



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

November 16, 2004

Mr. Kirk Taylor
S.K. Pepper Creek, LLC
P.O. Box 855
Bethany Beach, De 19930

RE: PLUS review – PLUS 2004-10-03; Landings at Pepper Creek

Dear Mr. Taylor:

Thank you for meeting with State agency planners on October 21, 2004 to discuss the proposed plans for the Landings at Pepper Creek project to be located on Piney Neck Road, near Dagsboro. According to the information received, you are seeking a rezoning from AR-1 to MR/RPC to develop 125 units on 65.39 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 302-739-3090

The Office of State Planning Coordination notes that this project is located within an "Investment Level 3" area according to the 2004 Strategies for State Policies and Spending, with a small portion of the site along the water in an "Investment Level 4" area. In Investment Level 3 areas, State policies support long-term phased growth that is compatible with its natural and agricultural surroundings. In Investment Level 4 areas, State policies support preservation of open space and agricultural and natural resources.

The small area that reflects Investment Level 4 is the area along the creek, which the developer indicated during the PLUS meeting will be used for redevelopment of an existing marina under a separate application. We also note that this proposal is located within the Environmentally Sensitive Development District according to the Sussex County Comprehensive Plan.

The Office of State Planning Coordination recommends that you redesign the project to include more functional and natural open space, especially in light of the recommendation from the Sussex Conservation District that a waiver be sought for stormwater management quantity control and that stormwater ponds be reduced or eliminated.

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

There are several potential historic properties surrounding the subject property and one (S4408) on the southwest corner of the parcel. If possible, SHPO would like to see the house within the property preserved. If it cannot be preserved, they request access to the site in order to document the house and any associated structures before they are demolished.

There is also a high probability for historic and prehistoric archaeological sites, with one known site located in the southeast corner of the subject property. If there is any federal involvement in the form of permits, licenses or funds, the federal agency must comply with Section 106 of the National Historic Preservation Act (36 CFR 800) and consider their project's effects on historic resources.

In regard to the future development proposed to take place on the north side of Piney Neck Road, please keep the two historic properties flanking the subject parcel in mind during the design stages and include landscaping on the west and east edges of the future development to help minimize the visual effects.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) Piney Neck Road is classified as a local road. DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 30 feet from the centerline on local roads. While the plan does not indicate what the existing right-of-way width is for Piney Neck Road, DelDOT believes that it is only 30 feet total. If that is correct, they will require right-of-way dedication to provide the additional 15 feet from this project.
- 2) Additionally, the developer will be required to provide a 15-foot wide permanent easement adjacent to the new right-of-way line. A similar easement was provided by the adjoining development of Pepper Creek, and the developer of this project will be required to build a paved multi-modal path in both easements to connect the two developments. We understand that the developer of this project indicated

- at the PLUS meeting that the Pepper Creek development is "stalled" and therefore questioned the need for this requirement. DelDOT has not followed the pace at which that project is being developed, but they are not aware of anything that would keep that development from proceeding. If the plan for Pepper Creek becomes invalid in some way they will re-evaluate their position.
- 3) The developer will be required to improve Piney Neck Road from the east limit of the site frontage to the east limit of the improvements done in association with the adjoining Pepper Creek subdivision. Those improvements consist of an overlay of the existing road and widening to a 10-foot lane and a five-foot shoulder where the property has frontage.
 - 4) Driveway connections should be provided from Anchor Watch Loop to the two outparcels and the one property adjacent to the development's east edge, such that those properties could be connected to the development instead of directly to Piney Neck Road in the future.
 - 5) The developer's site engineer should contact the DelDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding their specific requirements for the design of the road improvements and 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:

- Excessively well drained - Evesboro
- Well drained – Fort Mott/Henlopen complex & Rosedale
- Moderately well drained – Pepperbox

Evesboro is an excessively well-drained upland soil that has moderate limitations for development on account of its rapid permeability. Fort Mott/Henlopen complex and Rosedale are a well drained upland soils that, generally, has few limitations for development. Pepperbox is a moderately well-drained upland soil that has moderate 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.

Wetlands

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of Estuarine wetlands on this parcel along Pepper Creek.

The developer and County should note that impacts to these wetlands are regulated by both the DNREC Wetlands and Subaqueous Lands Section and the Army Corps of Engineers through the Delaware Subaqueous Lands Act and Section 404 of the Federal 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.

Vegetated no-mow buffer zones of no less than 100 feet should be employed from the edge of the wetlands and/or waterbodies. 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 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 as 739-4590.

Additionally, because of the Federal TMDL mandate to reduce nutrient loading to waters of the Inland Bays - significant nitrogen and phosphorus loading must be realized from all sources, including onsite/community wastewater disposal systems. Research by Departmental staff and Dr. Mike Hoover (North Carolina State University), recommend that the effluent concentration levels from such systems not exceed an average annual nitrogen and phosphorus concentration level of 5 and 2 mg/l, respectively.

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.

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.

Due to the proximity of this site to a tidal water body, the District recommends seeking a waiver from stormwater management quantity control, citing the Delaware Sediment and

Stormwater Regulations, §3.2 paragraph B item 2. Requests for waivers from stormwater management requirements must be made to the District in writing and included with the plan review submittal.

Floodplain

Portions of the property are within the 100-year floodplain. It is recommend that buildings be limited to areas outside the floodplain and above the base flood elevation. Filling within the floodplain must be in accordance with applicable floodplain regulations.

Rare/Threatened/Endangered Species

There is an active Bald Eagle nest site located on the parcel adjacent to the above referenced property. In 2004 the eagles moved the nest farther upstream (west); however, the 2003 nest site maintains a status of protection for five years. Disturbance associated with a residential development (as well as boat traffic associated with a marina expansion) could impact Bald Eagle which utilize this area of Love Creek for nesting, roosting, and foraging. Because the Bald Eagle is a federally listed species, they are ultimately under U.S. Fish and Wildlife Service (USFWS) jurisdiction and questions should be directed to Craig Koppie at (410)573-4534. It is understood that the applicant has been in contact with the USFWS regarding both the marina and residential development project and dialogue regarding this issue should continue if the project moves forward. In addition we request that Kitt Heckscher, DNREC Program Zoologist, be included in correspondence regarding this issue.

DNREC stated that they are also aware that large trees along Love Creek were removed and, as they understand, the USFWS currently has the authority to regulate activities within the protection zones of Bald Eagle nests. This includes habitat alteration such as vegetative removal (i.e. trees). We encourage the applicant, who we understand owns the adjacent parcel, to preserve the remaining trees along Love Creek.

Habitat

DNREC recommends increasing the proposed wetland buffer from 50 ft to 100 ft (preferably 300ft). Buffers are an integral component of aquatic and wetland habitats, reducing the amount of sediments, pollutants, and other non-point source material that may affect the function and integrity of habitat and the condition and survivability of aquatic organisms. This buffer should be planted with native grasses, wildflowers, shrubs or trees. If you require assistance, please contact the program Botanist Bill McAvoy.

It is unclear what activities are being proposed for an area designated as “Future Development Area”. This parcel is forested and we strongly encourage preservation, as an estimated 5,000 acres of forest have been lost in Delaware since 1990 and the cumulative loss has led to a corresponding loss of forest-dependent species (Environmental Law Institute. 1999. Protecting Delaware's Natural Heritage: Tools for

Biodiversity Conservation. ISBN#1-58576-000-5). For migratory birds, it is extremely important to conserve large tracts of forests in the State of Delaware due to its position within the Atlantic flyway.

Open Space

The “future development area” is entirely forested. No mention is made in the application regarding what will occur in this parcel, but it is assumed that the community wastewater treatment plant would be located here. The developer and county are strongly encouraged to avoid significant impacts to this large forested parcel, particularly for infrastructure that supports development densities above those anticipated and set forth by the State Strategies.

The site plans show no consideration for open space or buffers. While there are existing structures along the waterfront, efforts should be made to implement a buffer zone, comprised of coastal grasses, like coastal panic grass, and native shrubs. As designed, the community has limited access to the waterfront, particularly for recreational purposes. The developer should consider increasing the amount of open space along the waterfront and increasing the recreational opportunities associated with it.

The small forested area on the eastern portion of the project site should be preserved and maintained as a part of community open space.

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.

Recreation

It is recommended that more open space for active recreation be incorporated in the design. Storm water management ponds are required infrastructure and we discourage building recreational facilities adjacent to storm water basins where standing water and the potential for flash flooding exist. Storm water infrastructure and active recreation facilities are not compatible.

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.

It is further 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. A stub street is recommended to the west allowing increased mobility for bicyclists and pedestrians.

Marina

Boat facilities currently exist on-site. It is unclear what, if any, the plans for a marina are at this facility. From the site plan submitted, it does not appear that adequate space for parking, restrooms, etc., has been allocated.

Marina development is regulated by the State of Delaware Marina Regulations and/or the State of Delaware Regulations Governing the Use of Subaqueous Lands, administered by the DNREC Division of Water Resources, Wetlands and Subaqueous Lands Section. The State discourages the use of State waters for the storage of boats and has a strong preference for alternatives such as boat ramps. The developer is strongly encouraged to attend a Joint Permit Processing meeting as referenced above to discuss their proposed plans with resource agencies.

If plans for the marina progress, the developer is encouraged to become a certified “Clean Marina.” For more information, please contact David Chapman at (302) 645-4268 or dchapman@udel.edu.

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 9.6 tons (19,186.2 pounds) per year of VOC (volatile organic compounds), 7.9 tons (15,884.9 pounds) per year of NOx (nitrogen oxides), 5.9 tons (11,720.2 pounds) per year of SO2 (sulfur dioxide), 0.5 ton (1,043.3 pounds) per year of fine particulates and 802.5 tons (1,604,900.8 pounds) per year of CO2 (carbon dioxide).

Emissions from electrical power generation associated with this project are estimated to be 1.5 tons (3,067.1 pounds) per year of NOx (nitrogen oxides), 5.3 tons (10,668.0

pounds) per year of SO₂ (sulfur dioxide) and 786.8 tons (1,573,530.0 pounds) per year of CO₂ (carbon dioxide).

Emissions from area sources associated with this project are estimated to be 3.9 tons (7,738.7 pounds) per year of VOC (volatile organic compounds), 0.4 ton (851.5 pounds) per year of NO_x (nitrogen oxides), 0.4 ton (706.6 pounds) per year of SO₂ (sulfur dioxide), 0.5 ton (911.9 pounds) per year of fine particulates and 15.7 tons (31,370.8 pounds) per year of CO₂ (carbon dioxide).

	VOC	NO _x	SO ₂	PM _{2.5}	CO ₂
Mobile	9.6	7.9	5.9	0.5	802.5
Residential	3.9	0.4	0.4	0.5	15.7
Electrical Power		1.5	5.3		786.8
TOTAL	13.5	9.8	11.6	1.0	1605.0

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.

State Fire Marshal's Office – Contact: Dwayne Fox 302-856-5298

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 1500 gpm for 2-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers. (Mercantile)
- 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.
- Dry hydrant location shall be shown for the marina standpipe system.

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 Piney Neck 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)
- 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.

Department of Agriculture - Contact: Mark Davis 739-4811

The *Delaware Forest Service* recommends the following:

- Preservation of trees during the construction process.
- Use of a Diverse Landscape Plan the use the “right tree for the right place” concept which encourages native trees and shrubs when possible.
- The use of forest buffers for adjacent subdivisions, critical areas and agricultural sites.

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. Our 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.

If wastewater services are provided by a non-governmental entity, and there are more than 50 customers served, the wastewater service provider will need to apply to the PSC for a Certificate of Public Convenience and Necessity (CPCN). Additional requirements may apply if the provider has not previously been awarded a CPCN in Delaware.

Contact: Andrea Maucher at (302) 739-4247

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

Due to the number of residential units being proposed, an impact to public safety is foreseen by implementation of this project. The developer should notify the police, fire service, and emergency medical response organization serving this portion of Sussex County, to keep them apprised of all development activities.

A small portion of this property is located in the Special Flood Hazard Area inundated by the 100-year flood. This area could also experience possible flooding from a category 2 or greater hurricane. Routes 26 and 113 are coastal storm evacuation routes and this development will be affected by traffic volume on these routes during a coastal storm event.

Department of Education – Contact: Nick Vacirca739-4658

128 dwelling units could generate an estimated 64 additional students for the Indian River School District. While Sussex County does not have school concurrence at this time, 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 ½ mile form the nearest public road (outside the development), you should plan wide enough streets so that large school busses 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 ½ mile from the nearest public road, provisions for appropriate pick-up and drop-off at the development entrance should be included.

Sussex County – Contact: Richard Kautz 855-7878

Because the site is within the County's Environmentally Sensitive Development Overlay District the developer must prepare an Environmental Assessment and Public Facility Evaluation Report and Sketch Plan. The report should include responses to the PLUS comments, in particular the SCCD recomendation to eliminate the ponds and the Fire Marshall's concerns about the flag lots.

The boundaries of the Marina Zoning District or the lot to be used as the commercial marina should be clearly shown on the application and site map.

The Sussex County Engineering Departments comments: The proposed project is in the Proposed Dagsboro-Frankford Planning Area. Due to the close proximity of Pepper Creek and the Indian River Bay the Sussex County Engineering Department prefers a connection to the Sussex County wastewater system. If this cannot be accomplished, then we recommend that the wastewater system be operated under a long-term contract with a capable wastewater utility that meets the TMDL limits for the Inland Bays Waterways. Sussex County requires design and construction of the collection and transmission system to meet Sussex County sewer standards and specifications. A review of the treatment and disposal system is required by the Sussex County Engineering Department. When Sussex County provides sewer service, it is required that

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the treatment system be abandoned and a direct connection made to the county system at the developers and/or homeowners association expense.

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".

Constance C. Holland, AICP
Director

CC: Sussex County