



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

May 10, 2004

Mr. Phillip Tolliver, P.E.  
Morris & Ritchie Associates, Inc.  
18 Boulden Circle, Suite 36  
Wilmington, DE 19720

RE: PLUS review – PLUS 2004-04-07; Spence Property

Dear Mr. Tolliver:

Thank you for meeting with State agency planners on April 21, 2004 to discuss the proposed plans for the Spence project to be located on the east side of Canterbury Road and the south shore of the Murderkill River.

According to the information received, you are seeking site plan approval to develop 211 residential units on 95.6185 acres located within the growth zone of the Kent County Comprehensive Plan.

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 project is inside the Kent County growth zone, and is in the “secondary developing” of 1999 strategies and “Investment Level 3” under DRAFT strategies. We have no objections to the parcel developing under the relevant county regulations, but note that it is at the periphery of the developing area and appears to be remote from other

development activities at this time. The State Strategies generally support orderly, phased growth of the areas near municipalities and existing infrastructure before the development of more remote areas.

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

There is a house on this property (on Canterbury Road) that is a potential historic property. SHPO stated that it is unfortunate that the development could not be planned around this property. If it is not already demolished, we ask that the applicant and developer contact SHPO before they demolish it, so they can visit the property and document the house. There are also known archaeological sites within the subject area and a high probability for additional sites, especially in the wooded areas and near the Murderkill River. It is requested that the development stay out of the wooded areas and that a 50-100 foot buffer be provided at these areas. This will help preserve these sites. If there is any federal involvement in the forms of permits, licenses or funds, the federal agency must comply with Section 106 of the National Historic Preservation Act. If there are any questions, the applicant or developer can contact me at 302-739-5685.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

DelDOT commends the developer for the proposed stub street connecting to the Link property on the south.

The developer's engineer will need to submit a sight distance analysis with regard to the proposed entrance location. The site entrance should be aligned with that of the Reynolds property, on the opposite side of Route 15, which property is also proposed for development. The location of the Reynolds property has not been established yet, but the two entrances should be opposite each other.

It is not clear from the sketch plan whether lots 210 and 211 have frontage on an interior subdivision street. DelDOT will not grant lot 210 access onto Route 15. While DelDOT recognizes that lot 211 has a structure on it, it is their preference that it be served from the interior street as well.

Improvements to Route 15 will be required for the entire frontage of the project. Part of those improvements will include a bicycle and pedestrian path, to be located in a 15-foot permanent easement along the site's road frontage.

The sketch plan shows two median islands at the site entrance. Preliminarily, DelDOT will require that the break between the islands be eliminated to form a single island. One way to address this concern may be to eliminate the more interior island.

DelDOT's impression from the PLUS form was that no sidewalks are proposed. DelDOT recommends that they be provided along both sides of the internal streets.

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DeIDOT further recommends that the plan be revised to have fewer cul-de-sacs and more internal connections.

The developer's engineer should coordinate with our Subdivision Manager, Mr. George Shaw, regarding items 2 through 6 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**

**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

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.

**Wetlands**

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of Palustrine forested wetlands on site.

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. It is not clear whether lot lines are proposed to include wetlands, however, no portion of any wetland should be contained within any lots. Further, it is recommended that a buffer of no less than 100 feet from the wetland be maintained and excluded from any lot lines. 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.

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.**

**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.

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 – she can be reached at 678-4182.

It should also be noted that this parcel contains sensitive headwater riparian wetlands associated with a headwater stream known as the Murderkill 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 the existing natural forested buffer adjacent to the Murderkill River in its entirety. 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.

All lot lines should be removed from the existing natural forested buffer adjacent to the Murderkill River. Having these lot lines into these wooded acres will cause loss of habitat and reduce their uptake nutrient capabilities. These areas should be put into a permanent conservation easement. In addition any open areas should be planted in native species to minimize maintenance and nutrient requirements

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**

Total Maximum Daily Loads (TMDLs) have been developed and promulgated as regulations. This TMDL requires a 50 reduction in total nitrogen and 30% reduction in total phosphorous nonpoint source loads to the Murderkill River.

Tributary Action Teams (TATs) are completely community based consisting of local citizens, environmentalists, developers, golf course superintendents, farmers, grandparents and government officials from every level. TATs work to develop strategies to reduce nutrient contributions to the water and restore our watershed's natural habitats. The Murderkill Tributary Action Team is working to finalize recommendations related to development, individual household efforts, and to prioritize recommendations (Pollution Control Strategy (PCS)) for this TMDL. The Team expects to have a completed PCS promulgated sometime in the fall of 2004.

Therefore, the developer must employ the best available technologies and/or best management practices that reduce nutrient loads associated development.

### **Floodplain**

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

### **Stormwater Management**

The Drainage Section does not have any knowledge of existing drainage complaints or concerns associated with the project. 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 stormwater management ponds are located in the wooded buffer. Since it may be possible to have a tidal outfall for quantity management, other stormwater practices may be explored for water quality than a pond. This and all stormwater design strategies should be explored with the Sussex Conservation District (302) 834-3560.

### **Habitat**

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 the project. His

observations would allow us to make more informed comments and to guide the developer on this project. DNREC did not make this request verbally at the April 21 meeting, so please contact Bill McAvoy at (302) 653-2880 to set up a site visit.

In addition, there is a population of alewife floater (*Anodonta implicata*) within the Murderkill River system that could be affected by sedimentation caused by development activities on this parcel. The alewife floater is a freshwater mussel that is a species of conservation concern in Delaware. Because freshwater mussels are filter feeders, and have a long lifespan and complex life cycle, they often serve as excellent indicators of water quality. Impacts to this population can be minimized by taking measures to decrease sedimentation during construction activities (see forested buffer recommendation above).

### **State Resource Areas, Natural Areas, and State-owned Lands**

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.

This project contains land within an identified Natural Area. Natural Areas contain lands of statewide significance identified by the Natural Area Advisory Council as the highest quality and most important natural lands remaining in Delaware. Consideration should be given to protecting these resources during design and construction of this project.

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.

The proposed project is adjacent to a fishing access and picnic area of Coursey Pond, which is a state-owned, public pond managed by the Division of Fish and Wildlife, DNREC. The developer should consult with the Division of Fish and Wildlife to ensure that there is an adequate buffer to preserve the integrity of this area for continued public use.

### **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 Eastern Sussex County are listed below. Consideration should be given to incorporate some of these recreation opportunities into the project.

High Priorities include Walking or Jogging Paths, Bike Paths, and Fishing Areas and Moderate priorities include Picnic areas, skate facilities, canoe/kayak access, hiking trails, swimming pools, playgrounds, soccer fields, tennis courts, power boat access and baseball/softball fields.

**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.
- 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.

- 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 Canterbury Road 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
- 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

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded

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from our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

**Department of Agriculture - Contact: Mark Davis 739-4811**

It is recommended that the developer utilize the following modified deed notice language in the deeds of this proposed subdivision's new parcels:

*"This property is located in the vicinity of an established Agricultural Preservation District and within an established and viable agricultural community in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."*

**Public Service Commission - Contact: Kevin Neilson 739-4247**

This property is not currently in an existing CPCN area. If Artesian Water is the intended supplier, they will have to go through the CPCN application process prior to supplying water to the homes.

Any natural gas supply or closed system propane supply to the development will have to conform to pipeline safety requirements.

**Department of Education – Contact: Nick Vacirca 739-4658**

This development could generate an estimated 106 additional students to the Lake Forest School District. It is recommended that the developer submit a package to the school district for informational purposes.

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-

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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,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in black ink and is positioned above the typed name and title.

Constance C. Holland, AICP

Director

CC: Bob Wood, Owner  
Kent County