aquatic resources in the wetland areas of this parcel, it is recommended that a 100 ft buffer of vegetation be maintained along the edge of the wetlands. This buffer would reduce the amount of sediments, pollutants, and other non-point source material that could potentially affect the condition and survivability of organisms that depend on these habitats."

Update:

On 1 April 2004, Bill McAvoy (Botanist) and Pete Bowman (Community Ecologist) visited Tax Parcel # KH00-056.00-01012.00 (Jarrell Property, Cheswold, Kent Co.) to evaluate the ecological quality of the property. Two forested blocks were surveyed, as well as several depressional wetlands within the agricultural fields.

Forest block 1 (see attached map): This block was found to be of high ecological quality with a diversity of habitat types (e.g., low, poorly drained areas and high, well drained areas). In addition, the forest appears to be mature, with many large trunk diameters observed. The potential for rare plant species to be found here during the growing season is good and the site has high value for wildlife. It is strongly recommended that this forest block be preserved.

Forest block 2 (see attached map): The majority of this block supports poorly drained soils and standing water was observed on this date. A unique natural community was identified within this block, Coastal Plain Rich Wood that contains a large population of the State rare plant *Dryopteris celsa* (log fern, S2 very rare). The potential for additional rare plants to be found here during the growing season is high. It is recommended that this forest block be preserved.

Depressional wetlands in agricultural fields: Three depressions (see attached map, marked as B, C, D) were found to contain the State rare plant *Ammannia coccinea* (toothcup ammannia, S1 extremely rare). Another depression (see attached map, marked

as A), was found to be very large in size and deep in depth. This depression represents an outstanding opportunity for restoration. It is recommended that a wooded buffer of at least 100ft. be established around the perimeter to prevent runoff (soil, fertilizer, pesticides) and to maintain the ecological integrity of the wetland. In addition, it is recommended that seed from the three populations of *A. coccinea* be collected and sown within this wetland to maintain the species existence here.

Natural Areas

This proposal affects lands currently identified as part of the Fork Branch State Natural Area. The natural area acreage on this site encompasses the forested riparian buffer along Fork Branch. According to the preliminary plan provided for review it appears that this buffer is almost entirely wetland and is being preserved in its entirety as community open space.

It is recommended that the developer investigate dedicating the Natural Area on this site as a private Nature Preserve as part of the State Nature Preserve program. The Natural Areas Program is managed by the Division of Parks and Recreation. Information and guidance in preserving land as a Nature Preserve or with a conservation easement is available by contacting Ron Vickers at (302) 739-3423.

There is concern that the preliminary plan provides an inadequate level of protection for the forested wetlands along the northern boundary of the site. These wetlands in all probability serve as important breeding areas for several species of amphibians and provide habitat for a host of other flora and fauna. Reducing the number of lots and increasing buffers between lots and wetland edges will help to mitigate the impacts of lawn care practices and runoff from impervious surfaces on these important natural resources.

Recreation

The Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information on outdoor recreation patterns and preferences as well as other information on their landscape preferences. These findings are the foundation of the 2003-2008 Statewide Comprehensive Outdoor Recreation Plan (SCORP) and are guides for investing in the most needed outdoor recreation facilities and an indicator of preferred conservation components in our communities. Summary of SCORP findings for Kent County are below.

Older residents in Delaware are living longer and remaining active. In fact, 56% of those surveyed who are 55 year of age or older, indicated that outdoor recreation is very important to them. The majority of 55 year old and older cited physical fitness as the most important reason for participating in outdoor recreation. The highest priority facility needs in Kent County are walking and jogging paths, bike paths, swimming pools, picnic areas and playgrounds.

The developer indicated at the March 24, 2004 PLUS meeting that sidewalks will only be constructed along the major arteries in the community and not constructed in the “pod” areas. This Division recommends that sidewalks be built fronting every residence. A complete system of sidewalks will: 1) provide a continuous system that fulfills the need for walking facilities likely to be generated by community residents and 2) provides safe, off-road pedestrian walkways to public mass transit stops the developer proposes to incorporate in the community.

If a trail system is planned, it is recommended that a series of stacking trail loops be designed with access points in each subdivision “pod” and connections to the community center. Community trail systems with long continuous trails, perimeter-only trails, and systems with few access points, often go unused and neglected. For trail design/construction specifications, contact Susan Moerschel at 302-739-5285.

Open Space

Open space has varying functions and may include active recreation and natural resource conservation areas. Examples of conservation space would include stream beds, floodplains, forest land, and wildlife habitat. Protecting this site’s conservation characteristics will protect critical natural resources while enhancing community aesthetics.

Storm water, utilities and roads are required and have specific functions. Due to high soil moisture conditions at this site, it is likely that storm water basins will contain standing water on a regular basis. DNREC discourages building trails or other recreational facilities adjacent to storm water basins where standing water and the potential flash flooding exist. Storm water infrastructure and active recreation facilities are not compatible.

The developer is also strongly urged to consider alternatives to mowed grass within community open space areas. Mowing and other maintenance costs from lawn areas can become a substantial burden for community maintenance associations. There may be areas within the development that are appropriate for warm or cool season grasses. The maintenance costs associated with meadow type grasses are much lower than those of lawn grasses, and provide food and habitat for birds and other wildlife and can help reduce non-point source pollution.

State Fire Marshal’s Office – Contact: Kevin McSweeney 739-3696

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal’s Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

a. **Fire Protection Water Requirements:**

- Where a water distribution system is proposed for single family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required.
- Where a water distribution system is proposed for townhouse type dwellings it shall be capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 800 feet spacing on centers are required.
- Fire flow requirements for the Community Center are 1000 gpm for 1-hour at 20 psi residual pressure and hydrant spacing of 800 feet spacing on centers.
- The infrastructure for fire protection water shall be provided, including the size of water mains.

b. **Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

c. **Gas Piping and System Information:**

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

d. **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”
- Name of Water Supplier
- Proposed Use
- National Fire Protection Association (NFPA) Construction Type

- Townhouse 2-hr separation wall details shall be shown on site plans
- Maximum Height of Buildings (including number of stories)
- Provide Road Names, even for County Roads

Department of Agriculture - Contact: Mark Davis 739-4811

The Urban Forestry section within DDA strongly encourages the use of not only no-invasive species, but native species in landscape plantings. Brian Hall, Urban and Community Forester can assist in this effort.

The Department of Agriculture would further encourage you to consider a mix of uses within the propose community. For and active adult community, some commercial uses within the subdivision should be planned for convenience and safety.

Public Service Commission - Contact: David Bonar 739-4247

A CPCN is on file with the Public Service Commission for Tidewater Utilities.

Any closed distribution system for propane or natural gas will have to be coordinated with the Office of Pipeline Safety.

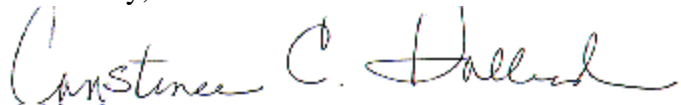
Delaware State Housing Authority – Contact Karen Horton 739-4263

The Delaware State Housing authority has noted support for this proposal because the 2003 Statewide Housing Needs Assessment indicates that the elderly is the fastest growing segment of Delaware's population and housing is needed to meet this demand. However, they have offered the following recommendations:

- Some of the units be set aside for low- and moderate-income persons.
- Because of the site's distance location from Dover and Smyrna and the fact that much of the population may become unable to drive, that sufficient on-site services and amenities, as well as readily accessible transit be included in the community. Otherwise some residents may become isolated if transportation becomes a problem.

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

Sincerely,



Constance C. Holland, AICP
Director

CC: Kent County