



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

September 16, 2004

Mr. Roger A. Gross, P.E.
Merestone Consultants, Inc.
4343 Highway One, Suite 201
Rehoboth Beach, DE 19971

RE: PLUS review – PLUS 2004-08-01; Sommerton Commons

Dear Mr. Gross:

Thank you for meeting with State agency planners on August 25, 2004 to discuss the proposed plans for the Sommerton Commons project to be located on Radish Road in the Town of Millsboro.

According to the information received, you are seeking annexation in to the Town of Millsboro with rezoning from AR-1 to MR/RPC to build a 265 lot single family residential subdivision on 68 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, if annexed, the Town of Millsboro will be the governing authority over this land, and you will need to comply with any and all regulations/restrictions set forth by the Town.

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 this proposal is located in an “Investment Level 2” area according to the draft update of the 2004 Strategies for State Policies and Spending. The draft Strategies update has been endorsed by the Cabinet Committee on State Planning Issues and is currently awaiting final approval by Governor

Minner. In Investment Level 2 areas, State policies encourage well planned, phased growth. We also note that the proposal is under consideration for annexation into the Town of Millsboro and in the annexation area of the Town's comprehensive plans. For these reasons, we support the location of this proposal.

The Office of State Planning Coordination has reviewed the paperwork for the annexation and has responded separately to the Town regarding the annexation of this parcel.

We note that a portion of the Plantation Lakes project is adjacent to the northern boundary of this proposal. This is the area where Sommerton Commons is contiguous with the Town of Millsboro's Town boundary. The Plantation Lakes site plan includes stub streets to connect with this parcel. We encourage the developer to provide a street connection to Plantation Lakes. We also encourage the inclusion of community open space beyond what will be needed for stormwater management in the project.

We are glad to see a street layout for the project that provides an interconnected system of roads without reliance on cul-de-sacs.

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

There are two potential historic properties on the subject parcels. Through their demolition, the proposed development will adversely affect these properties and historic contexts. It is requested that the applicant and developers contact Anne McCleave at 302-739-5685 in the SHPO to schedule a time for her to visit the properties and document them before they are demolished.

There is also a high probability for archaeological sites within the subject properties.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) A traffic impact study (TIS) will be required for the development of this property. When they are ready to proceed with that study, the applicant should have their traffic engineer contact Bill Brockenbrough to set up a scoping meeting for the TIS. It is recommended that they do so soon. Presently, the completion and review of an average TIS in Delaware takes over a year.

At the PLUS meeting the developer's engineer pointed out that when this project was proposed as a rezoning under Sussex County jurisdiction about a year ago, DelDOT did not require a TIS. That appears to have been an error on DelDOT's part and they probably would have addressed it in the subdivision process if the County had approved the rezoning. Regardless of jurisdiction, this project is large enough to warrant a TIS.

- 2) It appears that the proposed development is contiguous to the Town only through the Plantation Lakes property (Lands now or formerly of William John Jr. & Marian W. Davis), located immediately north of it. While that contiguity would keep this project from being a physical enclave, the proposed street connection would be needed to avoid creating a functional enclave. DeIDOT considers the connection very important and they commend the Town and the developer for providing it.
- 3) In addition to the connection to Plantation Lakes, just mentioned, DeIDOT recommends that stub streets be provided to the Dukes, Mumford and McCabe lands, which respectively adjoin the subject lands to the north, west and east.
- 4) Presently, DeIDOT is engaged in a US Route 113 North-South Study, which is developing alternative alignments for improving and/or bypassing that road. In Millsboro, one of the alternatives under consideration is a western bypass of the Town. If that alternative is selected, there may be a need to acquire some portion of this development's northeast corner.

By the spring of 2005 a determination of which alternatives merit detailed study will be made, and later that year we expect to select an alignment. Therefore it does seem appropriate for the applicant to continue the land development process. They and the Town, however, should be aware that DeIDOT might need to acquire a portion of their property.

More information on the study is available from the project manager, Mr. Monroe Hite. He may be reached at (302) 760-2120.

- 5) The developer's site engineer should contact the DeIDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding their requirements with regard to the design of the site entrance. 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:

Well Drained –Fort Mott-Henlopen complex

Moderately well to Somewhat well drained – Pepperbox-Rosedale complex

Fort Mott-Henlopen complex is a well-drained upland soil that, generally, has few limitations for development. Pepperbox-Rosedale complex is a moderately well to somewhat well-drained soil that has moderate to few limitations for development.

Although most of the soils on 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.

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, such 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 high 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

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 pre-application 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. If infiltration is the intended method of stormwater management, the required infiltration testing of soils should be completed prior to the pre-application meeting as well.

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. It is recommended that if infiltration is used to discharge runoff, the infiltration facilities should be spread out throughout the site to make the facilities smaller and lessen the likelihood of failure due to groundwater mounding.

Each stormwater management facility should have an adequate outlet for release of stormwater. Facilities designed to infiltrate must have an overflow for release of runoff greater than the design volume. 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.

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 the DNREC 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 and stub streets. 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.

It is also recommended that that stub streets and sidewalks be provided on the West, North and East portions of the property to allow for better bike and pedestrian mobility through the development and adjacent parcels.

If a trail system is planned, DNREC recommends 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.

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 20.3 tons (40,674.7 pounds) per year of VOC (volatile organic compounds), 16.8 tons (33,675.9 pounds) per year of NO_x (nitrogen oxides), 12.4 tons (24,846.7 pounds) per year of SO₂ (sulfur dioxide), 1.1 ton (2,211.8 pounds) per year of fine particulates and 1,701.2 tons (3,402,389.7 pounds) per year of CO₂ (carbon dioxide)

Emissions from electrical power generation associated with this project are estimated to be 3.3 tons (6,502.1 pounds) per year of NO_x (nitrogen oxides), 11.3 tons (22,616.2 pounds) per year of SO₂ (sulfur dioxide) and 1,667.9 tons (3,335,883.6 pounds) per year of CO₂ (carbon dioxide).

Emissions from area sources* associated with this project are estimated to be 8.2 tons (16,406.0 pounds) per year of VOC (volatile organic compounds), 0.9 ton (1,805.2 pounds) per year of NO_x (nitrogen oxides), 0.7 ton (1,498.0 pounds) per year of SO₂ (sulfur dioxide), 1.0 ton (1,933.1 pounds) per year of fine particulates and 33.3 tons (66,506.1 pounds) per year of CO₂ (carbon dioxide).

	VOC	NO _x	SO ₂	PM _{2.5}	CO ₂
Mobile	20.3	16.8	12.4	1.1	1701.2
Residential	8.2	0.9	0.7	1.0	33.3
Electrical Power		3.3	11.3		1667.9
TOTAL	28.5	21.0	24.4	2.1	3402.4

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.

With that said this State notes that this proposed development is within a growth area and proposed for annexation within the Town of Millsboro. Therefore, the State would ask that you consider the development of energy efficient homes and interconnectivity with the surrounding residential and commercial areas to promote walkability and bikeability.

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:**

- 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 Radish 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 from our website: www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Mark Davis 739-4811

It is suggested that you provide a forested buffer 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: David Bonar 739-4247

The information provided indicates that the Town of Millsboro will provide water to the proposed projects through a central public water system. PSC files reflect that the Town of Millsboro does not currently hold a certificate of public convenience and necessity (CPCN) to provide public water in these areas. If this property is annexed, the Town must contact the PSC so that the CPCN can be updated. 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.

If they have not already done so, the Town of Milton will need to notify the Commission of the areas to which it is providing wastewater services.

Delaware State Housing Authority – Contact Karen Horton 739-4263

The State Housing Authority supports this proposal because some of the units will be targeted for first-time homebuyers. The provision of these units will help address the need for affordable homeownership that was identified in the 2003 Statewide Housing Needs Assessment. In addition, the location of the proposal will ensure that residents have close and easy access to the services and markets that Millsboro offers.

Delaware Emergency Management Agency – Contact Don Knox 659-3362

A significant impact to public safety is foreseen by implementation of this project, due to the large number of single family residential units being constructed. The developer should notify the police, fire service, and emergency medical response organization serving the Town of Millsboro, to keep them apprised of all development activities. Routes 20, 24, and 113 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

265 dwelling units could generate an estimated 133 additional students for the Indian River School District.

It is recommended that you 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. Please work closely with the school district transportation supervisor.

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.

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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 printed name and title.

Constance C. Holland, AICP

Director

CC: Town of Millsboro