



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

February 28, 2005

Mr. John O Murray
Kercher Engineering, Inc.
413 E. Market Street
Georgetown, DE 19947

RE: PLUS review – PLUS 2005-01-11

Dear Mr. Murray:

Thank you for meeting with State agency planners on February 2, 2005 to discuss the proposed plans for the Lands of Oasis Property project to be located on Country Club Drive near Rehoboth Beach.

According to the information received, you are seeking a rezoning from AR-1 to MR for the purpose of building 32 single family residential units on 8.01 acres.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

Executive Summary

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. ***Our office notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.***

State Strategies/Project Location

- This proposal is located within an Investment Level 2 area according to the Strategies for Policies and Spending. Generally, in these areas, State policies support development activities that conform to the character of the area and comply with State and local regulations. However, on this site we acknowledge the significant concerns raised by the State Historic Preservation Office, and ask that the developer work with SHPO so protect the archaeological site if the parcel is developed.
- Because of an extremely important archaeological site, the State Historic Preservation Office is opposed to development of this site. They should be contacted as soon as possible so that they can access the property and work with the developers on ways to avoid any harm to the National Register site.

Street Design/Transportation

- The proposed T-turnaround would adjoin a private access road serving three large lots. A right-of-way should be provided through to the property line such that when those lots are redeveloped the streets in the two developments can be interconnected.
- If possible, a street connection, or at least a bicycle and pedestrian connection, should be made to The Seasons to the north.
- DelDOT will require the dedication of sufficient land to provide a minimum right-of-way width of 30 feet from the centerline on local roads.
- Lot lines in the southeast corner of the property may infringe upon wetlands and their buffer zones. Vegetated buffers of no less than 100 feet should be employed from the edge of any wetland complex. Lots 1 and 2 should be relocated elsewhere on the site, and the entire wooded area on the southeastern portion of the site should be preserved as community open space.

Below is a list of the complete agency comments:

Office of State Planning Coordination – Contact: Ann Marie Townshend 739-3090

This proposal is located within an Investment Level 2 area according to the Strategies for Policies and Spending. Generally, in these areas, State policies support development activities that conform to the character of the area and comply with State and local regulations. However, on this site we acknowledge the significant concerns raised by the State Historic Preservation Office, and ask that the developer work with SHPO so protect the archaeological site if the parcel is developed.

If the project moves forward we recommend that the developer provide a bicycle/pedestrian connection to The Seasons, which is adjacent to the north.

State Historic Preservation Office (SHPO) – Contact: Alice Guerrant 739-5685

The State Historic Preservation strongly opposes this project because there is an extremely important archaeological site located on this property. The site is listed in the National Register of Historic Places and is known as Avery's Rest Site. Captain John Avery settled here in 1675 and it represents one of the earliest European occupation sites identified along Rehoboth Bay. It is representative of the earliest known settlement patterns seen in Delaware, dating to 17th and early 18th centuries. Extensive development in other areas has destroyed any other similar sites. Avery's Rest Site provides an excellent opportunity for archaeological study and understanding of early colonial occupation of Delaware and the characteristics of early historic settlements, information that is lacking for Delaware. In addition, there is a high probability for prehistoric archaeological sites on this property.

It is strongly urged that the owners and developers contact the State Historic Preservation Office at 302-739-5685 and work with them as soon as possible. They would like to access the property and work with the developers on ways to avoid any harm to the National Register site and other sites that might exist. It is also requested that the developers inform the SHPO of the construction schedule.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) On either side of the proposed entrance, there are single-family detached houses fronting on Country Club Road. It is DelDOT's understanding that the developer may be acquiring these properties to include their land in the subject development. If they do not acquire them, they should grant easements such that, when those lots are redeveloped, those lots can be accessed by way of the proposed subdivision street instead of Country Club Road.
- 2) The proposed T-turnaround would adjoin a private access road serving three large lots. Given recent trends, DelDOT expects that those three lots will be redeveloped as a subdivision of smaller lots within a few years. It is recommended that a right-of-way be provided through to the property line such that when those lots are redeveloped the streets in the two developments can be interconnected.
- 3) DelDOT supports the comments from the Office of State Planning Coordination regarding interconnections between developments. If possible, a street connection, or at least a bicycle and pedestrian connection, should be made to The Seasons, a proposed development to the north.
- 4) Country Club Road is classified as a local road. Local roads in Delaware typically have right-of-way widths ranging from 33 to 50 feet. 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. Therefore we will require right-of-way dedication to provide any additional width needed from this project.

- 5) The developer's site engineer should contact the DelDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding their requirements for access. Mr. Fiori may be reached at (302) 760-2260.

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

General Comments

The proposed plans show no connectivity to adjacent parcels. Consideration should be given to interconnectivity.

Wetlands

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of a small area palustrine forested wetlands on the southeast portion of the parcel. 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 these wetlands are regulated 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.

Lot lines in the southeast corner of the property may infringe upon wetlands and their buffer zones. Wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. Vegetated buffers of no less than 100 feet should be employed from the edge of any wetland complex. 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.

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 Dale Annis at 302-739-3665.

Sediment and Erosion Control/Stormwater Management

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 will have to be proven that this site has a non-erosive conveyance to tidal water to qualify for a waiver of stormwater quantity management. Currently the outlet for the site has not been shown on the plan, nor has the proposed stormwater management BMP. 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. For this site, recharge could be provided through open swale roadway sections and by disconnecting downspouts from impervious surfaces. If the site is only required to provide stormwater quality management (if a waiver of quantity management is approved) the designer may want to investigate the use of bioretention to fit in with the landscaping on the site.

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.

Floodplains

Large portions of the site are within the 100-year floodplain. Sussex County's floodplain regulations will require compliant building designs.

Forests

According to 2002 aerial photos there is a small wooded area in the eastern portion of this parcel. Impacts to the wooded area should be avoided by relocating lots 1 and 2 and setting aside wooded areas as community open space. Although small, this area provides water quality, air quality and habitat benefits. The developer is strongly encouraged to preserve, and where possible, enhance forested resources on site. The wooded areas on-site should be viewed as a community asset and managed appropriately.

Wooded 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

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.

Nuisance Waterfowl

During the meeting, the applicant was considering placing one large stormwater management pond in the middle of the development. This pond will likely attract waterfowl like resident Canada geese and mute swans that will create a nuisance for community residents. Although small numbers of these species are enjoyed by residents, geese and swans can quickly multiply and overwhelm the area. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Ponds that remain in the subdivision plan should be landscaped to deter nuisance species. Short manicured lawns around ponds provide an attractive habitat for these species. However, native plantings, including tall grasses, wildflowers, shrubs, and trees at the edge and within an adequate

buffer (at least 50ft) area around ponds, are not as attractive to geese because 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

DNREC appreciates that the plan will include sidewalks fronting all residents. 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. DNREC does encourage a bike/pedestrian connection to the adjacent parcel to the west be established to increase non-motorized mobility.

If the intended use of the area in the center of the project is for active recreation, DNREC recommends that access be provided to all the community, not just the 9 properties in the middle.

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 facility needs in Eastern Sussex County are Walking and Jogging, Bike Paths and Fishing Areas. The moderate facility needs are Picnic Areas, Skate Facilities, Canoe/Kayak Access, Hiking Trails, Swimming Pools, Playgrounds, Soccer Fields, Tennis Courts, Power Boat Access and Baseball/Softball Fields. 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.

Underground Storage Tanks

There are no LUST site(s) 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.

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 2.5 tons (4,911.7 pounds) per year of VOC (volatile organic compounds), 2.0 tons (4,066.5 pounds) per year of NO_x (nitrogen oxides), 1.5 tons (3,000.4 pounds) per year of SO₂ (sulfur dioxide), 0.1 ton (267.1 pounds) per year of fine particulates and 205.4 tons (410,854.6 pounds) per year of CO₂ (carbon dioxide).

Emissions from area sources associated with this project are estimated to be 1.0 tons (1,981.1 pounds) per year of VOC (volatile organic compounds), 0.1 ton (218.0 pounds) per year of NO_x (nitrogen oxides), 0.1 ton (180.9 pounds) per year of SO₂ (sulfur dioxide), 0.1 ton (233.4 pounds) per year of fine particulates and 4.0 tons (8,030.9 pounds) per year of CO₂ (carbon dioxide).

Emissions from electrical power generation associated with this project are estimated to be 0.4 tons (785.2 pounds) per year of NO_x (nitrogen oxides), 1.4 tons (2,731.0 pounds) per year of SO₂ (sulfur dioxide) and 201.4 tons (402,823.7 pounds) per year of CO₂ (carbon dioxide).

	VOC	NO _x	SO ₂	PM _{2.5}	CO ₂
Mobile	2.5	2.0	1.5	0.1	205.4
Residential	1.0	0.1	0.1	0.1	4.0
Electrical Power		0.4	1.4		201.4
TOTAL	3.5	2.5	3.0	0.2	410.8

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: 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:**

- 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.
- 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 Country Club 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
- 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

Overall Comments

The Delaware Department of Agriculture and the Delaware Forest Service (DFS) recognizes this site is within a designated growth area and has no objections to the further development of this site.

Right Tree for the Right Place

The Delaware Department of Agriculture and DFS encourage the developer to use the “Right Tree for the Right Place” for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

Native Landscapes

The Department of Agriculture encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site as well as natural features such as streams. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

Open Space Considerations

The Delaware Department of Agriculture and DFS supports comments made by DNREC Parks & Recreation Department to allow for improved design to open space and provide areas of connectivity to both passive and open space areas within the planned community. Furthermore, DFS offers needed assistance to the developer to implement these practices, please contact Bryan Hall of our office at (302) 698-4500.

Public Service Commission - Contact: Andrea Maucher 739-4247

The project information sheets state water will be provided to the project by Tidewater Utilities via a central water system. Our records indicate that Tidewater Utilities possesses a Certificate of Public Convenience and Necessity to provide water service to the area.

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

The proposal is to develop 32 units on 8 acres of land on Country Club Drive in Rehoboth Beach. The 2003 Statewide Housing Needs Assessment indicates that much of the housing in the coastal resort area is outside of the affordability level of low- and moderate-income households. For example, real estate data collected by DSHA for the third quarter of 2004 indicated that the median home price was \$315,000, which is outside the affordability level of low- and moderate-income households. Conversely, the affordability price for low- and moderate-income households is estimated to be \$130,476. Moreover, of the 10,128 units in this CCD, 908 are substandard, and 2,711 are occupied by low-income households. Households that cannot afford to live in the coastal resort area have been displaced to western Sussex County. The provision of moderately priced units for first-time homebuyers would help support the housing needs of low-and moderate-income families employed by the local retail, service, and tourism economy

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

Even though the number of residential units being proposed is small, an impact to public safety is foreseen by implementation of this project due to it's location in the Special Flood Hazard Area inundated by the 100 and 500-year flood. 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.

This area could also experience possible flooding from a category 1 or greater hurricane. Routes 1 and 24 are coastal storm evacuation routes and this development will be affected by traffic volume on these routes during a coastal storm event.

Sussex County – Contact: Rick Kautz 855-7878

There is considerable inconsistency between the presentation, the drawing and the information provided in the application.

This project is situated in an Environmentally Sensitive Development Area. The required report should include how the PLUS comments have been addressed and how the plan has been revised accordingly.

This summer Sussex County will be considering implementation of a Source Water Protection Program required by the State. Depending on the requirements adopted by the County Council this project might be affected.

The Sussex County Engineer Comments:

The project proposes to develop 24 town-home units and 8 single-family dwellings for a total of 32 units. The proposed project is within the West Rehoboth Expansion area for central sewer and connection to the system is mandatory. The project is within planning study and system design assumptions for sewer service. There is adequate capacity in the downstream collection system for the project. The developer has been advised to evaluate capacity in a downstream pump station and provide the engineering department with a report for review and approval. If upgrades are required, they would be performed by the developer at the developer's expense. In addition, the proposed development will require a developer installed collection system in accordance with Sussex County's standard requirements and procedures. The connection point will be to an existing 8-inch gravity line in County Road 273 (Country Club Road) and must be approved by the Sussex County Engineering Department. Approval is based on a density not to exceed 4.0 dwelling units per acre after deducting State of Delaware Regulated wetlands.

Onetime System Connection Charges will apply. Please contact Mrs. Christine Fletcher at 302 854-5086 for additional information on charges. A disconnection permit including Sussex County onsite inspection and payment of System Connection Charges is required prior to issuance of a building permit.

For questions regarding these comments, contact Rob Davis, Sussex County Engineering Department at (302) 855-7820.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,



Constance C. Holland, AICP
Director

CC: Sussex County