



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

May 10, 2004

Mr. Phillip Tolliver, P.E.
18 Boulden Circle
New Castle, DE 19720

RE: PLUS review – PLUS 2004-04-05; Willow Creek

Dear Mr. Tolliver:

Thank you for meeting with State agency planners on April 21, 2004 to discuss the proposed plans for the Willow Creek project to be located on the south side of Twin Willows Road and on Maplehurst Drive.

According to the information received, you are seeking a site plan approval for 213 residential units on 271.8786 acres. Access is proposed on Twin Willows Road and on Maplehurst Drive and an extension of Berkshire Lane, the two streets in Maplehurst. The land immediately to the east is owned by Kent County and is used for the disposal of sewage sludge. Presently the land is outside the Kent County growth zone and is zoned AC.

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:

Office of State Planning Coordination – Contact: David Edgell 739-3090

This parcel is located east of State Route 1, outside of the Kent County Growth Overlay Zone, and is in a “rural” area as per the approved 1999 State Strategies and in an Investment Level 4 area as per the DRAFT State Strategies. **Our office is opposed to the subdivision of this property**, although we understand that the property may be developed under the provisions of the County’s adopted land use regulations and

subdivision ordinance. According to the approved 1999 State Strategies, the State will encourage the preservation of a rural lifestyle and discourage new development in Rural areas. We find that the development of this project as a residential subdivision is inconsistent with this policy, and is also inconsistent with numerous State initiatives east of Route 1 which have preserved agricultural lands and natural resources in this area.

At the PLUS meeting the project was described as utilizing on-site waste disposal. In the event that the current or future developers petition for connection to Kent County's regional sewer system we would like to note here that our office is opposed to the provision of Kent County sewer service to this parcel because provision of sewer is a violation of an April 1999 Memorandum of Understanding between the State, County and City that public utilities will not be extended east of Route 1 until such time as all levels of government agree to update their plans to accommodate such an extension. At this time there have been no such plan revisions.

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

The State Historic Preservation Office does not support this plan, as it is not within the growth area of the State Strategies and it requires the demolition of a potential historic property. However, SHPO will provide the following comments regarding the specific development plan:

- There is a potential historic farmhouse on this property that will be demolished for this development. We are not happy to see this demolition take place and think it is unfortunate the development could not be planned away from the property. If demolition does take place, we request that the applicant or developer contact our office and the Kent County preservation planner beforehand so that we can visit the property and document the house and any outbuildings. There are also six known archaeological sites on this property.
- It is suggested that the developers contact Ann McCleave at 302-739-5685 to set a time that archaeologists from their office can meet you at the development site to discuss the known archaeological sites and the probability of other sites, and to advise how best to plan around them so as to lessen any harm from the proposed development. It is requested that the development stay out of the wooded areas and away from the streams and also provide buffers near these areas. This will help reserve the archaeological sites. Lastly, if there is any federal involvement in the form of permits, licenses, or funds, the federal agency must comply with Section 106 of the National Historic Preservation Act.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) Contrary to the information on the PLUS form, the proposed development would be located in a Rural Area, as defined by the Strategies for State Policies and Spending. Additionally, the State has worked with Kent County for some years to

maintain Route 1 as a growth boundary, with little or no new development permitted east of Route 1. For these reasons, DeIDOT is opposed to the proposed development. Consistent with the Strategies, the developer should expect to bear all costs associated with the development of this parcel and to receive no State assistance in this regard.

- 2) Improvements to Twin Willows Road will be required for the entire frontage of the project and for the strip developed area in between the two sections of frontage. Improvements to the streets in Maplehurst may also be required.
- 3) A noise impact study will be required with regard to Route 1, and any necessary noise mitigation will have to be shown on the record plan.
- 4) The developer's engineer will need to submit a sight distance analysis with regard to the proposed east entrance on Twin Willows Road.
- 5) It is recommended that the plan be revised to have fewer cul de sacs and more internal connections.
- 6) It is further recommended that sidewalks be required on both sides of all internal streets.
- 7) The developer's engineer should coordinate with the DeIDOT Subdivision Manager, Mr. George Shaw, regarding items 2 through 4 above and more broadly regarding plan approvals for the proposed development. Mr. Shaw may be reached at (302) 760-2261.

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

The Department is opposed to development east of State Route 1.

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 to Excessively well drained- Sassafras-Evesboro complex
Well Drained – Sassafras
Moderately well drained – Woodstown
Poorly drained (**hydric**) – Fallsington & Mixed Alluvial (**floodplain**)
Very poorly drained (**hydric**) – Johnston (**floodplain**) & Tidal Marsh

Sassafras-Evesboro complex is a well drained to excessively well-drained soil that has few to moderate limitations for development. Sassafras is a well-drained upland soil with few limitations for development. Woodstown is a moderately well-drained soil of low-lying uplands that has moderate limitations for development. Fallsington is a poorly-drained wetland associated (hydric) soil that has severe limitations for development. Mixed alluvial and Johnston are poorly to very poorly-drained wetland associated (hydric) soils affiliated with floodplains; these soils have severe limitations for development.

Wetlands

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of Palustrine, Estuarine and farmed wetlands.

Impacts to wetlands are regulated by the DNREC Wetlands and Subaqueous Lands Section and the Army Corps of Engineers through Section 404 of the Clean Water Act. In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

Because there is strong evidence that federally regulated wetlands exist on site, a wetland delineation, in accordance with the methodology established by the Corps of Engineers Wetlands Delineation Manual, (Technical Report Y-87-1) should be conducted. Once complete, this delineation should be verified Corps of Engineers through the Jurisdictional Determination process.

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 is Sally Griffin—she can be reached at 678-4182.

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. Contact Denise Rawding at (302) 739-4691 to schedule a meeting.

Impacts to wetlands should be avoided to the maximum extent practicable. Wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife.

Lots should be removed in their entirety from the wetlands, wetland buffers and the forested areas. Vegetated buffers of no less than 100 feet should be employed from the edge of the wetland complex. The developer should note that both DNREC and Army Corps of Engineers discourage allowing lot lines to contain wetlands to minimize potential cumulative impacts resulting from unauthorized and/or illegal activities and disturbances that can be caused by homeowners.

It should also be noted that this parcel contains sensitive headwater riparian wetlands associated with a headwater stream known as the Leipsic River. 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.

In recognition of this concern, the Department strongly recommends that the applicant preserve, in its entirety, the existing natural forested buffer(s) adjacent to the Leipsic River and the unnamed headwater tributary draining into same river from the north. Efforts to maximize or expand the existing natural buffer width via planting of native woody or herbaceous vegetation, is further recommended for the immediate vicinity of said river and tributary.

Efforts to maximize or expand the existing natural buffer width via planting of native woody or herbaceous vegetation, is further recommended for those areas with less than the recommended 100-foot buffer width.

Finally, the Department further recommends 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.

TMDLs and BMPs

Although Total Maximum Daily Loads (TMDLs) as a “pollution runoff mitigation strategy” to reduce nutrient loading have not yet been developed for most of the tributaries or subwatersheds of the Delaware Bay watershed to date, work is continuing on their development. TMDLs for the Leipsic River subwatershed, of which this parcel is part, are scheduled for completion in December 2006.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available technologies

(BATS) and/or best management practices (BMPs) as “methodological mitigative strategies” to reduce degradative impacts associated with development.

Floodplain

Portions of the site are within the 100-year floodplain.

Stormwater Management

The Drainage Section is aware of a drainage concern along Twin Willows Road. It is the request of the Drainage Section that the lots on Berkshire Lane be graded to flow towards Leipsic River, away from Twin Willows Road. The Drainage Section does ask that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water. The possibility of tidal discharge may enhance the opportunities for using “Green Technology Practices” for stormwater quality as an alternative to the ponds proposed. The Kent Conservation District (302) 697-2600 should be contacted for further stormwater management technical assistance. DNREC may also assist in evaluating the use of low-impact stormwater management. Contact DNREC Sediment and Stormwater Program at (302) 739-4411.

State Resource Areas/Natural Areas

This project contains land currently identified as part of the State Resource Area. State Resource Areas are comprised of lands that contain a variety of natural and cultural resources significant to the state, representing the finest examples of Delaware’s diverse natural heritage. Consideration should be given to protecting these resources during design and construction of this project.

DNREC recommends a minimum 100 foot buffer from the edge of any non-tidal or tidal stream or wetland, in which no clearing of vegetation or building of permanent structures be permitted. In order to provide increased protection for surface water quality, it is recommended that lot lines remain outside of the buffer and reforestation occurs in areas where the existing buffer is less than 100 feet wide.

DNREC further 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.

Habitat

Approximately half of this proposed development lies within a mapped State Resource Area. State Resource areas include lands held in conservation by various groups as well

as lands targeted for conservation and preservation efforts. These areas are thought to have particular conservation value. The wetlands and woodlands along this tract provide valuable wildlife corridors connecting to vast areas of conservation land along the Delaware Bay, including Bombay Hook National Wildlife Refuge. Lot lines should exclude the forested buffer areas. The developer should attempt to maximize open space and buffers on site.

Nuisance Species

The large stormwater pond within the subdivision will likely attract waterfowl like resident Canada geese and mute swans that will create a nuisance for community residents. Although small numbers of these species are enjoyed by residents, geese and swans can quickly multiply and overwhelm the area. 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. Ponds that remain in the subdivision plan should be landscaped to deter nuisance species. Short manicured lawns around ponds provide an attractive habitat for these species. However, native plantings, including tall grasses, wildflowers, shrubs, and trees at the edge and within a buffer area around ponds, are not as attractive to geese because they do not feel as safe from predators and other disturbance when their view of the area is blocked. The Division of Fish and Wildlife does not provide goose control services, and if problems arise, residents or the homeowners association will have to accept the burden of dealing with these species (e.g., permit applications, costs, securing services of certified wildlife professionals). Solutions can be costly and labor intensive; however, with a reduction in the number of ponds, proper landscaping, monitoring, and other techniques, geese problems can be minimized.

Recreation

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.

It is recommended that sidewalks be built fronting every residence. A complete system of sidewalks will: 1) fulfill the recreation need for walking and biking facilities 2) provide opportunities for neighbors to interact in the community and 3) facilitate safe, convenient off-road access to neighboring communities, public mass transit stops, schools, stores, work etc.

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 adjacent communities. 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.

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 perception. These findings are the foundation of the 2003-2008 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities. The high and moderate facility needs in Kent County are listed below. Consideration should be given to incorporate some of these recreation opportunities into the project.

High Priorities

Walking or Jogging Paths

Bike Paths

Swimming Pools

Picnic Areas

Playgrounds

Fishing Areas

Moderate Priorities

Skate Facilities

Hiking Trails

Baseball/Softball Fields

Campgrounds

Soccer Fields

Volleyball Courts

Basketball Courts

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):

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:

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.
- 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. This means that the access road to the subdivision from Twin Willows Rd must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- 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
- Maximum Height of Buildings (including number of stories)
- Provide Road Names, even for County Roads

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.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Mark Davis 739-4811

This proposed subdivision is located on the east side of Rt. 1 near Smyrna. DDA strongly objects to the subdivision and development of this property. The long standing state policy of “no growth east of Rt13 is an important stance within the overall state land use strategy. The area east of Rt. 1 is an important agricultural and natural resources community.

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Public Service Commission - Contact: Kevin Neilson 739-4247

Most of the land on this property is under a CPCN to Artesian Waste. A small parcel is not within the existing CPCN area and must be applied for.

Delaware State Housing Authority – Contact Karen Horton 739-4263

The State Housing Authority is opposed to this proposal as the location appears to be inconsistent with where the State and County would like to see new residential development.

Department of Education – Contact: Nick Vacirca 739-4658

213 single family homes could generate and estimated 107 additional students for the Smyrna School District.

If the development is approved and built, please use the following information for school transportation planning. If there are homes more than 1/2 mile from the nearest public road (outside the development), developers should plan wide enough streets so that large school buses can access and turn around (without backing) from the furthest areas within the development while picking up and dropping off students. Should there not be any sites more than 1/2 mile from the nearest public road, provisions for appropriate pick-up and drop-off at the development entrance should be included.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

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

Sincerely,



Constance C. Holland, AICP
Director

CC: Kent County
Town of Smyrna
Lloyd Sheats & David Sheats