



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

August 19, 2004

Mr. Zachary Crouch  
Davis, Bowen & Friedel  
23 North Walnut Street  
Milford, DE 19963

RE: PLUS review – PLUS 2004-07-15; Muddy Neck

Dear Mr. Crouch:

Thank you for meeting with State agency planners on August 4, 2004 to discuss the proposed plans for the Muddy Neck project to be located on the southeast side of Double Bridges Road near Muddy Neck Road in Sussex County.

According to the information provided on the PLUS application, you are seeking a rezoning from MR to MR/RPC for the purpose of developing a 138 unit residential subdivision on 64.23 acres. However, we note that at the meeting you shared that there had been an error in the zoning and that the site is currently zoned AR-1.

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**

As noted on the PLUS application form, this proposal is located within the Environmentally Sensitive Developing Area according to the 1999 Strategies for State Policies and Spending and the Sussex County Comprehensive Plan. Under the 1999

State Strategies, the State envisioned a balance between sustainable development and environmental protection. Inherent in this vision is the notion that some parcels of land are more suitable for development than others. The 2004 update of the 2004 Strategies for State Policies and Spending, which is presently awaiting final approval by Governor Minner, included a more detailed geographic analysis based on the best available geospatial data.

In this update, areas within the State are reflected as Investment Levels 1 through 4, with Level 4 being the least suitable for development and most suitable for preservation activities. According to that analysis, this parcel of land was shown as Investment Level 4, reflecting the significant environmental issues in and around the site. As noted in the comments below, among other things, these issues include the presence of tidal and non-tidal wetlands, ditches, and forested areas.

Based on the results of the analysis undertaken for the Strategies update, the Office of State Planning Coordination believes that the increase in density allowed by rezoning this land from AR-1 to MR/RPC is not appropriate, given the site characteristics, significant environmental issues, and potential conflicts between the intense residential use proposed and the active hunting and agricultural uses on the adjacent properties.

As this project moves forward we ask that you work closely with DNREC to address the environmental concerns raised.

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

There is a high probability for historic and prehistoric sites within the project area. It is encouraged that the developers to keep the development out of the wooded areas to help preserve any sites. There is an old structure on the property, which will be demolished. The SHPO requests permission to access the property in order to obtain final documentation of the structure before it is demolished. You can contact Anne McCleave at 302-739-5685 to schedule a time. If there are any federal permits or licenses involved with the project, the federal agency must comply with Section 106 of the National Historic Preservation Act and consider the affects on historic resources.

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

On October 29, 2002, DeIDOT commented to Sussex County on a traffic impact study done for a somewhat different development proposal (150 single-family detached houses) for this property. That study found relatively good levels of service in the immediate vicinity. DeIDOT's comments in that letter are applicable to this project as well.

DeIDOT's Route 54 Corridor Study, identified a need for an Alternate Route 54, which would be created through improvements to a series of local roads connecting the Williamsville area to Bethany Beach. While the specific roads have yet to be determined, it is almost certain that Double Bridges Road would be part of that route. Depending on

the relative schedules of this development and DelDOTs road improvements, they may ask the developer to reserve or dedicate right-of-way or build improvements along their road frontage. More information is available on this project from Mr. Donald Plows, the Regional Group Engineer who is managing it. Mr. Plows may be reached at (302) 760-2524. Close coordination may be necessary to assure that the design for the development will be consistent with our planned improvements.

The applicant's engineer should contact the DelDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding their requirements with regard to the design of the site entrances and, if the streets are to be built for State acceptance, the design of the streets as well. Mr. Fiori may be reached at (302) 760-2260.

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

**General:** This development is within a State Resource Area, adjacent to State owned conservation lands, adjacent to the Assawoman Canal and has extensive areas of wetlands and forested lands. DNREC strongly discourages this plan in its current form and would ask that the developer design a plan which is much less intrusive into the natural landscape and that does not conflict with State conservation goals.

**Design Recommendation:** Many of the comments below can be addressed by eliminating or relocating units C-81 through C-105 and all associated roads, including portions of the main loop around the development. This will reduce infringement into the sensitive marshes and forests. Further, it will reduce the infrastructure needs associated with these units, including roadways and stormwater management.

**Soils**

According to the recent soil survey update, the soils in the vicinity of the proposed construction are mapped as Klej, Hammonton, Mullica-Berryland complex, and Mispillion - Transquaking Mucky Peats.

The following is a summary of mapped soils found within the proposed construction; they are grouped on the basis of drainage class:

Moderately well drained – Klej and Hammonton  
Very Poorly drained (**Hydric**) – Mullica-Berryland complex, and Mispillion -  
Transquaking Mucky Peats.

**Wetlands**

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of extensive areas of estuarine, forested and farmed wetlands, as well as a series of drainage ditches.

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 by the Corps of Engineers through the Jurisdictional Determination process.**

Impacts to wetlands are regulated by the DNREC Wetlands and Subaqueous Lands Section and by 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.

**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, particularly because this development is within the Environmentally Sensitive Developing Area and within a State Resource Area. Further, because of this parcels location in sensitive resource areas, every effort should be made to provide appropriate buffers from forests, wetlands and ditches.

Vegetated buffers of no less than 100 feet should be employed from the edge of the wetland complex. These buffers should be comprised of either forested areas or no-mow grasses. Turf grass does not constitute an adequate buffer, particularly for this area. 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.

### **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 as 739-4590.**

### **Water Supply**

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**

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval as well as construction inspection will be coordinated through Sussex Conservation District. Contact Jessica Watson, Program Manager, at (302) 856-7219 for details regarding submittal requirements and fees.

It is strongly recommended that you contact Sussex Conservation District to schedule a preapplication meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre and post development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion.

A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to DNREC Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

Applying practices to mimic the pre development hydrology on the site, promote recharge, maximize the use of existing natural features on the site, and limit the reliance on structural stormwater components, such as maintaining open spaces, should be considered in the overall design of the project as a stormwater management technique.

Each stormwater management facility should have an adequate outlet for release of stormwater. Any drainage conveyed onto this site from neighboring properties must be adequately conveyed through the site to the discharge point without interruption.

A Certified Construction Reviewer (CCR) will be required for the site during construction. You should contact Sussex Conservation District for details regarding the CCR requirement.

Little Bay Ditch on the north boundary of the site is a tax ditch (Little Bay Tax Ditch); however, the right-of-way is on the opposite side of the ditch. The ditches on site are not part of the tax ditch system so they may be modified. Also, there are no maintenance rights-of-way dedicated. However, they are functioning to lower the groundwater elevation and we would not recommend that they be filled in.

While the site's ditches may be able to convey runoff generated during a rain event, field ditches are generally designed for very low frequency storms and for an agricultural condition where it is acceptable for the ditches to flow out of bank for a short period of

time. If these existing ditches are proposed as part of the conveyance system for the project, the capacity of the ditches needs to be evaluated.

Runoff entering the ditches will need to be treated for water quality management prior to discharge to the ditch. Consider providing a buffer of native vegetation along the ditches as a filter strip BMP for water quality management.

Experience has shown that residents in subdivisions do not appreciate open ditches with the look of tax ditches along their property. It is important to keep these ditches within open space and provide adequate maintenance access along both sides of the ditch. The minimum maintenance right-of-way along a tax ditch is 16 ½ feet from top of bank of the ditch. We recommend that not less than this width be provided from the top of bank of the ditch to the property line or lot line.

Given the soils mapped for this site, there will be an extremely high water table that could pose difficulty in construction of the stormwater management facilities. Basements would not be recommended for the structures on this site.

### **State Wildlife Area**

The proposed project is adjacent to the Assawoman Wildlife Area, a public State Wildlife Area managed by the Division of Fish and Wildlife, DNREC. The State is concerned that the quantity and quality of wildlife habitat in the State Wildlife Area, particularly near the border, might be negatively affected by development activities, or by permanent land use changes, on the property in question. The developer should consult with the Regional Wildlife Biologist (currently Rob Gano, 302-539-3160) to minimize potential negative impacts of the proposed project on State Wildlife Area lands.

The following items are issues that should be discussed with the Regional Wildlife Biologist prior to initiation of construction activities:

1) The developer should be aware that the property in question will be subject to the effects of legal hunting activities in the Wildlife Area, such as firearm noise or dogs barking when pursuing game. There is an existing dove hunting field within 200 ft of the property boundary. Legal hunting for dove, waterfowl, quail, rabbit, and deer take place within the Wildlife Area and the developer should consider placing dwellings at least 100 ft. from the property boundary for safety reasons,

2) Land that is on the western border of the proposed project area is either enrolled in CRP or CREP, or leased for farming. These areas must be left intact, disturbance of which is regulated by the FSA/USDA. According to county code requirements, the developer should fully disclose information regarding on-going farming operations, including the use of fertilizers, herbicides and the potential for noise and dust from those activities. In addition, prospective property owners need to be aware that some areas

planted with grasses are part of an on-going prescribed burning program that takes place once every 2-4 years,

3) As requested for the Kensington Park development adjacent to the McCabe Tract, a physical barrier should be erected between the project property and the Wildlife Area, preferably a fence approximately 8 ft. high. It is also requested that a minimum of a 100 ft. undisturbed buffer be maintained between State land and the proposed development.

4) The access road that occurs between the two properties should be closed for safety purposes,

5) The use of ATV's on Wildlife Areas is illegal. This has been a problem on other Wildlife Areas that are in close proximity to housing developments, and could become an issue.

6) During construction, measures should be taken so that on-site construction trash does not blow onto the Wildlife Area.

### **Rare/Threatened/Endangered Species**

In addition, the proposed project lies within five miles of a known Delmarva fox squirrel (*Sciurus niger cinereus*) population at the Assawoman Wildlife Area. Delmarva fox squirrels were listed as federally endangered in 1967 and are protected by the Endangered Species Act. They generally inhabit mature forests with open understories and wet woodlands, but can be opportunistic in their habitat choice. The proposed project area contains potential habitat for Delmarva fox squirrels and the following is required:

- Contact Trevor Clark (410-573-4527) of the US Fish and Wildlife Service for proper procedures prior to beginning work. A conference with the Service is required for any projects that will directly or indirectly impact habitat within 5 miles of the Assawoman Wildlife Area fox squirrel locations;

### ***AND/OR***

- Contact Trevor Clark (410-573-4527) of the US Fish and Wildlife Service for proper procedures prior to beginning work. Have surveys conducted to determine if Delmarva fox squirrels are present. In accordance with Delaware's fox squirrel site survey procedures, surveys must be conducted by a State approved fox squirrel surveyor two times between September and May: once in the fall, and again between March 15 and May 30. A list of qualified surveyors is available upon request. Please note that surveys may confirm the presence of fox squirrels but cannot confirm absence.

## **Forests**

This parcel is within a State Resource Area; an area of particular conservation concern to the State. Large forest blocks such as those on-site provide habitat for other wildlife and provide important water quality benefits. Site plans show that structures are proposed within the forested area. Development activities within the forested area will “fragment” this habitat, severely reducing its value for as habitat for wildlife. The developer is strongly encouraged to preserve, and where possible, enhance forested resources on site and remove all structures from the forested areas. Further, a transition zone from turf grass to forest should be established; this zone could consist of shrubs or meadow grasses such as coastal panic grass.

Any lands set aside for conservation purposes should be placed into a permanent conservation easement or other binding protection mechanism. These areas should be clearly marked and delineated so that residents understand their importance and so that homeowner activities do not infringe upon these areas.

## **Open Space**

To maximize the existing buffering capacity and wildlife habitat on site, it is recommended that lot lines and other infrastructure (such as stormwater management ponds) be pulled out of the forest and that areas of community open space be designated along the forest and wetland edge. Doing so will accomplish two things: it will preserve the existing riparian buffers on site and its value for birds and wildlife and it will create recreational opportunities for residents by allowing them access to and views of the forest and stream.

In areas set aside for passive open space, the developer is encouraged to consider establishment of additional forested areas or meadow-type grasses. Once established, these ecosystems provide increased water infiltration into groundwater, decreased run-off into surface water, air quality improvements, and require much less maintenance than traditional turf grass, an important consideration if a homeowners association will take over responsibility for maintenance of community open spaces.

Open space containing forest and/or wetlands should be placed into a permanent conservation easement or other permanent protection mechanism. Conservation areas should also be demarked to avoid infringement by homeowners.

## **Revegetation**

For this project, DNREC requests 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](http://www.dnrec.state.de.us/fw/invasive.htm)>. DNREC further recommends

the use of native plants and the DNREC Botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

### **Air Quality**

Air pollution threatens the health of human beings and other living things on our planet. While often invisible, pollutants in the air create smog and acid rain, cause cancer or other serious health effects, diminish the protective ozone layer in the upper atmosphere, and contribute to the potential for world climate change. Breathing polluted air can have numerous effects on human health, including respiratory problems, hospitalization for heart or lung disease, and even premature death. Some can also have effects on aquatic life, vegetation, and animals.

Once complete, vehicle emissions associated with this project are estimated to be 10.9 tons (21,795.5 pounds) per year of VOC (volatile organic compounds), 9 tons (18,045.2 pounds) per year of NO<sub>x</sub> (nitrogen oxides), 6.7 tons (13,314.1 pounds) per year of SO<sub>2</sub> (sulfur dioxide), 0.6 ton (1,185.2 pounds) per year of fine particulates and 911.6 tons (1,823,167.3 pounds) per year of CO<sub>2</sub> (carbon dioxide)

Emissions from electrical power generation associated with this project are estimated to be 1.7 tons (3,484.2 pounds) per year of NO<sub>x</sub> (nitrogen oxides), 6.1 tons (12,118.8 pounds) per year of SO<sub>2</sub> (sulfur dioxide) and 893.8 tons (1,787,530.1 pounds) per year of CO<sub>2</sub> (carbon dioxide).

Emissions from area sources associated with this project are estimated to be 4.4 tons (8,791.1 pounds) per year of VOC (volatile organic compounds), 0.5 tons (967.3 pounds) per year of NO<sub>x</sub> (nitrogen oxides), 0.4 ton (802.7 pounds) per year of SO<sub>2</sub> (sulfur dioxide), 0.5 ton (1,035.9 pounds) per year of fine particulates and 17.8 tons (35,637.2 pounds) per year of CO<sub>2</sub> (carbon dioxide)

	VOC	NO <sub>x</sub>	SO <sub>2</sub>	PM <sub>2.5</sub>	CO <sub>2</sub>
Mobile	10.9	9.0	6.7	0.6	911.6
Residential	4.4	0.5	0.4	0.5	17.8
Electrical Power		1.7	6.1		893.8
TOTAL	15.3	11.2	13.2	1.1	1823.2

The Department of Natural Resources and Environmental Control is asking that local jurisdictions consider mitigation to help resolve this issue. Mitigation might involve limiting large new developments to growth zones, focusing development to urban areas capable of providing mass transit services, requiring more energy efficient homes which would lessen air quality impacts, and promoting walkability and bikability within and between developments and town centers.

The State notes that this proposed development is within the Environmentally Sensitive Developing Area according to the current Strategies for State Policies. In these areas, the State seeks a balance between resource protection and sustainable growth. Development in this location would increase dependence on the automobile to reach needed services. Because of the rural location of this project, the close proximity to the Assawomen Wildlife area, and because of the numerous environmental issues noted by reviewers, including the air quality issues, DNREC does not feel that rezoning this parcel is appropriate.

### **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: Duane Fox 856-5298**

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. (Assembly, Apartment and Townhouses)
- 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. (One & Two- Family Dwelling)
- Where a water distribution system is proposed for the site, 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
- For townhouse buildings, provide a section / detail and the UL design number of the 2-hour fire rated separation wall on the Site plan.

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 Two Bridges 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.

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)
- Townhouse 2-hr separation wall details shall be shown on site plans
- 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](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

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

Per relevant County codes, a forested buffer is required between the proposed subdivision and all adjacent properties in active agricultural use. In addition, 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**

The information provided indicates that Tidewater Utilities will provide water to the proposed projects through a central public water system. PSC files reflect that Tidewater Utilities 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.

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Recent legislation (Senate Bill 99) placed non-governmental companies providing wastewater services to 50 or more customers (in the aggregate) under the regulatory control of the PSC. While rules are not yet in place, governmental agencies offering wastewater services must file data with the Commission regarding its service areas. Contact: Kevin Neilson at (302) 739-4247.

**Delaware State Housing Authority – Contact Karen Horton 739-4263**

This proposal is to rezone 64 acres in order to develop a residential planned community consisting of 108 condominium units and 34 single-family units just west of South Bethany. The applicant noted that some of the homeownership units would be targeted for first-time homebuyers. DSHA supports this proposal because the 2003 Statewide Housing Needs Assessment indicates that much of the housing in the coastal resort area is outside the affordability level of low- and moderate-income households. This proposal

would provide much needed housing opportunities for those that work in nearby service and retail establishments.

**Delaware Emergency Management Agency – Contact: Don Knox 659-3362**

A significant impact to public safety is foreseen by implementation of this project. Developer should notify the police, fire service, and emergency medical response organization serving South Bethany and Sussex County, to keep them apprised of all development activities.

This planned community is located in the Special Flood Hazard Area, portions in the 100-year flood zone and portions in the 500-year flood zone. It is also located in an area expected to be inundated by a category-1 hurricane.

It should also be noted that routes 1, 20, and 26 are coastal storm evacuation routes and this development will add to the traffic volume on these routes during a coastal storm event.

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

142 units could generate and estimated 71 additional students to the Indian River School District.

Sussex County does not have school concurrence legislation at this time. 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**

Although the application predates the requirements of the ESDA Ordinance, the applicant should address the advice of the various PLUS review agencies.

The Sussex County Engineering Department stated that the project gross density is 2.21 EDU's per acre. The application states there are 25.63Ac. of wetlands on the parcel, but there is not any indication as to how many acres are state wetlands. Capacity is based on 4 EDU's per acre minus any state wetlands in the proposed project area. The Sussex

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County Engineering Department has determined there is capacity for the project as proposed. There has been no concept plan approved by the Sussex County Engineering Department. 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,

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: Sussex County