



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

December 10, 2004

Mr. Kevin McBride
Morris & Ritchie Associates, Inc.
404 South Bedford Street, Suite
Georgetown, De 19947

RE: PLUS review – PLUS 2004-11-14; Dukes Property

Dear Mr. McBride:

Thank you for meeting with State agency planners on November 23, 2004 to discuss the proposed plans for the Dukes property project to be located south of Route 24/30, across and west of Godwin School Road, east of Parker Road.

According to the information received, you are seeking annexation and rezoning through the Town of Millsboro AR-1 to MR/RPC for the purpose of developing a 323 unit residential, a fire station, and recreation areas to support both this development and the Plantation Lakes development on 112.33 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, the developers 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 project is proposed for annexation into the Town of Millsboro. It is within an area defined at Investment Levels 2 and 3 according to the Strategies for State Policies and Spending. In Investment Level 2 areas, State policies support orderly, well planned development that is consistent in

character with the surrounding area. In Investment Level 3 areas the State supports longer-term growth that is well-planned and phased. We understand that this proposal is planned to be phased and developed as part of the adjacent Plantation Lakes proposal. On the matter of annexation, the Office of State Planning Coordination will correspond separately with the Town of Millsboro once we have received and reviewed the plan of services for the annexation proposal.

With regard to the project's design, we are please to see the connections on the site plan between the Dukes Property and Plantation Lakes. We would also encourage the developer to include stub streets to the west and south of the property. We are pleased that the developer has agreed to donate land to the fire company, as well as park land to the Town of Millsboro.

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

There is an early 20th century house and outbuildings on the subject property. The house appears to be in good condition. SHPO recommends that the developers preserve the house and make it part of the residential development. Houses such as this are quickly being demolished to make way for new houses in similar styles. Historic preservation is part of Smart Growth and for Smart Growth to be successful, historic houses should not be demolished; it is a waste of resources and good material. If the house is not preserved, the SHPO requests that the applicant contact Anne McCleave at 302-739-5685 to schedule a time she can access the property and document the buildings before their demolition.

There is a medium to high probability for prehistoric archaeological sites within the subject area.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) DelDOT's US 113 North-South Study is presently evaluating alternative alignments for a limited access highway between Milford and the Maryland line at Selbyville. In the Millsboro area, there are multiple alignments under consideration, but four of them would run through the Dukes Property. Presently DelDOT is still gathering input from the public. They anticipate making a decision on which alignment to pursue in the spring of 2005. **DelDOT recommends that the Town defer action on the proposed annexation and any development approvals until an alignment is selected.** For more information on the US 113 North-South Study, the developer or the Town may contact Mr. Monroe Hite at (302) 760-2120.
- 2) Annexation of the subject parcel alone would create an enclave of four residential parcels on the south side of Route 24 that would be under County jurisdiction but surrounded by the Town. DelDOT's policy on municipal annexations is, in part, to oppose annexations that create enclaves. Accordingly, DelDOT recommends

that the Dukes Property annexation be postponed until those four parcels can be annexed first or at the same time.

- 3) DelDOT also recommends that the Town require that a traffic impact study (TIS) be completed for this project before acting on the proposed development. While they have not developed a scope for such a study, DelDOT believes it could be undertaken using existing traffic count information and therefore could be performed concurrent with the US 113 North-South Study. If the developer would like to do that they should have their traffic engineer contact DelDOT project engineer Mr. Todd Sammons at (302) 760-2134 to arrange a scoping meeting.
- 4) The Delaware Transit Corporation (DTC) has future plans to implement fixed route bus service between Georgetown and Millsboro in Fiscal Year 2007 or 2008. For this reason, the developer should contact Mr. David Dooley, a DTC Planner, to discuss the installation of a bus stop and pad (waiting area) at the main entrance to the development. Mr. Dooley may be reached at (302) 577-3278 ext. 3464.
- 5) DelDOT is concerned that the proposed entrance may be too close to Godwin School Road to accommodate the left-turn movements onto both roads from Route 24. It may have to be moved further west.
- 6) DelDOT commends the developer for providing the proposed street connections to the east; however, they recommend that stub streets be added to the west and south.
- 7) The developer's site engineer should contact the DelDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding their specific requirements for the site entrance on Route 24. 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, Fort Mott/Henlopen complex, Hammonton, and Pepperbox were mapped in the immediate vicinity of the proposed construction. Fort Mott/Henlopen complex is a well drained upland soil that, generally, has few limitations for development. Hammonton and Pepperbox are moderately well-drained soils of low-lying uplands that have 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.

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.

TMDL reduction requirements/ recommendations

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 State is pleased that you have a meeting scheduled with Lyle Jones (739-4590) in the

Department's Watershed Assessment Section to discuss the acceptable protocol for calculating a nutrient budget.

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.

Sediment and Erosion Control/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.

Drainage

There have been two drainage problems recently to northern adjacent properties that have not had adequate outlets for relief either due to easement issues. The general plan provide in the PLUS review materials does not indicate where stormwater will exit the site. We would be interested in knowing how that will be handled.

Forests

According to 2002 aerial photos there is a forested area in the southern portion of this parcel. Clearing of trees should be minimized, particularly in the future development area. The developer is strongly encouraged to preserve, and where possible, enhance forested resources on site. The forested areas on-site should be viewed as a community asset and managed appropriately.

Forested areas on-site set aside for conservation purposes should be placed into a permanent conservation easement or other binding protection. 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

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/Landscaping

It is requested that no invasive species be used in the revegetation of disturbed or landscaped 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. They further encourage, where possible/feasible, the use of native plants for habitat restoration projects on-site and the

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

Nuisance Species

According to your application, you have considered nuisance geese and plan to plant shrubs and trees around the perimeter of the ponds within the project. If there are open areas in between the trees and shrubs, this should not be mowed as short manicured lawns are attractive to geese. Tall native grasses and wildflowers could be planted and would serve to deter geese, as they do not feel as safe from predators and other disturbance when their view of the area is blocked. The Division of Fish and Wildlife does not provide goose control services, and if problems arise, residents or the home-owners association will have to accept the burden of dealing with these species (e.g., permit applications, costs, securing services of certified wildlife professionals). Solutions can be costly and labor intensive; however, with proper landscaping, monitoring, and other techniques, geese problems can be minimized.

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 noted that the Division of Parks and Recreation appreciates the 11.52 acres dedicated to public recreation (Question #31). The Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2003-2008 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities. The high and moderate facility needs in Eastern Sussex County are listed below. Consideration should be given to incorporate some of these recreation opportunities into the project. For additional information about the outdoor recreation priorities, contact Bob Ehemann at 739-5285.

High Priorities

Walking or Jogging Paths

Bike Paths

Fishing Areas

Moderate Priorities

Picnic Areas

Skate Facilities

Canoe/Kayak Access

Hiking Trails

Swimming Pools

Playgrounds
Soccer Fields
Tennis Courts
Power Boat Access
Baseball/Softball Fields

Site Investigation and Restoration

The Dukes Property is located within a mile of SIRB site DE-0201, Townsend-Ingram Pond. This SIRB site was a dumping ground for soybean waste from the mid-1970s to the early 1980s. In June 1982, the soybean landfill was covered and seeded with rye grass. Subsequent questions were raised concerning groundwater and surface water contamination due to the decomposition of the large amount of soybean waste. Since the 3-acre area was compacted and covered with 2 feet of soil and rye grass, DNREC reached the conclusion that previous surface water contamination would diminish with time. In addition, it was difficult to pinpoint the landfill as the only source of nitrate-nitrogen contamination of the nearby Betts Pond due to the many feedlots, poultry houses, and use of fertilizers in the immediate area. SIRB does not feel that this site should be an issue for the Dukes Property because they stated in their application that they will be using public utilities for water. If this should change, the groundwater should be tested for contamination before it is used, and SIRB should be notified.

Underground Storage Tanks

There are two active LUST site(s) located near the proposed project:

Parker Block Co., Inc., Facility # 5-000031, Project # S9008065
Harold Mumford, Facility 5-000291, Project # S8707021

No environmental impact is expected from the above inactive/active LUST site(s). 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.

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 24.8 tons (49,577.1 pounds) per year of VOC (volatile organic compounds), 20.5 tons (41,046.5 pounds) per year of NO_x (nitrogen oxides), 15.1 tons (30,284.9 pounds) per year of SO₂ (sulfur dioxide), 1.3 ton (2,695.9 pounds) per year of fine particulates and 2,073.5 tons (4,147,063.7 pounds) per year of CO₂ (carbon dioxide).

Emissions from area sources associated with this project are estimated to be 10.0 tons (19,996.7 pounds) per year of VOC (volatile organic compounds), 1.1 ton (2,200.2 pounds) per year of NO_x (nitrogen oxides), 0.9 ton (1,825.9 pounds) per year of SO₂ (sulfur dioxide), 1.2 ton (2,356.2 pounds) per year of fine particulates and 40.5 tons (81,062.2 pounds) per year of CO₂ (carbon dioxide).

Emissions from electrical power generation associated with this project will be 4.0 tons (7,925.3 pounds) per year of NO_x (nitrogen oxides), 13.8 tons (27,566.1 pounds) per year of SO₂ (sulfur dioxide) and 2,033.0 tons (4,066,001.5 pounds) per year of CO₂ (carbon dioxide).

	VOC	NO _x	SO ₂	PM _{2.5}	CO ₂
Mobile	24.8	20.5	15.1	1.3	2073.5
Residential	10.0	1.1	0.9	1.2	40.5
Electrical Power		4.0	13.8		2033.0
TOTAL	34.8	25.6	29.8	2.5	4147.0

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.

This State notes that this proposed development is within Investment Level 2 and 3 areas and proposed for annexation within the Town of Millsboro. The interconnected

pedestrian and street network, as well as the vehicular and pedestrian connections to Plantation Lakes will provide some mitigation of air quality impacts, as would future connections to the properties to the south and west and preservation of trees on the site. The State asks that the developer consider the development of energy efficient homes.

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)
 - 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 or 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 Millsboro Hwy 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.

Public Service Commission - Contact: Andrea Maucher 739-4247

The information provided indicates that the Town of Millsboro will provide water to the proposed projects through a central public water system. Our files reflect that Town of Millsboro does not currently hold a certificate of public convenience and necessity (CPCN) to provide public water in these areas. If this parcel is annexed, the Town will need to notify the Public Service Commission when the annexation is complete. If Millsboro intends to serve this parcel without annexing it, 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.

Delaware State Housing Authority – Contact Karen Horton 739-4263

DSHA 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

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

Due to the large number of residential units being proposed, a significant 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 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 be affected by traffic volume on these routes during a coastal storm event.

Department of Education – Contact: Nick Vacirca 739-4658

323 dwelling units could generate an estimated 162 additional students for 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.

If any development is planned adjacent to school property, the developer should provide walking or bike paths for the use of multi modes of transportation.

Sussex County – Contact: Rick Kautz 855-7878

Every effort should be made to avoid or eliminate any enclaves created by this annexation. As requested by DelDOT, stub road access should be provided to the south

and west. Agricultural uses to the west should have a protective buffer from the residential uses.

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: Town of Millsboro
Sussex County