



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

July 15, 2004

Mr. Paul Westhelle
DC Group
18072 Davidson Drive
Milton, DE 19968

RE: PLUS review – PLUS 2004-06-19; Cedar Lake

Dear Mr. Westhelle:

Thank you for meeting with State agency planners on June 23, 2004 to discuss the proposed plans for the Cedar Lake project to be located on the north side of Sandy Cove Road and Cedar Neck Road north of Ocean View.

According to the information received, you are seeking a conditional use to develop 86 town homes on 16.01 acres.

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 Sussex 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: Ann Marie Townshend 739-3090

The Office of State Planning Coordination notes that the project area is in the Investment Level 3 area of the 2004 draft *Strategies for State Policies and Spending*. The State Strategies document has been endorsed by the Cabinet Committee on State Planning Issues and is awaiting final approval by Governor Minner. In this case, Investment Level 3 reflects that the State's policies encourage well-planned, phased development that is sensitive to the natural resource issues on and around the site. The project area is also

located within Sussex County's Environmentally Sensitive Development District. The area surrounding the proposal is largely developed. For these reasons, we do not object to the conditional use.

We would, however, encourage the developer to employ some of the concepts discussed in our publication *Better Models for Development in Delaware* and to provide for protection of the environmental features on and around the site, significantly the good and excellent water recharge areas. We encourage interconnections to adjoining properties. We realize that some of the parking bays have been designed to potentially provide this connection in the future; however we question how practical these will be to provide these connections. We also encourage the inclusion of bicycle and/or pedestrian facilities on the site and connecting with adjacent sites.

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

There is a medium probability for archaeological sites. If anything is found during ground disturbance and construction, please call our office at 302-739-5685.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) On June 10, 2004, DelDOT informed Sussex County that a traffic impact study would not be required for this conditional use application. That remains their position.
- 2) It is recommended that bicycle and pedestrian paths be extended to the entrances of the Cedarville subdivision, to the east, and the Bay Shore mobile home park, to the west. (See comment 6 below.)
- 3) If possible, a vehicular connection should be provided to the Bay Shore mobile home park.
- 4) This parcel will only be permitted one (1) access to serve the entire site.
- 5) DelDOT will require a 20-foot wide buffer from the edge of the stormwater management pond to the ultimate right-of-way width for Sandy Cove Road. The ultimate right-of-way width is based on the functional classification of the road. Based on Sandy Cove Road being a local road, that width is 60 feet (30 feet from centerline).
- 6) A 15-foot wide permanent easement will need to be established across the property frontage for a future 10-foot wide pedestrian/bike path. The location of the easement shall be outside the limits of the ultimate right-of-way for this road.
- 7) The developer's engineer should check to determine if any utilities will need to be relocated as part of this project.

- 8) It is expected that DeIDOT will have additional comments once the entrance plans are submitted for review.
- 9) The applicant's engineer should contact the DeIDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding their requirements for the design of the site entrances. Preliminarily, DeIDOT would expect those requirements to include a single access point at the apex of the curve on which the site fronts. Mr. Fiori may be reached at (302) 760-2260.

**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:

- Excessively well drained - Evesboro
- Well Drained –Fort Mott/Henlopen complex
- Somewhat well drained- Runclint
- Somewhat poorly drained (potentially hydric) – Klej

Evesboro is an excessively well-drained upland soil that has limitations associated with rapid permeability. Fort Mott/Henlopen complex is a well-drained upland soil that has few limitations for development. Runclint is a somewhat well-drained upland soil that has few limitations for development. Klej is a transitional soil that contains both hydric (indicative of wetlands) and non-hydric (upland) soil components; development limitations range from moderate to severe depending on the water table occurrence.

Although most of the soils on the subject parcel are fairly well drained, they have limitations associated with rapidly permeable sandy surface and subsurface horizons. Such soils are conducive to nutrient leaching via groundwater or surface runoff into the surrounding watershed. In soils containing shallow water tables or found in close proximity to waterbodies, these impacts are greatly intensified.

Water Resource Protection Areas

The eastern portion of this site is located in an excellent recharge area. According to the State law that created the Source Water Protection Program, county and municipal governments will be required to enact ordinances to protect Water Resource Protection Areas. The following language has been excerpted from the draft Source Water Protection Guidance Manual for Local Governments, Supplement 1 - Ground-Water Recharge Design Methodology. While the language is currently draft, and the local ordinances are not yet in place, the developer may find the language useful in modifying

the site plan to protect the excellent recharge area. For more specific information on the location of the excellent recharge area on the site, please call John Kennel at (302) 739-5726.

Water Resource Protection Areas (WRPAs) are defined as (1) surface water areas such as floodplains, limestone aquifers, and reservoir watersheds, (2) wellhead areas, or (3) excellent recharge areas. The purpose of an impervious cover threshold is to minimize loss of recharge and protect the quality and quantity of ground and surface water supplies in WRPAs.

New development in WRPAs may exceed the 20 % impervious cover threshold, but be no more than 50 % impervious, provided the applicant submits an environmental assessment report recommending a climatic water budget and facilities to augment recharge. The environmental assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis.

Commonly, the applicant offsets the loss of recharge due to impervious cover by constructing recharge basins that convey relatively pure rooftop runoff for infiltration to ground water.

The Department recommends the following (ranked in order of preference):

1. Preserve WRPAs as open space and parks by acquisition or conservation easement.
2. Limit impervious cover of new development to 20 % by right within WRPAs.
3. Allow impervious cover of new development to exceed 20% within WRPAs (but no more than 50% impervious) provided the applicant develops recharge facilities that directly infiltrate rooftop runoff.
4. Allow impervious cover of new development to exceed 20% within WRPAs (but no more than 50% impervious) provided the applicant develops recharge facilities that infiltrate stormwater runoff from forested and/or grassed surfaces with pretreatment.

Wetlands

According to SWMP mapping, no wetlands were mapped on subject site. However, the soil survey mapping update shows some potentially hydric wetland associated on the southern portion of subject parcel. **In order to resolve this mapping discrepancy, a wetlands delineation is highly recommended. Further, the applicant is strongly**

encouraged to maintain a 100-foot minimum buffer width from the landward edge of all delineated wetlands and/or watercourses.

Also, the Department strongly recommends that the periphery of the proposed pond contain a 50-foot buffer of native woody and/or herbaceous vegetation. This buffer will serve to reduce nutrient runoff into the pond and reduce the problems associated with nuisance geese.

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.

ERES Waters

This project is located adjacent to receiving waters of Inland Bays designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/ or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 11.5 of Delaware's "Surface Water Quality Standards" (as amended August 11, 1999), specify that all designated ERES waters and receiving tributaries develop a "pollution control strategy" to reduce non-point sources of nutrient runoff through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 11.5(e) of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree practicable, or where attainable, a standard requiring no discharge of pollutants.

TMDLs

With the adoption of Total Maximum Daily Loads (TMDLs) as a "nutrient-runoff-mitigation strategy" for reducing nutrients in the Inland Bays Watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited water body" can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals will fall under the auspices of Section 11.5 of the State of Delaware's Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as "pollution control strategies."

Nutrient reductions prescribed under TMDLs are assigned on basis of water quality concerns – that is, the those regions deemed to be of greatest environmental concern will require correspondingly higher levels of nutrient reduction than those regions deemed less environmentally sensitive. In this watershed, these regions are demarcated as high

and low reduction zones. The high reduction zone corresponds to the western portion of the watershed, and requires a reduction of nitrogen and phosphorus by 85 and 65 percent, respectively. The low reduction zone corresponds to the eastern portion of the watershed, and requires a reduction of nitrogen and phosphorus by 40 percent. **This project is proposed within the low nutrient reduction zone.**

In order for the applicant to verify compliance with the TMDL mandate, a full nutrient accounting process known as nutrient budget should be prepared. The developer/consultant should contact Lyle Jones in the Department's Watershed Assessment Section for further information regarding the acceptable protocol for calculating a nutrient budget. He can be reached at 739-4590.

Water Supply

The information provided indicates that the Sussex Shores will provide water to the proposed projects through a central public water system. Our files reflect that Sussex Shores does not currently hold a certificate of public convenience and necessity (CPCN) to provide public water in these areas. They will need to file an application for a CPCN with the Public Service Commission, if they have not done so already. Information on CPCN requirements and applications can be obtained by contacting the Public Service Commission at 302-739-4247.

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

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.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-3665.

Stormwater Management

Stormwater management is an integral part of the site development infrastructure. The planning and design for stormwater management should begin early. The applicant is encouraged to contact the Sussex Conservation District as soon in the planning process as possible in order to receive their preliminary comments. Contact Jessica Watson at (302) 856-7219.

Revegetation

It is requested that no invasive species be used in the revegetation of disturbed areas. A list of species considered invasive in Delaware can be found on the DNHP web site, <www.dnrec.state.de.us/fw/invasive.htm>. It is further recommended that you use native plants and our botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

Recreation

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.

Underground Storage Tanks

There are no LUST sites located near the proposed project. However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

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:**
 - Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
 - Where a water distribution system is proposed for (business/educational/assembly/healthcare/multi-family) sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories of more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **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 Sandy Cove 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.

d. **Gas Piping and System Information**

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

e. **Required Notes:**

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Note indicating if building is to be sprinklered
- Name of Water Provider

- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

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. Contact Duane Fox at 302-856-5298 for more information.

Department of Agriculture - Contact: Mark Davis 739-4811

A forest buffer should be maintained for those pre-existing residential properties and along all streams, wetlands, and river that border the proposed subdivision.

The developer should consider a diverse landscape plan that uses Delaware native tree and shrub species and encourages the “Right Tree for the Right Place” concept.

Public Service Commission - Contact: Andrea Maucher 739-4247

Sussex Shores has a CPCN application pending for the project area with Commission approval anticipated in July 2004.

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety Guidelines.

Delaware Emergency Management Agency – Contact: Kevin Kille 659-3362

This area is within the FEMA Special Flood Hazard Area. The area is also subject to inundation in the event of a hurricane or coastal storm. Route 1 is a Coastal Storm Evacuation route, and given the location of the development, is the only route of egress to the mainland. The development will add to the number of persons and vehicles who could be required to evacuate along Route 1 during an emergency. Developers should notify police, fire service, and emergency medical organizations serving the towns of South Bethany or Fenwick Island of their intentions.

Department of Education – Contact Nick Vacirca: 739-4658

The total number of units will determine the estimated number of additional students for the Indian River School District.

Sussex County does not have school concurrence legislation at this time; however it is recommended that the developer submit a package to the school district for informational purposes.

If the development is approved and build, 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. The developer should work closely with the school district transportation supervisor.

Sussex County – Contact: Richard Kautz 855-7878

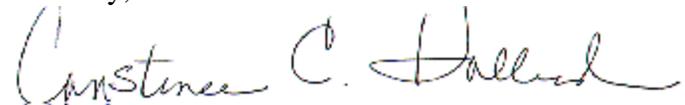
The application for the Conditional Use must be accompanied by the Report required by the Environmentally Sensitive Development District overlay (copy attached). The report should specifically address how the development will mitigate any negative impact on the site's "excellent" and "good" aquifer recharge areas.

The County Engineering Department states that: "The Sussex County Engineering Department opposes this project as proposed. This project is within the boundaries of the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District (CNX). The number of EDU's allocated for these parcels are based on 4 EDU's per acre minus state wetlands. The capacity allocated for this project is 64 EDU's. There will be System Connection Charges due prior to connection. All pipelines must be constructed in accordance with Sussex County Sewer Standards. This project exceeds the allocated number of EDU's for these two parcels by a minimum of 22 EDU's or 34%." For questions regarding these comments, contact Chris Calio, Sussex County Engineering Department at (302) 855-7839.

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: Sussex County
GB Properties